

## 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.

**ADEQUATE ENVIRONMENT.** The provisions of a safe and sanitary environment for an animal, free of debris, hazards, waste, and filth.

**ADEQUATE FOOD.** Provisions at suitable intervals, not to exceed 24hrs, of a sufficient quantity of wholesome foodstuff suitable for the species and age to maintain a reasonable level of nutrition for the animal.

**ADEQUATE SHELTER.** Any suitable weatherproof structure intended to be inhabited by an animal, built in such a way as to have 4 sides, 1 side having ample opening to allow for an entrance for the animal. The structure will have a top and bottom being large enough for the animal to turn around while inside.

**ADEQUATE WATER.** Constant access to a supply of clean, fresh, unfrozen, and potable water is provided in a sanitary manner.

**ANIMAL SERVICE OFFICER.** Animal Service Officers constitute Animal Control Officers as defined by N.C.G.S. 67-30.

**ANIMAL SHELTER.** Any premises designated by the county for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this chapter.

**ATTACK.** An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.

**ATTACK TRAINING FACILITY.** Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in mode of an attack.

**BREEDER.** Any person or establishment that breeds animals for the purpose of resale to the general public or dealers.

**CAT.** A domestic feline of either sex, including stray.

**COLD WEATHER SHELTER-** A shelter where the temperature is below 32 degrees Fahrenheit will provide a secondary source of heat including but not limited to cedar shavings or straw.

**DANGEROUS ANIMAL.** Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act that may endanger persons or property; and/or any nondomesticated animal indigenous to the state, including hybrid animals that are part wild.

- (1) This would include, but not be limited to, any dog that either assaults, bites, attacks or inflicts serious injury on a human being without provocation on public or private property, and/or that has killed or injured a pet or domestic animal without provocation.
- (2) Exceptions: No dog is DANGEROUS pursuant to this definition:
  - (a) If, at the time the threat, injury or damage was sustained, the person attacked was teasing, tormenting, abusing or assaulting the dog; or has in the past teased, tormented, abused or assaulted the dog; or was committing or attempting to commit a crime; or
  - (b) If it has attacked or injured a pet or domesticated animal in defense of an attack by another animal, or if it is protecting or defending its young.

DEALER. Any person who is licensed by the U.S. Department of Agriculture as a DEALER.

DOG. A domestic canine of either sex, including stray.

DOMESTIC ANIMAL. Any of various animals as dogs, cats, horses, sheep, cattle, goats, hogs, poultry and the like, domesticated by man so as to live and breed in a tame condition.

EXHIBITOR. Any person who is licensed by the U.S. Department of Agriculture as an EXHIBITOR.

EXPOSED TO RABIES. Any person or animal that has bitten, been bitten by, or otherwise come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

HOT WEATHER SHELTER- A shelter that shall be located in a shaded area provided for the animal when the temperature exceeds 80 degrees Fahrenheit.

INHERENTLY DANGEROUS MAMMAL. Any live member of the Canidae, Felidae or Ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

- (1) Canidae, including any member of the dog (canid) family not customarily domesticated by humans, or any hybrids thereof, including wolf hybrids that are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
- (2) Felidae, including any member of the cat family weighing over 15 pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*); and
- (3) Ursidae, including any member of the bear family, or any hybrids thereof.

KENNEL. Any person, group of persons, partnership or corporation engaged in boarding animals.

NEUTERED. Any male animal that has been operated upon to prevent reproduction.

NUISANCE. The acts or actions by a cat or dog shall be considered a NUISANCE if any of the following occurs:

- (1) Turns over garbage containers or removes garbage from them;
- (2) Damages gardens, foliage or other real or personal property;
- (3) Defecates or urinates on property other than the owners;

- (4) Is maintained in an unsanitary condition that results in offensive odors or is dangerous to public health;
- (5) Chases, harasses or otherwise molests other animals, pedestrians, bicyclists or vehicles.

**OWNER.** Any person, group of persons, firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring, or allowing an animal to remain on or about their property for more than 14 consecutive days. In the event that the OWNER of an animal is a minor, for purposes of this chapter, the parent or guardian of such minor shall be considered the OWNER of that animal. The OWNER of an animal is responsible for the care, actions and behavior of his or her animals.

