

# **REQUEST FOR BOARD ACTION**

## **HENDERSON COUNTY**

### **BOARD OF COMMISSIONERS**

**MEETING DATE:** August 2, 2010

**SUBJECT:** Animal Ordinance Revisions

**ATTACHMENT(S):** Summary of Substantive Ordinance Revisions  
Animal Ordinance w/ Revisions Highlighted  
Letter from Dr. Marilyn Haskell, NC DHHS Public Health Veterinarian

#### **SUMMARY OF REQUEST:**

Attached are proposed revisions to the Animal Ordinance. These revisions have been reviewed and recommended for the Commissioners' approval by the Animal Services Advisory Committee (ASAC) and County staff. For the Board's convenience in reviewing the Ordinance revisions, staff has compiled a summary of the revisions with descriptions and reference pages from the Ordinance.

The most significant revision and recommendation within the Ordinance is that of prohibiting the possession of inherently dangerous animals, such as hybrid animals and wild animals. Staff and the ASAC had much discussion and performed extensive research on the topic of hybrid animals and are compelled to put forward the recommendation that these inherently dangerous animals be prohibited in Henderson County due to public health and safety concerns. A key justification for this recommendation is found within the attached memorandum from Dr. Marilyn Goss Haskell, DVM, N.C. Department of Health and Human Services Public Health Veterinarian, verifying that "there are no parenteral biologics (e.g., rabies vaccines) currently licensed and approved for wolves or wolf-hybrids by the USDA". Of note, there are numerous states that have prohibited hybrid animals, whereas North Carolina leaves this decision to each individual governmental jurisdiction.

#### **BOARD ACTION REQUESTED:**

The Animal Services Advisory Committee and staff recommend approval of the attached revisions to the Animal Ordinance.

#### **Suggested Motion:**

*I move that the Animal Ordinance amendments be approved as presented and be enforced effective immediately.*

**SUMMARY OF SUBSTANTIVE REVISIONS TO ANIMAL ORDINANCE  
FOR BOARD REVIEW ON AUGUST 2, 2010**

<b>Revision</b>	<b>Description of Revision</b>	<b>Reference Pages</b>
<b>Livestock</b>	Adds "Livestock" to provisions related to dangerous/potentially dangerous dogs. To clarify, a dog may be deemed dangerous or potentially dangerous when it severely injures or kills livestock, in addition to injuring or killing domestic animals. The previous provision only covered domestic animals.	2, 4, 8
<b>Hybrid Definition</b>	Removes the limitation of "dog" when referring to hybrid animals because the term "hybrid" can be used to define any animal that is the product of the breeding of any domestic animal with a non-domestic animal. For example, non-domestic felines can be bred with domestic cats to produce a hybrid.	3, 26, 27
<b>Inherently Dangerous Animals</b>	Adds a definition of and provision to prohibit the possession of inherently dangerous animals, such as hybrid animals and wild animals.	3, 24, 26, 27
<b>Roles of Animal Services and Animal Enforcement</b>	Clarifies and better delineates the roles and responsibilities between animal services staff and animal enforcement officers.	6, 7, 8, 9, 10, 20, 22, 25
<b>Enclosures &amp; Controls for Dangerous Potentially Dangerous Dogs</b>	Strengthens language for enclosure requirements for dangerous/potentially dangerous animals. Removes "tattooing" of animals because tattooing animals is no longer a widely used practice for identification of animals.	10, 11, 21, 23
<b>Impoundment of Dangerous Potentially Dangerous Dogs</b>	Strengthens Animal Enforcement Officers' ability to keep animals impounded when criminal charges have been brought against the owner of the animal.	12
<b>Prohibition Against Giveaways in Public Places</b>	Simplifies the previous language regarding prohibiting giveaways of animals in public places.	22

Note: The revisions listed above are significant Ordinance changes, whereas there are also other, less substantive revisions, such as procedural clarifications or "clean-up" revisions regarding rabies vaccination vouchers, definitions, etc. included within the proposed Ordinance amendments.

RECEIVED JUNE 10, 2010



**North Carolina Department of Health and Human Services  
Division of Public Health • Epidemiology Section  
Communicable Disease Branch**

1902 Mail Service Center • Raleigh, North Carolina 27699-1902  
Tel 919-733-7301/3419 • Fax 919-733-1020

Beverly Eaves Perdue, Governor  
Lanier M. Cansler, Secretary

Jeffrey P. Engel, M.D.  
State Health Director

To: Brad Rayfield, Animal Services Director, Henderson County  
Subject: Wolf-Hybrid Ownership  
From: Marilyn Goss Haskell, DVM MPH  
NC DHHS Public Health Veterinarian

North Carolina's rabies statutes, under Chapter 130A, specifically address public health control measures for domestic dogs (*Canis lupus familiaris*), cats (*Felis catus*) and ferrets (*Mustela putorius furo*). These laws are based on scientific data. Currently there is an absolute lack of published information regarding viral shedding periods and incubation periods for wild carnivores and wild-domestic hybrid carnivores.

There are no parenteral biologics (e.g., rabies vaccines) currently licensed and approved for wolves or wolf-hybrids by the United States Department of Agriculture Center for Veterinary Biologics, as there are for select domestic species. Therefore, if a wolf-hybrid is bitten by a rabid or potentially rabid wild animal, the wolf hybrid must be euthanized.

According to NCGS 130A-196, a domestic dog, cat or ferret that bites a human is required to be confined for 10 days. This protocol cannot be applied to wildlife or wild-domestic hybrids because the rabies virus shedding period is unknown. Owners of wolf-dog hybrids must understand that in the event the hybrid bites a human, these hybrids are considered wild animals for the purposes of evaluation of the risk of transmission of rabies, an invariably fatal disease. Sufficient scientific data does not exist defining the duration of the rabies viral shedding period prior to death in hybrids as it does for dogs, cats and ferrets. Therefore, observation of the wolf-hybrid under confinement is not an option. If a wolf-hybrid bites a person and is available, the recommendation is to test the animal and not subject a person to a rigorous postexposure prophylaxis schedule of human rabies immune globulin and a series of 4 vaccines over 14 days.

The NC DHHS position on the management of feline and canine hybrids is published in the *2007 North Carolina Manual for Rabies Prevention and Management* and presented below, available at <http://www.rabies.ncdhhs.gov/epi/vet/pdf/2007NCRabiesManual.pdf>.

**Canine and Feline hybrids; Rabies Immunization and Bite Management**

Offspring resulting from a cross between a wild animal and domestic animal are regarded as wild animals and should be managed as wild animals in the event that a person is bitten. There is no rabies vaccine licensed for use in hybrid animals. The efficacies of currently available rabies vaccines have not been determined in these animals. Additionally the viral shedding period for rabies has not been characterized in hybrid animals as it has been in domestic dogs and cats. It is the reason why a raccoon or tiger or wolf hybrid cannot be held for a 10-day confinement period if they bite a person. It is unknown how long these animals may survive while shedding rabies virus because the rigorous scientific studies required for public health protection have not been accomplished. Therefore if a canine or feline hybrid bites a person, the animal should be humanely euthanized and the head submitted for rabies diagnostic testing at the SLPH. Also if a canine or



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feline hybrid animal is exposed to a possibly rabid animal, the possibly rabid animal should be submitted for rabies diagnostic testing, even if the hybrid was vaccinated against rabies. Because there is no licensed rabies vaccine for use in hybrids, they will always be considered not vaccinated against rabies. Placing a hybrid animal into a 6-month quarantine is NOT permissible because the incubation period for rabies has not been characterized in these animals as it has been for domestic dogs and cats. If it is concluded that the hybrid animal has been exposed to rabies it should be humanely euthanized.