**PET.** A domesticated animal kept for pleasure rather than utility.

**RESTRAINT.** That portion of land owned or occupied by an owner, not including any portion of such land that is accessible to the public as a right-of-way.

**RESTRAINT.** An animal is under RESTRAINT within the meaning of this chapter if it is:

- (1) Controlled by means of a chain, leash or other like device;
- (2) On or within a vehicle being driven or parked;
- (3) Within a secure enclosure; or
- (4) Within the dwelling house of the owner.

**SECURE ENCLOSURE.** A fence or structure with 4 sides of adequate height, made from metal or chain link fencing or equivalent fencing material, forming or causing a humane secure enclosure. The door or gate shall have a latch capable of being securely locked to prevent the animal from escaping or the entry of young children. The secure enclosure shall have a securely fitting top made from metal or any chain link fencing or equivalent fencing to prevent the dog from climbing out, and a floor made of concrete, concrete pavers or equivalent to prevent the dog from digging out of the secure enclosure. For purposes of this definition, a home, mobile home or separate garage does not qualify.

**SPAYED.** Any female animal that has been operated upon to prevent reproduction.

**STRAY.** Any dog or cat that appears STRAY, homeless or unwanted, and any dog or cat that is not displaying a valid rabies tag.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 4-7-2014)

## § 90.02 ESTABLISHMENT AND COMPOSITION OF THE OFFICE OF ANIMAL CONTROL.

- (A) There is hereby created the Office of Animal Care Enforcement within the County, which shall be composed of such employees and/or officials as shall be determined by the Board of Health and Board of Commissioners.
- (B) Employees or agents enforcing this chapter shall be designated as animal enforcement officers. In the performance of their duties, animal enforcement officers shall have all the powers, authority and immunity granted under this

chapter and by the general laws of this state to enforce the provisions of this chapter, and the General Statutes of North Carolina as they are related to the care, treatment, control or impounding of animals.

- (C) Except as may be otherwise provided by statutes, local laws or ordinances, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of those duties, unless he or she acts with actual malice.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.03 GENERAL DUTIES OF THE OFFICE OF ANIMAL CARE ENFORCEMENT

- (A) The Office of Animal Care Enforcement shall be charged with the responsibility of:
- (1) Enforcing in this county all state laws, rules and regulations and all county ordinances relating to the care, custody and control of domesticated dogs and cats;
  - (2) Assisting in the enforcement of the laws of the state with regard to animals, and especially with regard to vaccination of animals against rabies, and the confinement or controlling of dangerous animals and dangerous dogs;
  - (3) Investigating cruelty or abuse with regard to all animals;
  - (4) Making canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or state statute; and
  - (5) Operating, pursuant to policies of the Board of County Commissioners, and the county animal shelter.
- (B) It shall be the duty of the Office of Animal Care Enforcement Staff to keep, or cause to be kept, accurate and detailed records of:
- (1) Impoundment and disposition of all animals coming into the animal shelter;
  - (2) Bite cases, violations and complaints, and investigation of same;
  - (3) All funds belonging to the county which were derived from the operation of the animal control program;
  - (4) All rabies vaccinations given in the county by veterinarians, Animal Care Enforcement staff and any certified rabies vaccinator appointed by the local Health Director; and
  - (5) All other records deemed necessary.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 4-7-2014)

#### § 90.04 ESTABLISHMENT OF A DANGEROUS DOG APPEAL BOARD.

There is hereby created a Dangerous Dog Appeal Board to serve as the official appellate body that hears all dangerous dog appeals (per G.S. § 67-4.1). The Appeal Board will

convene at the direction of the Caldwell Animal Care Enforcement Director or his/her designee. The Appeal Board is to be composed of 5 members and 1 alternate appointed by the Caldwell County Board of Health and shall serve 3-year staggered terms. The Appeal Board shall be composed of members of the general public. The following will be considered when being appointed to the Dangerous Dog Board:

- (A) a person that is familiar with animals and works with them on a regular basis;
- (B) a person who is active in animal welfare issues;
- (C) a law enforcement officer and;
- (D) two citizens at large.

All members of the board shall be citizens of Caldwell County.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 7-16-2012; Am. Ord. passed 4-7-2014)

Statutory reference:

Dangerous dogs, see G.S. § 67-4.1

#### § 90.05 ENFORCEMENT IN MUNICIPALITIES; RESTRICTED.

Animal Care Enforcement officers shall have no authority to enforce this chapter within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that the county is empowered to enforce the provisions of this chapter within that municipality, and repeals any inconsistent ordinance.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.06 DECEASED ANIMALS.

(A) It shall be the duty of the owner or person in charge of any animals that die from any cause, and the owner, lessee or person in charge of any land upon which any animals die, to bury the dead animals to a depth of at least 3 feet beneath the surface of the ground within 24 hours after the death of the animals is known, or to otherwise dispose of the animals in a manner approved by the state veterinarian.

(B) It shall be unlawful for any person to remove the carcasses of dead animals from his or her premises to the premises of any other person, without the written permission of the person having charge of the premises and without burying the carcasses as provided in this section.

(C) The Animal Care Enforcement Officers ~~does~~ do not pick up any deceased animal from properties or roadways.

(D) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

## PROHIBITED ACTIVITIES

### § 90.15 ANIMAL CRUELTY.

- (A) Prohibition. It shall be unlawful for any person to molest, tease, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, wound, injure, poison, abandon, kill or subject to conditions detrimental to the health or general welfare of any animal, or to cause or procure that 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. However, this section shall not apply to the following activities:
- (1) The lawful taking of animals under the jurisdiction and regulations of the North Carolina Wildlife Resources Commission;
  - (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry or aquatic species;
  - (3) Activities conducted for lawful veterinary purposes; and
  - (4) The lawful destruction of any animal by its owner, veterinarian, Health Director Animal Care Enforcement Officer, for the purposes of protecting the public, other animals, property or the public health.
- (B) General care; prohibited acts. All animals shall be kept and treated in an adequate environment and it shall be unlawful for any person to engage in 1 or more of the following acts:
- (1) Failure to provide adequate food, adequate water and cold and hot weather shelter:
    - (a) All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in proper containers suitable for the age and species of the animal, and sufficient to maintain a healthful level of nutrition;
    - (b) All animals shall have access to a constant supply of clean, fresh water; and
    - (c) All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include, but are not limited to, the following:
      1. Underneath outside steps, decks and stoops;
      2. Underneath houses;
      3. Inside or underneath motor vehicles;
      4. Inside metal barrels;
      5. Inside cardboard boxes;
      6. Inside temporary animal carriers or crates;
      7. Shelters located in flood-prone areas; and
      8. Shelters surrounded by debris, obstructions or impediments that may endanger an animal.

- (2) Failure by any owner to keep his or her animal or animals in good health and comfort, and veterinary care when needed to prevent suffering and humane care and treatment;
- (3) Animal cruelty. Examples of cruel treatment include, but are not limited to, the following:
  - (a) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck;
  - (b) Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised;
  - (c) Allowing a dog or cat to be tethered or contained in such a way as to prevent it from having adequate shelter at all times;
  - (d) Intentionally allowing animals to engage in a fight;
  - (e) Allowing animals to live in crowded or unsanitary conditions; and
  - (f) Failure or refusal to obtain medical treatment for an animal when that treatment is obvious.
- (4) Chaining or tethering an animal to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to, the following:
  - (a) Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal;
  - (b) Using a chain or tether made of rope, twine, cord or similar material;
  - (c) Using a chain or tether that is less than 12 feet in length and/or does not have swivels on 1 end. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar;
  - (d) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property, or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter; and
  - (e) Using a chain as a primary collar. All collars used for the purpose of chaining or tethering animal must be made of nylon or leather.
- (5) Selling or offering for sale, bartering or giving away within the county baby chicks, ducklings or other fowl under 6 weeks of age, or rabbits under 8 weeks of age, as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of baby chicks, ducklings or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes other than for pets or novelties; and
- (6) Coloring, dyeing, staining or otherwise changing the natural color of baby chickens or other fowl or rabbits.
- (7) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.16 FEMALE IN ESTRUS (HEAT).