**Special Note to Veterinarians:** The AVMA professional liability insurance trust has issued the following statement regarding vaccination of wolf hybrids:

The vaccinating of wolf-hybrids has become a topic of concern for veterinarians as a result of their increasing popularity as companion animals. The Trust office is frequently asked whether the AVMA policy will provide coverage if a veterinarian vaccinates a wolf-hybrid. The answer hinges on the state or local regulations regarding the harboring of these animals as pets.

The Trust office advises veterinarians to check with state authorities to determine the hybrid's legal status as a pet. If the state or local government has no law against keeping a wolf-hybrid as a pet, the Trust would consider the vaccination of this animal as a discretionary use of a biologic by the veterinarian, an act which the policy does not specifically exclude. Prior to any such vaccination, however, the owner must be informed that the vaccine is not approved for use in wolf-hybrids and that there have been no studies to provide efficacy of the vaccine in these animals. Make a notation of this discussion in the record and have the owner initial it. This allows the owner to make an informed decision regarding the use of the vaccine. If the veterinarian practices in a state where it is illegal to keep these animals as pets, any treatment of a wolf-hybrid may be considered an illegal act. Illegal acts are excluded under the AVMA professional liability policy.

There is no state ban on owning canine or feline hybrids in North Carolina. However some municipalities, recognizing the danger posed by exotic, or hybrid, animals have adopted local ordinances that restrict or outlaw

These recommendations are derived from a national guidance document, the *Compendium of Animal Rabies Prevention and Control* that is developed by the Compendium of Animal Rabies Prevention and Control Committee each year and is located at <http://www.nasphv.org/Documents/RabiesCompendium.pdf>. The recommendations in the Compendium are endorsed by the following national groups: American Public Health Association (APHA), American Veterinary Medical Association (AVMA), Association of Public Health Laboratories (APHL), and the Council of State and Territorial Epidemiologists (CSTE). The following are the Compendium recommendations regarding wild hybrid vaccination:

## **B. PREVENTION AND CONTROL METHODS IN DOMESTIC AND CONFINED ANIMALS**

### **1. PREEXPOSURE VACCINATION AND MANAGEMENT**

#### **(c) CONFINED ANIMALS**

##### **(1) WILD**

No parenteral rabies vaccines are licensed for use in wild animals or hybrids (the offspring of wild animals crossbred to domestic animals). Wild animals or hybrids should not be kept as pets (16-19).

## **C. PREVENTION AND CONTROL METHODS RELATED TO WILDLIFE**

The public should be warned not to handle or feed wild mammals. Wild mammals and hybrids that bite or otherwise expose persons, pets, or livestock should be considered for euthanasia and rabies examination. A person bitten by any wild mammal should immediately report the incident to a healthcare provider who, in consultation with public health authorities, can evaluate the need for postexposure prophylaxis (3).

**D. WILDLIFE AND HYBRID ANIMAL VACCINATION:** The safety and efficacy of parenteral rabies vaccination of wildlife and hybrids have not been established, and no rabies vaccines are licensed for these animals.

## **Part 1 Animal Regulations**

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### **ARTICLE I General Provisions**

#### **§ 66A-1. Definitions.**

For the purpose of this article, unless the context clearly requires otherwise, the following definitions shall apply:

**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 a reasonable level of nutrition for the animal.

**ADEQUATE SHELTER** — Proper and adequate shelter that will protect the animal from adverse weather and will allow the animal to stand, sit, and lie down without restriction and is kept humanely clean and sanitary.

**ADEQUATE WATER** — The access to a sufficient supply of clean, fresh water provided at suitable intervals for the animal's physical needs and the climatic conditions.

**ADULT** — A person 18 years of age or older who has not been judicially declared incompetent.

**AGGRESSIVE ANIMAL:** Any animal with a demonstrated propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or (2) Any animal which, because of its aggressive propensity, is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner.

**ALTERED** — An animal that has been rendered sterile by being surgically spayed or neutered.

**ANIMAL BITE** — Occurs when the teeth of the biting animal break the skin of a human being, regardless of location of the bite on the body.

**ANIMAL ENFORCEMENT OFFICER** — Officers from the Sheriff's Department or the Sheriff's designee charged with the enforcement of the Animal Ordinance and the regulation of animals and animal owners within both incorporated and unincorporated sections of Henderson County.

**ANIMAL SERVICE CENTER** — The County Animal Shelter, and any other designated facilities, operated and maintained by the County for the purpose of impounding animals under the authority of this chapter or the General Statutes for care, confinement, return to owner, adoption or euthanasia.

**ANIMAL SERVICE DIRECTOR** — The director placed in supervision of the Animal Services Center.

AT LARGE — An animal when: 1) not on the owner's property, 2) not under control of a competent person or unrestrained by a leash, harness, or 3) not controlled by other similar physical means.

CAT — A domestic feline of either sex.

COMPANION ANIMAL — Any dog or cat.

COMPETENT PERSON — A legally competent person of suitable age and discretion to keep an animal under sufficient control in order to prevent harm to the animal, humans, other animals or property.

COUNTY — Henderson County, North Carolina.

COUNTY DIRECTOR OF PUBLIC HEALTH — The Director of the Henderson County Department of Public Health.

DANGEROUS/POTENTIALLY DANGEROUS DOG — Any dog whose behavior constitutes a risk of severely injuring or killing a human ~~or~~ domestic animal or livestock, or which, by demonstrated behavior, is commonly accepted as dangerous. The following criteria shall be used in identifying a dangerous dog:

- A. A dog that, without provocation, has killed or inflicted severe injury on a person.
- B. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
- C. A dog that is determined hereunder to be potentially dangerous because the dog has engaged in one or more behaviors listed below. The following criteria shall be used in identifying a potentially dangerous dog:
  - (1) A dog that has inflicted a bite on a person that resulted in broken bones, disfiguring lacerations, or requiring surgery or hospitalization.
  - (2) A dog that has killed or inflicted severe injury upon a domestic animal or livestock when not on the owner's real property.
  - (3) A dog that has approached a person when not on the owner's property in an apparent attitude of attack.
- D. A dog shall not be deemed dangerous solely because it bites, attacks, or menaces:
  - (1) Anyone assaulting or threatening the owner or trespassing on the owner's property;
  - (2) Any person or other animal that has provoked, tormented, or abused it; or
  - (3) While protecting or defending its young.

DAY — A period of 24 hours, including Saturdays, Sundays, and holidays.

DEPARTMENT — The County Animal Services Department and Animal Enforcement.