It shall be unlawful for any owner or keeper of a female dog in estrus (heat) not to confine the dog in a secured enclosure.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.17 KEEPING OF INHERENTLY DANGEROUS MAMMALS

- (A) Prohibition. It shall be unlawful for any person to keep an inherently dangerous mammal within the county.
- (B) Exemption. Traveling fairs, circuses and carnivals shall be exempt from this section.
- (C) Recapturing.
  - (1) The owner of any inherently dangerous mammal shall reimburse the county for all costs incurred while attempting to recapture any escaped, inherently dangerous mammal.
  - (2) If the animal is sheltered or euthanized by Animal Care Enforcement, the owner shall also pay these costs.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.18 CONFINEMENT AND PROCEDURE OF POTENTIALLY DANGEROUS DOGS.

- (A) The owner of a dog that has been deemed potentially dangerous by the Office of Animal Care Enforcement will be notified in writing, giving the reasons for the determination.
  - (1) The owner shall immediately confine the dog in a humane secure enclosure.
  - (2) If no humane secure enclosure is available at the owner's residence, the dog shall be confined at the animal control shelter or a boarding facility at the owner's expense.
- (B) The owner may appeal the determination by filing written objections with the Dangerous Dog Appeal Board within 3 days.

- (1) The Appeal Board shall schedule a hearing within 10 days of the filing of the objections. After the appellate hearing, the Board will determine, based on the testimony and evidence, if the dog should be considered dangerous or overturn the declaration.
  - (2) The owner of the dog and the complainants will be notified by mail the outcome of the hearing.
  - (3) If the dog is found by the Board to be considered a dangerous dog, the owner of the dog is required to keep the dog in accordance with all state and local laws pertaining to dangerous dogs.
- (C) If the owner of a dog that has been deemed potentially dangerous does not file an appeal with the Dangerous Dog Appeal Board within 3 days of the notice, the dog shall be considered a dangerous dog.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

Statutory reference:

Potentially dangerous dogs; definition and procedures, see G.S. 67-4.1 through 67-4.4

#### § 90.19 CONFINEMENT REQUIREMENTS; CONFISCATION OF DANGEROUS DOGS.

- (A) The owner of a dog that has been deemed dangerous by the Office of Animal Care Enforcement or the Dangerous Dog Appeal Board will be notified in writing, giving the reasons for the determination. The owner shall immediately and at all times confine the dog in a humane secure enclosure. If no secure enclosure is available at the owner's residence, the dog shall be confined at the Animal Care Enforcement shelter or a boarding facility, at the owner's expense, until a humane secure enclosure is constructed on the owner's property. The enclosure must meet the approval of the Animal Care Enforcement Director, who has the authority to mandate additional confinement requirements at his or her discretion. If no adequate humane secure enclosure is constructed upon the owner's property after the expiration of 30 days of notice of declaration, the dog shall be euthanized.
- (B) The owner shall conspicuously and securely display a uniform dangerous dog warning sign on the secure enclosure. Additional uniform dangerous dog warning signs shall be conspicuously and securely posted at all points of entrance to the residence, and must be visible and legible from the public highway or street. Uniform dangerous dog warning signs must be purchased from the Animal Care Enforcement Department at the owner's expense.
- (C) The owner of a dog that has been deemed dangerous shall have the dog spayed/neutered at the owner's expense, and provide proof of the spay/neuter to the Animal Care Enforcement Department within 30 days of the date of written notification.
- (D) The owner of a dog that has been deemed dangerous shall have the dog micro-chipped at the owner's expense, and register the micro-chip number with the

Animal Care Enforcement Department within 2 business days of the date of written notification.

- (E) A dog that has been deemed dangerous either by Animal Care Enforcement or by the Dangerous Dog Appeal Board shall at all times be kept in a humane secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog is on the premises. The humane secure enclosure shall be locked at all times to prevent the escape of the dog or the entry of young children. The dog may be removed from the secure enclosure for exercise or veterinary care so long as it is under the control of its owner by the use of a securely attached leash and muzzle.
- (F) An Animal Care Enforcement officer is empowered to confiscate a dog and harbor it at the owner's expense if the dog is found in violation of state and/or local laws pertaining to dangerous dogs. If any dangerous dog is confiscated under this provision, the owner of the dangerous dog shall be given written notice at the time of confiscation that the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.
- (G) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.20 REQUIRED NOTIFICATION TO ANIMAL CARE ENFORCEMENT BY OWNERS OF DANGEROUS DOGS.

The owner of a dangerous dog shall inform the Office of Animal Care Enforcement, as soon as practicable, but not later than 24 hours after the occurrence of any of the following:

- (A) An assault, attack or biting upon any human being committed by a dangerous dog;
- (B) An assault, attack or biting upon any domesticated animal or pet by a dangerous dog;
- (C) The destruction of or damage to property of another by a dangerous dog; or
- (D) The roaming or escape of any animal required to be restrained or confined to a secure enclosure.
- (E) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.21 TRANSFER OF OWNERSHIP OR RELOCATION OF DANGEROUS DOGS.

- (A) If the owner of a dangerous dog wishes to transfer ownership or possession of the dog to another person, the owner shall provide written notice to the authority that made the determination under this chapter, stating the name and address of the new owner or possessor of the dog before the ownership of the dog is transferred.
- (B) If the owner of a dangerous dog plans to relocate and/or change address, the owner shall provide written notice to the authority that made the determination under this chapter, stating the new address and or date of relocation prior to this occurrence.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

§ 90.22 LAW ENFORCEMENT DOGS EXCLUDED.

Any dog used by a law enforcement agency in the investigation of crimes, or as otherwise necessary in the enforcement of the law, is excluded from requirements of this chapter, with the exception that they are regulated by the provisions of §§ 90.15 and 90.36.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.23 DOGS USED FOR SENTRY OR GUARD DUTY.

A sign warning that there is a guard or sentry dog on the premises shall be displayed. The owner shall post a plainly visible sign upon the secure enclosure, warning that a dangerous dog or animal is on the premises. Any person owning, maintaining or harboring a dog for sentry or guard purposes must register the dog with the Office of Animal Care Enforcement.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.24 INTERFERENCE WITH ENFORCEMENT.

It shall be unlawful for any person to interfere with, hinder or molest the Animal Care Enforcement Office agents, officers or veterinarians in the performance of any duty authorized by this chapter, or to seek to release any animal in the custody of those agents.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.25 ANIMALS CREATING A NUISANCE.

- (A) Pursuant to G.S. § 153A-121, a county may by ordinance define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens, and the peace and dignity of the county; and may define and abate nuisances.
- (B) Nothing in this chapter shall prevent a private citizen from bringing an action to abate a nuisance, or from bringing an action for damage, loss or injury to the private citizen or his or her property resulting from an animal being a public nuisance.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.26 EXCLUSION FOR HUNTING DOGS.

This chapter shall not be interpreted as restricting persons owning specially trained hunting/working dogs from actually using their dogs for hunting/working in the presence of the owner or an agent of the owner, and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations or ordinances of the state and the county.

(Ord. passed 10-5-2009)

#### § 90.27 NUISANCES PROHIBITED.

It shall be unlawful for any owner to permit a dog or cat to create a nuisance as defined by this chapter.

- (A) Nuisance acts. It shall be unlawful for an owner to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Nuisance means any act of an animal that disturbs rights and privileges common to the public or enjoyment of private property. The commission of a nuisance act on more than one occasion shall be evidence of a nuisance. A nuisance act includes but is not limited to:
- (1) Continuously or frequently roams or is found on the property of another person;
  - (2) Turns over garbage containers or removes garbage from a container;
  - (3) Damages gardens, foliage or other real personal property of another person;
  - (4) Eliminates on private property without the permission of the property owner;
  - (5) Walks on or sleeps on automobiles of another person;
  - (6) Is maintained in an unsanitary condition so as to be offensive to sight or smell;
  - (7) Is not confined to a building or secure enclosure while in estrus;
  - (8) Is diseased or dangerous to the health of the public;
  - (9) Chases, snaps at, attacks, or otherwise molests pedestrians, cyclists, motor vehicle passengers, farm stock, or domestic animals;
  - (10) Is housed or restrained less than five feet from a public street, road or sidewalk.
  - (11) Habitually loiters on school grounds or county recreation property.
- (B) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

#### § 90.28 PROCEDURE FOR COMPLAINT.

Any citizen who personally witnesses a violation of this chapter may file a complaint in the following manner:

Nuisance complaints. Any person wishing to file an animal nuisance complaint must fill out a nuisance/complaint form. Before initiating a civil or criminal proceeding pursuant to this chapter or any state statute, the Animal Services Director or his or her designee shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from the complaint.