DOG — A domestic canine of either sex.

**DOMESTIC ANIMAL** — Any animal whose physiology has been determined or manipulated through selective breeding which does not occur naturally in the wild, and which can be vaccinated against rabies with an approved rabies vaccine, and which has an established rabies quarantine observation period.

**EUTHANASIA** — The causing of death in any animal by using any humane method approved by the American Veterinary Medical Association or the North Carolina Veterinary Medical Association.

**EXPOSED TO RABIES** — Any animal or human bitten by or exposed to the saliva or neural tissue of any animal known or suspected to have been infected with rabies.

**GENERAL STATUTES** — The North Carolina General Statutes, as amended.

**HARBORING AN ANIMAL** — Feeding or sheltering an animal seven days or more unless the animal is being boarded for a fee at a licensed kennel.

**HAVEN** — A nonprofit organization that provides care for animal. Same as “Rescue”. A haven must comply with the companion animal permit program unless it falls under state law.

**HYBRID** — A "hybrid dog" is any animal which is the product of the breeding of a dog domestic animal with a non-domesticated animal, including but not limited to other hybrid animals or wolves.

**IMPOUND** — To apprehend, seize, catch, trap, net, quarantine, tranquilize, or confine an animal in a humane manner.

**INCORPORATED AREA** — Any area located within any incorporated municipality located wholly or in part within the County.

**INHERENTLY DANGEROUS ANIMAL**— 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 man, or any hybrids thereof, including wolf hybrids which 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 fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (Felis catus).
3. **Ursidae**, including any member of the bear family, or any hybrids thereof.

**LIVESTOCK** — A term for animals that shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, fowl and swine. This does not include animals defined as “Domestic”.

**MICROCHIP** — An electronic identification device which is intended to be implanted within an animal.

**OWNER** — Any person, group of persons, firm, partnership, corporation, organization, or association owning, keeping, or harboring, or any person who shelters, feeds, or takes care of, an animal for seven or more consecutive days unless said animal is being boarded for a fee. An occupant of any premises on which a dog or cat remains or customarily returns is an owner under this chapter. If a person under the age of 18 years is an owner subject to the provisions of this chapter, the head of the household in which such person under the age of 18 years resides shall also be an owner under this chapter and therefore subject to prosecution under this chapter. Such household head may himself or herself be under the age of 18 years. If not a member of a household, a person under the age of 18 years shall himself be the responsible person. There may be more than one owner responsible for an animal.

**OWNER'S REAL PROPERTY** — Any real property owned or leased by the owner, but not including any public right-of-way or common area.

**PET SHOP** — Any person, partnership, or establishment engaging in the commercial enterprise to acquire animals for the purpose of resale or trade. Pet shops must possess a current license from the State Department of Agriculture.

**PROVOCATION** — With respect to an animal that has bitten or attacked a person or domestic animal or livestock, that the animal was physically abused such as hit, kicked, agitated or teased, struck by a person with an object or part of a person's body, or that any part of the animal's body is pulled, pinched, or squeezed by a person or the animal was physically threatened.

**PUBLIC NUISANCE** — An animal's behavior or owner's maintenance of an animal that adversely impacts the health, safety, or welfare of the animal, the owner, or the public. Any animal determined to be a nuisance under this Ordinance must be micro chipped within 10 days of the nuisance determination.

**QUARANTINE ORDER** — An order to secure any dog, cat, or other animal specified by state law which has bitten a person for a mandatory 10-day observation period as required by N.C.G.S. 130A-196 to 199. Quarantine orders may also be issued by the local health director for up to six months when a domestic animal suffers a rabies exposure.

**RABIES EXPOSURE** — Any bite or other event in which a person or animal has been suspected of coming in contact with the saliva or nervous tissue of an animal possibly having rabies.

**SECURE ENCLOSURE** — An enclosure, including a house, from which an animal cannot escape unless freed by the owner. An Animal Enforcement Officer, in his/her discretion, may determine whether or not there is a secure enclosure on the premises.

**SEVERE INJURY** — Any injury that results in broken bones or lacerations, or requires cosmetic surgery or hospitalization.

**STRAY** — Any domestic animal within the County wandering at large or lost or which does not bear evidence of the identification of any owner or whose owner cannot be



found.

**SUSPECTED OF HAVING RABIES** — An animal that has bitten, or exposed saliva or neural tissue to, a person or another animal; or a wild animal that has bitten a person or domestic animal.

**TRESPASS** — Wrongful invasion of the property of another.

**UNALTERED**—An animal that has not been spayed or neutered.

**UNINCORPORATED AREA** — Any area of the County not within an incorporated area.

**VACCINATION** — The administration of the rabies vaccine as required by General Statutes § 130A-185.

**WILD** — An animal living in a state of nature; not tamed or domesticated. This also includes but is not limited to feral cats.

**§ 66A-2. Authority and territorial application.** (sections re-ordered)

- A. Purpose. As determined by state law, the Animal Services Center: 1) prevent the abuse and neglect of animals (N.C.G.S. §153A-127); 2) protect the public health, safety, and welfare (N.C.G.S. §153A-121); 3) enforce regulations regarding the possession or harboring of dangerous/potentially dangerous dogs (N.C.G.S. §153A-131); 4) protect the public and domestic animals from rabies (N.C.G.S. §130A-185); 5) educate the public regarding proper care for animals.
- B. This article is adopted pursuant to the power granted the County in General Statutes §§ 153A-121, 153A-127, 153A-153 and 153A-442. This chapter shall apply to all unincorporated areas of the County and to those incorporated areas of any city or town specifically requesting its enforcement by the County upon the consent of the County Board of Commissioners. This request must be in writing in the form of a resolution approved by the governing body. (In making such a request, the city or town must comply with the requirements of N.C.G.S. 153A-122.) The provisions of this article shall be enforced by the Sheriff of Henderson County.

- The County may contract annually with any municipality located within the County to
- C. enforce any animal restraint ordinance ("leash law") adopted by such municipality, on such terms and conditions (including the acceptability of the terms of such restraint ordinance) as are deemed advisable. Such contract shall require any such municipality to reimburse to the County all the costs associated with the enforcement of such a restraint ordinance. Henderson County shall not enforce any municipal leash or animal related laws in the municipality without a contractual agreement between the County and the municipality.

**§ 66A-3. Animal Service Advisory Committee.**

The County Animal Service Advisory Committee shall make recommendations to the Board of Commissioners based on animal-related ordinances or policies and shall assist in establishing policies and procedures for the Animal Service Center. The Board may undertake the study of particular areas under their authority in order to advise Henderson County staff and Board of Commissioners.

The County Animal Service Advisory Committee, or a duly appointed subcommittee thereof, shall act as the Animal Service Appellate Board and hear all appeals under the Henderson County Animal Ordinance when permitted by State law. Appeals governed by state law shall go to the court of appropriate jurisdiction.