(Ord. passed 10-5-2009)

#### RABIES CONTROL

#### § 90.35 COMPLIANCE WITH AND SUPPLEMENTARY TO STATE LAW.

- (A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- (B) It is the purpose of this subchapter to supplement state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.36 INOCULATION OF DOGS, CATS AND OTHER PETS.

- (A) It shall be unlawful for an owner to fail to provide current inoculation against rabies for any dog or cat 4 months of age or older. Should it be ordered by the County Animal Care Enforcement, County Board of Health, the County Board of Commissioners or the State Public Health Veterinarian that other pets be inoculated in order to prevent a threatened epidemic, or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.
- (B) A rabies inoculation shall be deemed "current" for a dog or cat if 2 inoculations have been given 1 year apart, and booster doses of rabies vaccine administered every 3 years.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.37 INOCULATION TAG.

- (A) Upon complying with the provision of § 90.36, there shall be issued by the inoculator, to the owner of the animal inoculated, a metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.
- (B) It shall be unlawful for any dog or cat owner to fail to provide the dog or cat with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.

- (C) It shall be unlawful for any person to use for any animal a rabies inoculation tag issued for another animal.
- (D) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.38 REPORT AND CONFINEMENT OF ANIMALS BITING PERSONS OR SHOWING SYMPTOMS OF RABIES.

- (A) Every dog or cat that has bitten any person or that shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Care Enforcement Office, and thereupon shall be securely quarantined at the direction of the Animal Care Enforcement Office for a period of 10 days, and shall not be released from the quarantine except by written permission from the Animal Care Enforcement Office.
- (B) Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel approved by the Office of Animal Care Enforcement, or county animal shelter, at the expense of the owner; provided, however, that if an Animal Care Enforcement officer determines that the owner of an animal that must be quarantined has adequate confinement facilities upon his or her own premises, the animal control officer shall authorize the animal to be confined on the premises. The Animal Care Enforcement officer determines may not authorize the animal to be confined on the owner's premises unless the owner has a fenced-in area in his or her yard, and the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof will be required at the time of investigation. If the animal is confined on the owner's premises, the Animal Care Enforcement officer determines shall revisit the premises for inspection purposes, at approximately the middle of the confinement period, and again at the conclusion of the confinement period.
- (C) In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies, or kept for the supervised quarantine period required by this section at the county animal shelter.
- (D) If rabies does not develop within 10 days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the Animal Care Enforcement Office. If the dog or cat has been confined in the county animal shelter, the owner shall pay any necessary veterinarian fees and a boarding fee set by and approved by the County Board of Commissioners. Any animal that has bitten a person, which has not been reclaimed within 24 hours from the end of the 10-day rabies observation quarantine period, shall be destroyed by the Animal Care Enforcement Office

- (E) In the case of any carnivore or bat, the animal may be euthanized and the head examined for rabies.
- (F) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.39 DESTRUCTION OF ANIMAL EXPOSED TO RABID ANIMAL.

Unvaccinated animals exposed by a known rabid animal shall be immediately destroyed. If the animal has a current rabies inoculation, it shall be revaccinated and returned to the owner.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.40 AREA-WIDE EMERGENCY QUARANTINE.

- (A) When reports indicate a positive diagnosis of rabies, the County Health Director may order an area-wide quarantine for such period as he or she deems necessary. Upon invoking of such emergency quarantine, no dog, cat or other carnivore shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no dog or cat or other carnivore may be taken or shipped from the county without written permission of the Office of Animal Care Enforcement. During the quarantine period, the local health authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.
- (B) In the event there are additional positive cases of rabies occurring during the period of quarantine, the period of quarantine may be extended at the discretion of the County Health Director.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.41 POSTMORTEM DIAGNOSIS.

- (A) If an animal dies while under observation for rabies, the head of the animal shall be submitted to the County Health Department for shipment to the State Laboratory of Public Health for rabies diagnosis.
- (B) The carcass of any animal suspected of dying of rabies shall be surrendered to the County Animal Care Enforcement Office. The head of the animal shall be submitted to the County Health Department for shipment to the State Laboratory of Public Health for rabies diagnosis.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.42 UNLAWFUL KILLING, RELEASING AND THE LIKE OF CERTAIN ANIMALS.

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies or any animal that has bitten a human, or to remove the animal from the county without written permission from the Animal Care Enforcement Office.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.43 FAILURE TO SURRENDER ANIMAL FOR QUARANTINE OR DESTRUCTION.

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this subchapter, when demand is made therefor by the Animal Control Office.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

## IMPOUNDMENT

### § 90.55 GENERALLY.

Any animal that appears to be lost, stray or unwanted, or that is found to be not wearing a valid rabies vaccination tag, as required by state law and this chapter, and not under restraint in violation of this chapter, shall be impounded by the Animal Control Office by any means necessary and confined in an animal shelter in a humane manner. Impoundment of the animal shall not relieve the owner thereof from any penalty that may be imposed for violation of this chapter.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

### § 90.56 TRAPPING.

The Animal Care Enforcement Department is authorized to place, upon request, live-capture animal traps on private property of the requestor or public property, to trap and remove stray, at-large, unwanted or nuisance animals. It is unlawful for any person other than an Animal ~~control~~ Care Enforcement Officer or his or her designee to remove any animal from the trap, or to damage, destroy, move or tamper with the trap.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

### § 90.57 NOTICE TO OWNER.

Immediately upon impounding an animal, the Animal Care Enforcement Office shall make reasonable effort to notify the owner and inform the owner of the conditions. If the owner is unknown or cannot be located, Animal Care Enforcement shall hold the animal for 3 days (72 hours).

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

### § 90.58 REDEMPTION BY OWNER GENERALLY.

- (A) The owner of an animal impounded under this subchapter may redeem the animal and regain possession thereof within 72 hours from the time notification of impoundment is given, as required by § 90.57, by complying with all applicable provisions of this chapter, and paying any necessary veterinary fees and a boarding fee set and approved by the County Board of Commissioners.
- (B) No animal owner may be permitted to adopt his or her own animal under the provisions of this section in order to reclaim an animal that has been impounded pursuant to state law or this subchapter.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.59 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMALS GENERALLY.

Disposition of animals in Animal Services custody will be as follows:

- (A) Stray animals will be held for a period of 96 hours to allow owners to reclaim the animals pursuant to N.C.G.S. § 19A-32.1, Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.
  - (1) Cats deemed to be feral by the Animal Services Director or designee will be held for a period of 72 hours. For the purposes of this section, feral shall mean a cat that has escaped from a domestic or captive status and is living as a wild animal or a cat which was never domesticated.
- (B) Animals can be reclaimed by owners for fees in accordance with the fee schedule. The owner of an impounded animal shall be entitled to redeem such animal, except as provided in this chapter, upon the payment of all redemption fees as provided in § 92.99 below, and upon furnishing proof of ownership. Animals cannot be reclaimed without proof of a current rabies vaccine, or a rabies vaccine given by Animal Services Certified Rabies Vaccinators (CRVs).
  - (1) In addition to this, dogs will need to wear rabies vaccination tags upon reclaim pursuant to N.C.G.S. § 130A-190, Rabies vaccination tags.
- (C) If not reclaimed after 96 hours stray animals will be made available for the additional outcomes of: adoption, transfer to a rescue group, or euthanasia per N.C.G.S. § 19A-32.1.
- (D) Owner surrendered animals with proof of ownership will be made available for disposition by the Director of Animal Services or designee after a period of 24 hours.
- (E) Nothing in this section shall prevent an animal that is seriously ill or injured from being euthanized for humane reasons prior to end of stray hold per N.C.G.S. § 19A-32.1.
- (F) Emergency rabies quarantine. No animal that has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to § 90.40, except by special authorization of the County Health Director.
- (G) Adoption contract. Any person adopting a dog or cat from the animal shelter shall be required to sign an adoption contract with the animal shelter, the major provisions of which are outlined in this section. The purchase of euthanized animals from the

animal shelter by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.