#### **§ 66A-4. General duties of Animal Services and Animal Enforcement**

##### **A. Duties and responsibilities of Animal Services Director**

- 1. Enforcing all County ordinances relating to the care, custody and control of domestic animals.**
- 2. Operating the County Animal Service Center pursuant to policies adopted by the County Board of Commissioners.**
- 3. Keeping, or causing to be kept, accurate and detailed records of:**
  - i. Impoundment, and disposition of all animals coming into custody of the Animal Service Center.**
  - ii. All monies derived from fees and penalties.**
  - iii. Any other matters deemed necessary by the Animal Services Director.**

##### **B. Duties and responsibilities of Animal Enforcement**

- 1. Enforcing all County ordinances relating to the care, custody and control of domestic animals.**
- 2. Investigating all reported animal bites or other human physical contact with a suspected rabid animal, enforcing quarantine ordered for any dog or cat involved, and submitting bite reports and reports of human contacts to the County Director of Public Health.**
- 3. Investigating complaints with regard to animals arising under this chapter.**
- 4. Protecting animals from neglect; investigating animal mistreatment (as defined in § 66A-11).**
- 5. Seizing and arranging for impoundment, where deemed necessary, of any animal involved in a violation of this Ordinance or the General Statutes.**
- 6. Keeping, or causing to be kept, accurate and detailed records of:**
  - i. Seizure, impoundment, and disposition of all animals coming into custody of the Animal Service Center.**
  - ii. Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances, and breed.**
  - iii. All monies derived from fees and penalties.**
  - iv. Any other matters deemed necessary by the Sheriff.**

#### **§ 66A-5. Citations.**

The Animal Service Director, Animal Enforcement Officers, Sheriff, and Sheriff's Deputies of the County ~~are hereby empowered to~~ may issue citations to any person who has violated provisions of this chapter, in accordance with § 66A-19.

#### **§ 66A-6. Tranquilizer guns.**

Animal Enforcement Officers and Animal Services employees are authorized to store at the Animal Service Center tranquilizer guns approved for use and to use such tranquilizer guns when necessary to enforce sections of this chapter or applicable laws for control of wild, dangerous, or diseased animals.

#### **§ 66A-7. Interference or concealment.**

- A. Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct any employee or agent of the Department in the performance of any duty authorized by law or ordinance, or to seek to release any domestic animal in the custody of such employees or agents (including from traps, cages, or other enclosures) except as specifically provided or authorized by the Department.
- B. Concealment of dogs and cats. It shall be unlawful for any person to conceal, for the purpose of evading the rabies vaccination or dangerous dog/ potentially dangerous dog requirement of the law, any unlicensed (if licensing requirement adopted) or unvaccinated dog or cat from any employee or agent of the Department.

#### **§ 66A-8. Public nuisances prohibited.**

- A. Animal care constituting a nuisance. It shall be unlawful for any person to own, keep, or maintain a companion animal in such a manner as to constitute a public nuisance as defined herein.
  - 1. Maintaining animals in an unsanitary environmental which results in odors considered excessive to a reasonable person or is dangerous to the animal or to the public health, safety, welfare, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
  - 2. Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, welfare of community because of number, type, variety, density, or location of animals on the property. This includes the keeping, possessing, or harboring of wild or feral animals which threaten the public health, safety, and welfare.
  - 3. Maintaining an animal that is diseased and dangerous to the public health.
  - 4. Harboring, keeping, owning, or possessing an animal which is at large or is repeatedly at large.
- B. Animal behavior constituting a nuisance. It shall be unlawful for an owner to permit an animal to habitually do the following, but not limited to: chases bicycles or motor

vehicles or pedestrians, damages private or public property, turns over garbage cans or deposits feces on another's private property or on public property.

In addition to any other enforcement remedies available under this chapter, if an

- C. Animal Enforcement Officer determines an animal to be a nuisance under this section, then such officer is authorized to order the owner to confine such animal in accordance with the Animal Enforcement Officer's instructions. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order. In addition, any animal determined to be a nuisance under this section must be micro chipped within 10 days of the nuisance determination.
- D. Animal Owners, where there is determined to be nuisances, shall be notified and ordered to abate said nuisance within 10 days by whatever means necessary. Failure to comply within this time frame shall constitute a separate offense for each day thereafter the violation continues. No civil penalty shall accrue during the 10 day warning period.
- E. Reporting. Upon receipt of a detailed complaint to ~~the Sheriff's Office or Animal Services~~ Animal Enforcement, the owner shall be notified by certified or registered mail or by hand delivery.
- F. Appeal. The owner shall have 10 days to appeal the nuisance determination to the Animal Services Appellate Board.
- G. Nothing in this provision is intended to conflict with the Henderson County Nuisance Ordinance, Noise Ordinance or other applicable section of the Henderson County Code.

#### **§ 66A-9. Confinement of female dog during estrus (heat).**

Any owner of a female dog during its estrus (heat) period shall confine said animal in a building or secure enclosure in such a manner that the dog will not be in contact with male dogs, or attract other animals. This section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of the animal that is being bred.

#### **§ 66A-10. Dangerous/potentially dangerous dogs restricted.**

- A. General provisions. It shall be unlawful for any person to own or in any way maintain or harbor a dog that is dangerous/potentially dangerous, except as provided in this chapter. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Animal Service Center.
  - (1) Reporting requirement. Any (A) attack or biting by a dog upon a person, livestock, or domestic animal; (B) transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog; (C)

confinement to a Veterinary facility; (D) removal from territorial jurisdiction of the county; (E) animal's death must be reported by any of the following individuals:

- (a) owner, keeper, harbinger of a dog deemed dangerous/potentially dangerous or of a dog who has attacked or bitten a person or domestic animal;
  - (b) victim of or person witnessing such of an attack or biting;
  - (c) veterinarian treating a domestic animal for such an attack or biting;
  - (d) Health care professional treating a person for such an attack or biting.
- (2) The report must be made to the Sheriff's Office within 24 hours of the event.
- (3) Failure to report an incident within 24 hours may result in criminal and civil penalties under this Ordinance and personal liability in subsequent incidents.

B. Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:

- (1) Used by law enforcement agencies to carry out official law enforcement duties;
- (2) Functioning lawfully as hunting or herding dogs, or in controlling predators on the property of, or under control of, the owner when performing duties appropriate to said functions;
- (3) Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
- (4) Protecting itself or its young from assault, torment, or abuse.

C. Declaration of dangerous/potentially dangerous dog. The Sheriff or his/her designee shall have the authority to declare a dog to be a dangerous/potentially dangerous dog. Any determination that a dog is dangerous/potentially dangerous shall be made in writing summarizing the available evidence and which shall be delivered or mailed by certified or registered mail to the owner. The written determinations shall order compliance with the appropriate provisions of this ordinance and ~~the Director or his/her designee~~ may impose reasonable conditions to maintain the public health and safety.

D. Appeal. Any person who owns a dog that has been declared dangerous/potentially dangerous shall have the right to appeal this decision to the Animal Services Appellate Board.

- (1) Manner of appeal. The owner of a dog declared dangerous/potentially dangerous must request an appeal of the determination in writing. The written appeal must be submitted to the Animal Service Director, and must be received by the Animal Service Director or postmarked within 5 calendar days of the receipt by the owner of notice of the declaration.
- (2) Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 66A-10E.
- (3) Hearing procedures. Once properly appealed, the Animal Service Appellate Board shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct.

- (4) Outcome. If the dog is affirmed by the Animal Service Appellate Board as being dangerous/potentially dangerous, then the owner shall comply with the terms of 66A-10E, F, G. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Service Appellate Board or its designee has the right to appeal this determination to the Superior Court.
- E. Enclosures and control measures for dangerous/potentially dangerous dogs. If a dog has been determined to be dangerous/potentially dangerous, as specified in this section, the dog may be retained upon the owner satisfying the following conditions:
- (1) The owner must insure that the dog at all times on and off the owner's property remains securely enclosed as per the Ordinance or controlled and muzzled as described below. Failure to do so shall subject the owner to penalty under this chapter:
    - (a) Confine the dog within the owner's residence; or
    - (b) Erect and confine the dog (except when muzzled and controlled as required below) in a securely enclosed and padlocked pen with a concrete bottom and secure top within 30 days. The structure must be secured by a child-resistant lock. Pending construction of such pen, the dog must be confined within the owner's residence or
    - (c) The animal must be muzzled and under restraint by a competent person who, by means of a leash or chain, has such animal firmly under physical restraint at all times when not in a secure building or enclosure.
  - (2) The owner must post a warning sign, of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous/potentially dangerous dog is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
  - (3) Tattooing/Microchip. Within 10 days of the determination or appeal determination, the owner of a dangerous/ potentially dangerous dog must demonstrate to the Animal Services Director- Enforcement that such dog has been tattooed on the inside of the right hind leg with an identification number or had a microchip implanted.
  - (4) Inspection. Animal Enforcement shall cause periodic inspections to be made of the premises where the dangerous/potentially dangerous dog is kept to assure compliance with the provisions of this Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
  - (5) Control Measures.
    - a) All control measures required by this section must be met immediately

upon the determination that the animal is dangerous/potentially dangerous except for the construction of the enclosure discussed in section 1(b) of this provision. The Owner has 30 days to construct the enclosure during which time the animal must be confined indoors and may only be permitted outside under the control of a competent person by leash and the animal must be muzzled. Failure to meet all control measures may result in the immediate impoundment of the animal and civil and criminal penalties.

- b) If the owner has no place to keep the animal while the structure is being constructed, the animal may be kept at the Animal Services Center or at a private establishment approved by Animal Enforcement at the owner's expense.

~~Impoundment. If the dangerous/potentially dog is at large during the 30 day period while enclosure is being constructed, Animal Enforcement Officers must seize and impound the dog until the enclosure is completed to the satisfaction of Animal Services as per this Ordinance. The cost of impoundment shall be paid by the owner prior to the animal's release.~~

~~All control measures required by this section must be met immediately upon a determination that the animal is dangerous/potentially dangerous, except for the enclosure discussed in 1(b) of this section which the owner has 30 days to complete. Failure to do so shall result in the immediate impoundment and possible criminal or civil penalties.~~

F. Notification. Within 24 hours:

- (1) Of change of address or ownership of a dangerous/potentially dangerous dog, the owner shall provide written notification of the change of address or ownership to the Sheriff, stating the full name if there's a new owner, address, and location of the new owner of the dog.
- (2) Of death of a dangerous/potentially dangerous dog, the owner shall provide written notification of the dog's death to the Sheriff.

G. Notification prior to transfer. Prior to any transfer to a new owner (with or without consideration) of a dangerous/potentially dangerous dog, the owner must provide to the Sheriff a written statement, signed before a notary by the transferee (on a form obtained from the Animal Service Center), indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous/potentially dangerous dog.

If the dangerous or potentially dangerous dog is being transferred out of Henderson County or out of North Carolina,

- a. The owner of the animal must notify the Sheriff and the new jurisdiction to which the animal is being moved that this dog has been deemed a dangerous/potentially dangerous dog;

- b. The Sheriff also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case.
  - c. The owner must comply with any local regulations regarding dangerous dogs in the new location.
- H. Immediate impoundment. Any dangerous/potentially dangerous dog kept in violation of this section may be immediately impounded upon issuance of any warrant for the same, pending the outcome of the criminal action. If the owner is convicted of a criminal offense of keeping a dangerous/potentially dangerous dog in violation of this section, in addition to any criminal penalties imposed, the Animal Services Director or his/her designee ~~shall~~ may euthanize the dog. Nothing herein shall be construed to in any way limit the use of civil penalties for a violation of this section.
  - 1. Cost of impoundment. Costs of impoundment at the Animal Services Center shall be paid by the owner or the person liable for the animal at a daily rate as determined by the County. In instances where the Animal Services Center must impound the animal(s) at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.
  - 2. Release from impoundment.
    - (a) No dog deemed dangerous or potentially dangerous who has been impounded by the Animal Services Center shall be released to the owner from impoundment except upon proof submitted by the owner or person liable for the animal that all the elements of this Ordinance have been met as verified by Animal Enforcement. This shall not apply in instances where criminal charges have been brought against the owner.
    - (b) If criminal charges have been brought against the owner for failure to comply with this Ordinance or for interference with the operations of the Animal Services Center, no dog deemed dangerous shall be released from Animal Services until determined by a court of competent jurisdiction. During this time while the dog is impounded, it cannot be euthanized and the cost of impoundment shall be charged to the owner.
    - (c) No dog deemed dangerous or potentially dangerous may be adopted.

#### **§ 66A-11. Mistreatment of animals prohibited.**

It shall be unlawful for any person owning, keeping or responsible for an animal to deprive or cause to be deprived animal of adequate food, water, necessary medical attention and adequate shelter.

- A. Adequate food and water, as defined below, must be provided for animals.

**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 a reasonable level of nutrition in each animal. Such foods shall be served in a receptacle, dish, or container that is physically clean.

**ADEQUATE WATER** — Adequate water means the access to a sufficient supply of clean, fresh water provided at suitable intervals for the animal's physical needs and the climatic conditions.

- B. Necessary medical attention. No person owning, keeping, or responsible for an animal shall fail to supply the animal with necessary medical attention or vaccines when the animal suffers from illness, injury, or disease.
- C. **ADEQUATE SHELTER**— protection from the weather and humanely clean conditions. No persons owning, keeping or responsible for an animal shall fail to provide the animal with appropriate shelter, protection from the weather and humanely clean conditions as prescribed in this section.
  - (1) When confinement prohibited. No animal may intentionally be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when to do so would expose the animal to heat or cold harmful to its health.
  - (2) Standards for chaining. No animal may be chained outdoors unattended without a chain/cable of suitable length designed and placed to prevent choking or strangulation, with the area free of obstacles and humanely clean so that the animal may have access to food, water, and shelter. It shall be illegal to tether, chain, stake out, tie up or otherwise similarly restrict any and all birds for the purpose of promoting bird aggression.
- D. An owner of an animal shall not permit injury or inflict pain upon such animal from an improperly fitting or embedded collar or harness.
- E. It shall be illegal to own, keep, or harbor an animal for the purpose of fighting other animals; or attacking other animals or people except for protecting the owner or owner's real property. It shall be illegal to sponsor, promote, organize animal fights, train animals for fighting, or provide animals for fighting including but not limited to dog fighting and cock fighting.
- F. An owner of animal shall not hit, physically abuse, or torment the animal.