(H) Exceptions.

(1) The Animal Control Office has the right to refuse adoption of animals to:

- (a) Persons less than 18 years of age; or
- (b) Persons who have previously been cited for violations of this chapter.

(2) Maximum number of animals adopted to same household is 3 per calendar year.

(I) Any animals that exhibit fierce, dangerous or aggressive behavior will not be offered for adoption.

(J) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.60 PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.

All animals 4 months of age or older that leave the animal shelter or any animal hospital or veterinary clinic shall be required to have a current rabies vaccination.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.61 SUSPECTED RABID ANIMALS NOT TO BE REDEEMED OR ADOPTED.

Notwithstanding any other provision of this subchapter, impounded animals that appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with §§ 90.35 et seq.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

#### § 90.62 DESTRUCTION OF WOUNDED OR DISEASED ANIMALS.

Notwithstanding any other provision of this subchapter, any animal impounded that is badly wounded or diseased (not a rabies suspect) shall be destroyed humanely, only after consultation by the Office of Animal Control with a veterinarian licensed to practice in the State of North Carolina. This consultation will include a physical review of the animal by a licensed veterinarian, and agreement by the veterinarian that the animal is suffering and should be euthanized. If the animal has identification, the Office of Animal Care

Enforcement shall attempt to notify the owner before consulting with a licensed veterinarian and euthanizing the animal.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.99 PENALTY.

- (A) Fees shall be charged in accordance with the schedule of fees adopted by the Caldwell County Board of Commissioners, as may be amended from time to time. The Director of Caldwell County Animal Care Enforcement shall have the authority to waive fees required by this chapter for special circumstances that may arise. The purpose of this authority is to allow some flexibility within this chapter that normally would require Board of Commissioner approval if a situation arises where a fee would be inappropriate, or where the waiver of such fee would be in the best interest of the County of Caldwell.
- (B)
  - (1) Any person, fine or corporation violating any of the provisions of this chapter shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of \$25, which shall be paid in full within 30 business days of the service of the citation by a representative of the County Animal Care Enforcement Office or any law enforcement officer, or both in accordance with G.S. § 153A-123. If the offender does not pay the penalty within 30 business days, the county may recover the penalty plus court costs and attorney fees in a civil action in the nature of debt.
  - (2) Each subsequent violation of any of the provisions of this chapter shall subject the violator to the imposition by citation of a civil penalty in the amount of \$100, which shall be paid in full within 30 business days of the service of the citation. If the offender does not pay the penalty within 30 business days, the county may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt.
  - (3) Failure to make payment and correct the violation or violations within 30 business days will result in an additional penalty of \$25 per violation per day until the violation is corrected and the citation is paid. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the county animal shelter.
- (C) If any dangerous animal or dangerous dog (as defined in G.S. § 67-4.1) shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a \$300 civil penalty and, after a 10-day waiting period, exclusive of Sundays and holidays, the dog shall be destroyed by the Office of Animal Care Enforcement.
- (D) If any dangerous animal or dangerous dog shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any domestic animal or pet, the owner of the animal or dog shall pay a \$200 civil penalty, and the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.

- (E) If any dangerous animal or dangerous dog is found in violation of §§ 90.19, 90.20 and/or 90.21, the owner of the animal or dog shall pay a \$150 civil penalty, and the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.
- (F) Any person in possession of or keeping an inherently dangerous mammal within the county shall be in violation of this chapter, and shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of \$300, which shall be paid in full within 72 hours of the service of the citation by a representative of the County Office of Animal Care Enforcement, or any law enforcement officer, or both in accordance with G.S. § 153A-123. If the offender does not pay the penalty within 30 business days, the county may recover the penalty plus court costs and attorney fees in a civil action in the nature of debt. Failure to make payment and correct the violation or violations within the 30 business days will result in an additional penalty of \$600 per violation per day until the violation is corrected. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the county animal shelter.
- (G) Violation of this chapter may subject the violator to criminal as well as civil action. Violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Any person convicted of this violation shall be punishable as provided in G.S. § 14-4. Each day's violation of this section is a separate offense.
- (H) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)