**§ 66A-12. Destruction of animals that cannot be seized or confined by reasonable means.**

- 1. Notwithstanding any other provision of this chapter, a dog or cat that cannot be seized by reasonable and normal means, trapped in a humane, live-capture animal trap, or tranquilized, may be humanely destroyed in the field by the Sheriff or other law enforcement officers.
- 2. Vicious, dangerous/potentially dangerous animals so designated, wild animals, or an animal attacking a human being, another pet, or livestock may be immediately destroyed, if such destruction is necessary for the protection of the public health and safety or that of County staff.

### **§ 66A-13. Setting humane animal traps; authority to receive trapped animals.**

The Sheriff and Animal Enforcement Officers are authorized to place, upon request, County-owned live-capture animal traps on private or public property to trap and remove stray, at large, unwanted, or nuisance dogs or cats. It is unlawful for any person other than the Sheriff or an Animal Enforcement Officer to remove any dog or cat from the trap or to damage, destroy, or move, or tamper with the trap. The Sheriff is authorized to receive and impound animals that are trapped by other agencies or persons. Animal Enforcement Officers may not remove animals from privately owned traps in the field. Privately owned traps may be brought to the Animal Service Center for removal of animals.

### **§ 66A-14. Impoundment.**

- A. In general. Any animal found being mistreated or kept under unsanitary or inhumane conditions, as provided in § 66A-11; any animal found to be a public nuisance, as provided in § 66A-8; or any dog or cat found to be not wearing a currently valid rabies vaccination tag off the owner's property as required shall be seized, impounded, and confined by the Animal Enforcement Officer and confined in the Animal Service Center in a humane manner. Impoundment of such animal shall not relieve the owner thereof of any penalty which may be imposed for violation of any provision of this chapter occurring prior to the date of the impoundment.
- B. Notice to owner. Immediately upon impounding an animal, the Sheriff or his designee shall make reasonable efforts to notify the owner and inform such owner of the conditions whereby the animal may be redeemed.
- C. Redemption by owner. The owner of an animal impounded under this chapter may redeem the animal and regain possession thereof in accordance with the rules and fees set by the Board of County Commissioners in the policies for operation of the County Animal Service Center and by complying with all applicable provisions of this chapter and by paying all fees and civil penalties due. Fee rates shall be available for public inspection in the office of the Clerk to the Board of County Commissioners and at the Animal Service Center. The owner of the impounded animal shall be liable for the daily cost of impoundment to the Animal Services Center, as established in the fee schedule. All animals will have proof of current rabies vaccination or ~~a rabies voucher with a \$100 deposit~~ or purchase of a rabies vaccine voucher and a voucher for microchip installation prior to release at the owner's expense. All fees and expenses must be paid prior to the release of the animal. All animals impounded by Animal Services shall be micro chipped
- D. Adoption or euthanasia of unredeemed dog or cat.
  - (1) If any impounded stray dog or cat or abandoned animal is not redeemed by the owner within 72 hours of impoundment, then such animal may be offered for adoption or destroyed in a humane manner. Animals that are voluntarily turned over to the Animal Service Center by the owner may be adopted or, if adoption attempts are unsuccessful within a reasonable period (or immediately if in the

opinion of the Animal Services Director adoption efforts would be fruitless or in violation of this chapter), subject to euthanasia.

- (2) No animal owner may be permitted to claim her/his animal under the provisions of this section unless and until he/she shall comply with the provisions of the policies of the County Animal Service Center.
- (3) All unaltered dogs and cats adopted from the Animal Service Center shall be spayed or neutered prior to adoption or with a voucher and/or deposit to use their own veterinarian within 30 days of adoption. If the animal is less than 4 months old or under 2 pounds in weight or has a recognized medical condition, the animal must be altered at such time as it is deemed appropriate by a veterinarian. Animals that cannot be altered for the above reasons prior to adoption require a \$100 deposit to Animal Services and proof of alteration within 6 months of adoption. If no proof is given, the deposit shall be kept and additional penalties may be applied.
- (4) All dogs and cats adopted from the Animal Service Center which do not already have implanted in them a microchip shall have the same implanted in them prior to adoption.
- (5) All dogs and cats adopted from the Animal Service Center shall have proof of current rabies vaccination, or ~~a rabies voucher and \$100 deposit or purchase of a rabies vaccine voucher~~, and prior to adoption as per 66A-51(C) and 66A-16.
- (6) Adoption Exceptions.
  - a. The Animal Service Center has the right to refuse adoption of animals to persons less than 18 years of age.
  - b. The Animal Service Center has the right to refuse adoption of animals to persons or organizations who have been cited for violations or where there is reasonable evidence of a violation previously under this Ordinance or state law.
  - c. Animal Services has the right to deny adoption to persons who have relinquished animals recently.
  - d. Organizations shall only be permitted to foster or adopt animals from the Henderson County Animal Service Center after providing evidence that all required services, care, maintenance have been provided, obtain all necessary permits and licenses for the animals and pay all related costs and fees.
  - e. The Animal Service Center has the right to refuse adoption of animals to any individual who has relinquished an animal within the last 12 months.
  - f. The Animal Services Center has the right to refuse the adoption of dogs deemed aggressive, dangerous/ potentially dangerous by persons, organizations, or establishments and Animal Services will ensure the new owner(s) have met the requirements under this Ordinance for control measures and enclosures.

- (7) Fee Schedule for Impoundment/Adoption of Animals shall be established by the Board of Commissioners within the annual approved budget.
- E. Suspected rabid dogs or cats not to be redeemed or adopted. Notwithstanding any other provision of this chapter, dogs or cats impounded which appear to be suffering from rabies shall not be redeemed or adopted but shall be dealt with in accordance with General Statutes Chapter 130A.
  - F. Final disposition of all unclaimed animals shall be arranged for by the Animal Service Director. The Animal Services Director or designee shall retain sole authority to determine the final disposition of each animal in (its) custody once that animal becomes the property of the County of Henderson and shall not place any animal for adoption that is classified in this chapter as prohibited.
  - G. The Animal Service Center will not adopt out any animal that demonstrates or has demonstrated aggressive behavior, or any animal that appears to be unhealthy.

#### **§ 66A-15. Voluntary relinquishment of animals.**

Owners wishing to relinquish animals in their possession may do so by delivering the same to the Animal Service Center. Such animals will be subject to the impoundment provisions set out in § 66A-14, except that no attempt to contact the owner is required.

Owners must also affirmatively represent in writing:

- A. That he or she is the legal owner of the animal;
- B. That the owner permits the animal to be placed for adoption or humanely destroyed;
- C. That the owner will indemnify and hold the Animal Service Center and County harmless for fees, by reason of destruction of, or placement for adoption of, said animal; and
- D. That the owner transfers ownership of said animal to the Animal Service Center and releases the Department from any and all future claims with respect to said animal.
- E. Reason for surrender for data collection purposes and to notify potential adopted owners of any significant problems.

#### **§ 66A-16. Redemption of unvaccinated animal.**

- A. Proof of vaccination. Unless proof of a current rabies vaccination can be furnished, every person who redeems a dog or cat at the Animal Service Center must obtain (and pay the fee for) a rabies vaccination to be administered within the time period as set below or receive a citation for failure to vaccinate. Animals leaving the Animal Services Center must either have proof of current rabies vaccination or purchase of rabies vaccine voucher.
- B. Payment. Payment for the rabies vaccination provided for in this section will be the responsibility of the person redeeming the dog or cat. The owner must pay all related fees and fines prior to the release of the animal including the receipt of a

rabies voucher.

C. Time period for vaccination:

- (1) For dogs and cats less than 4 months old: within 2 weeks of the dog or cat's 4-month birthday.
- (2) For dogs and cats more than 4 months old: within 2 weeks of taking the dog or cat from the Animal Service Center.

**§ 66A-17. Euthanasia of wounded, diseased, and unwanted animals.**

Notwithstanding any other provision of this chapter, any animal impounded which is badly wounded or diseased (not suspected of rabies) and has no identification shall be subject to euthanasia immediately upon approval of the Animal Services Director or his/her designee upon the advice of a licensed veterinarian. If the animal has identification, the Animal Service Center shall attempt to notify the owner before euthanizing such animal.

**§ 66A-18. Relation to hunting laws.**

Nothing in this chapter is intended to be in conflict with the General Statutes regulating, restricting, authorizing or otherwise affecting dogs while used in lawful hunting.

**§ 66A-19. Violations and penalties.**

The following penalties shall pertain to violations of this chapter:

- A. Misdemeanor. 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 General Statutes 14-4 or other applicable law. Each violation of this chapter (or if a continuing violation, each day in which the violation continues) is a separate offense. Each violation for each animal is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not affect the liability for fees or civil penalties imposed under this chapter.
- B. Enforcement. Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to General Statutes § 153A-123(d) and (e).
- C. Issuance of a citation. Issuance of a citation for violation of this chapter is directed toward and against the owner. The purpose of the issuance of a citation is to affect the conduct of the owner by seeking to have the owner insure compliance with this chapter. The issuance of a citation hereunder shall not affect the prosecution of a violation hereof as a misdemeanor as provided above. A citation shall:
  - (1) Give notice of the violation(s) alleged of the owner;
  - (2) State the civil penalties for such violation(s);

- (3) State the date by which any penalties for such violation(s) must be paid; and
  - (4) State that the County may initiate after such date a civil action to collect the civil penalties which are and may become due.
- D. Civil penalties. In addition to and independent of any criminal penalties and other sanctions provided in this article, violations of this article may also subject the offender to the civil penalties hereinafter set forth.
- (1) The Animal Service Director, Animal Enforcement Officers, Sheriff, or Sheriff's Deputies may issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a citation. Citations so issued may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The citation shall impose upon the violator a minimum civil penalty of \$50 or such greater amounts for offenses as may be set by ordinance. The imposed civil penalty shall be paid in full to the Animal Service Center within 30 days of receipt of the citation assessing the civil penalty. This civil penalty is in addition to other fees or costs authorized by this chapter.
  - (2) In the event that the owner of an animal or other alleged violator does not respond to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or other alleged violator of this chapter, and upon conviction, the owner shall be punished as provided by state law. The Sheriff is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees due to the Department and may call on the County Legal Department for assistance as needed.
  - (3) Each violation of this Ordinance is a separate fine. Each day in violation and each animal kept in violation are considered separate offenses and may be fined for each individually.
  - (4) The following civil penalties are hereby established for each incident violation of this chapter: **[Amended 3-23-2005]**

<b>Section Violated</b>	<b>Animal Service Civil Penalty Fee Schedule Description</b>	<b>Civil Penalty Fee</b>
66A-7A	Interference with Animal Enforcement Officer, or agent (per incident)	\$500
66A-7B	Concealment of an animal to evade ordinance (per day of violation)	\$100
66A-8	Public nuisance: First violation	Written

		warning only
	Second violation	\$50
	Third (and subsequent) violation (per day of violation)	\$100
66A-10	Keeping a dangerous/potentially dangerous dog:	
	Unattended/loose/unrestrained (per day)	\$500
	Without tattoo/microchip (per day)	\$500
	Failing to notify of change of address or death (per day)	\$500
	Failing to present proof of transferee responsibility (per day)	\$1,000
66A-11	Mistreatment of an animal (per day)	\$500
66A-13	Release of an animal from County-owned trap (per incident)	\$100
66A-27	Keeping an aggressive animal:	
	Unattended/loose/unrestrained (per day)	\$250
	Without tattooing/microchip (per day)	\$100
	Failing to notify of change of address or Death (per day)	\$100

- (5) Any person who fails to pay a fine within period of 10 days after receiving citation shall be deemed to have committed a misdemeanor and a warrant may be issued for the person's arrest. Prosecution under this section shall require proof of the occurrence of the underlying facts giving rise to the notice of citation.

- (6) The owner of a dangerous or potentially dangerous animal shall be strictly liable in civil damages for any injuries or property damage the animal inflicts upon a person, his property or another animal as per North Carolina General Statute 67-4.4.

- (7) Violations taking place over continuous days shall be capped at ten days per animal per violation unless there is evidence suggesting that the person has tried to interfere with Animal Enforcement Officers or obstruct justice in which case additional fines may accrue.

- (8) The final determination regarding the imposition and amount of fines shall be determined by the County and alternative settlements shall be allowed where appropriate.

Violators may also take the Pet Responsibility class for \$25 in lieu of some of (9) their fines if they have not taken the class before. This arrangement shall be at the County's discretion.

- E. Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct any employee or agent of the Department in the performance of any duty authorized by law or ordinance, or to seek to release any domestic animal in the custody of such employees or agents (including from traps, cages, or other enclosures) except as specifically provided or authorized by the Department.

- ~~Effective date. Section 66A-19C and D shall not be effective until an effective date for such subsections is adopted by the Board of Commissioners of Henderson County at a meeting subsequent to the meeting at which the remainder of Chapter 66A is initially adopted. Pending such effective date, Animal Service employees and its Director are hereby empowered, upon having knowledge of a violation which would result in a civil penalty under § 66A-19D if such section were in effect, to issue a warning citation, notifying the recipient of the violation alleged and the penalty which would result from such violation if § 66A-19D were at that point effective.~~
- F.

#### **§ 66A-20. Severability.**

If any part of this chapter shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.

#### **§ 66A-21. Fees.**

Fees for Animal Service services will be set each year in the County's budget resolution. All such fees owed must be paid prior to the release of any impounded animal.

#### **§ 66A-22. Collection of dogs and cats for resale prohibited.**

It shall be unlawful for any person to collect living companion animals within the County for the purpose of resale. The term "collect" shall include but is not limited to home solicitations or the setting of traps on any land within the County for the purpose of reselling animals.

#### **§ 66A-23. Notice in case of injury.**

It shall be unlawful for any person who causes injury to a domestic animal by any means, specifically including, but not limited to, hitting a domestic animal with any vehicle, to fail to notify within 24 hours of such injury at least one of the following:

- A. The owner of the animal.
- B. An Animal Enforcement Officer.
- C. An appropriate law enforcement official.



D. The Animal Service Center.

**§ 66A-24. Restraint/confinement of ~~dogs and cats~~domestic animals required.**  
**[Added 5-19-2006]**

- A. ~~As used in this section, a "domestic animal" means any dog or cat which can be vaccinated against rabies with an approved rabies vaccine, and which has an established rabies quarantine observation period.~~
- B. No person owning or having charge, care, custody or control of any domestic animal shall cause, permit or allow the same to be or to run at large except while on the private property or premises of the person owning or having charge, care, custody or control of such domestic animal.
- C. When not on the owner's property, a domestic animal shall be under the control of a competent person and restrained by a leash, harness or other similar means of physical control.
- D. This section pertains to all domestic animals with the following exceptions:
- (1) Dogs used for control of livestock as long as said animal is in the process of controlling livestock.
  - (2) Dogs used or trained for hunting as long as said animal is in the process of being trained by a trainer and/or owner or on a legal hunt in the presence of the owner.
  - (3) Dogs or cats while being exhibited or trained at a kennel club, or similar event, as long as said animal is in the process of participating in a kennel club, field trial or similar event.
  - (4) Dogs used for law enforcement while training and/or acting in the line of duty.

**§66A- 25 Animal Abandonment**

Unless otherwise specified by this Ordinance, animals, including domestic and livestock, that have been abandoned by their owner shall become the property of the County. For the purpose of this Ordinance, an abandoned animal shall be defined as an animal that is on public property or is reported on private property by the property owner whose owner is unknown and cannot be determined by a reasonable search by Enforcement Officers.

- A. **Adoption and Euthanasia.** Animals that have been abandoned shall be held by the Animal Services Department for 72 hours\_unless otherwise specified by this Ordinance. After 72 hours, Animal Services may adopt out or humanely destroy any abandoned animal.
- B. **Redemption.** Any person claiming to be the owner of an animal must pay the reclaim fee, boarding fee, any veterinary costs and any other costs incurred by

the County for the animal prior to the animal being released. For the purpose of this provision, redemption is defined as reclaim for lost, abandoned or animals that have violated the Animal Ordinance and shall not include animals held under quarantine. In the case of cats and dogs, no animal shall be released without being micro chipped. In the case of livestock, Animal Services may require some proof from the person of ownership of this animal prior to its release.

- C. **Owner Search.** Enforcement Officers shall conduct a reasonable search for the owner of the abandoned animal which may include but is not limited to a microchip scan, an investigation of the neighborhood, information supplied on the Animal Services website, or notices on local media outlets.
- D. **Willful Abandonment.** Any person found to be willfully releasing animals into the community, including but not limited to leaving animals by the side of the road, releasing animals into parks or leaving animals in parking lots shall be guilty of a misdemeanor as defined elsewhere in this Ordinance and may incur civil and criminal penalties. People may lawfully relinquish animals to the Animal Services Center without penalty.

#### **§66A -26 Prohibition against giveaways in public places.**

~~It shall be unlawful to display any animal in a public place for the purpose of selling, trading, or giving the animal away. No animal shall be used as a prize or as an inducement to enter a game, contest, or competition. For the purpose of this section public place shall be defined as any place open to the general public including but not limited to malls, supermarkets, parking lots, flea markets, farmer's markets, road right-of-ways, and parks. This section does not apply to the display of animals by and within a pet shop, commercial kennel, licensed animal shelters, or veterinarian's office or at licensed stockyards or livestock auctions. This section does not apply to nonprofit organizations, as defined by the Internal Revenue Services 501(c)(3) designation, which may make animals available for adoption in public places as long as all necessary permits and permission are obtained and all animals adopted have been altered and have proof of current rabies vaccination. In such case any dog or cat made available for adoption must be spayed or neutered, no less than two months of age, no less than two pounds, and if more than four months of age must be accompanied by a certificate verifying that the animal has been vaccinated to protect it from the rabies virus by a veterinarian licensed to practice in the state of North Carolina.~~

#### **§66A -26 Prohibition against giveaways in public places.**

It shall be unlawful to display any animal in a public place for the purpose of selling, trading, or giving the animal away or used as a prize or inducement. For the purpose of this section public place shall be defined as any place open to the general public including but not limited to malls, supermarkets, parking lots, flea markets, farmer's markets, road right-of-ways, and parks. This section does not apply to state regulated pet shops, commercial kennels, licensed animal shelters, veterinarian offices, licensed stockyards or livestock auctions or 501(c)(3) non-profits who adopt out animals with proof of rabies vaccination and alteration.

## **§66A -27 Aggressive Dog Controls**

- A. General Provisions. It shall be unlawful for any person to own or in any way maintain or harbor an animal that is an Aggressive Animal except as provided in this section.
- B. Conflict of Laws. This section is not intended to conflict with any other provisions of State or local law including but not limited to Dangerous/Potentially Dangerous Dog provisions.
- C. Determination. Animal Enforcement Officers or the Animal Services Director or his/her designee may determine that an animal is aggressive.
  - 1. The determination must be made in writing and provided to the owner or keeper of the animal.
  - 2. Appeal. Any appeals under this provision must be made in writing to the Animal Services Director or postmarked within 5 calendar days from the time of the determination.
    - a. Upon receipt of the appeal, the Animal Services Appellate Board shall hear the appeal at its next regularly scheduled meeting.
    - b. From the time of the determination to the final decision of the appeal, the animal must be kept in the manner determined for aggressive animals.
- D. Control Measures.
  - 1. Restraint. An animal deemed aggressive must be under restraint by a competent person who by means of a leash, chain, or rope has the animal under control at all times. Voice command is not an adequate restraint.
  - 2. Secure enclosure. When not under the restraint of a competent individual as described above, the animal must be in a secure enclosure. A secure enclosure for the purpose of this section is either a building or a permanent fence in the yard. Animal Enforcement officers shall determine whether the fence is adequate. Chaining, tethering, or tying up is not a secure enclosure unless accompanied with a fence.
  - 3. Microchipping and Tattoo. Any animal deemed aggressive must be microchipped ~~or tattooed~~ within 5 days of the determination.
  - 4. Signage. The owner of an aggressive animal must post a warning sign, of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the aggressive animal is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
  - 5. Transfer. Prior to any transfer to a new owner or to a new property (with or without consideration) of a deemed aggressive animal, the owner must provide to the Animal Services Department a written statement stating where the animal is going and who, if any, the new owner of the animal is. The transferring owner must make sure the new owner is aware and understands the precautions the owner must take as owner of an aggressive animal.

6. Inspection. Animal Enforcement shall cause periodic inspections to be made of the premises where the animal is kept to assure compliance with the provisions of this Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
- E. Penalties and Consequences of Noncompliance.
1. Penalty. Penalties for violations of aggressive animals can be found in §66A-19.
  2. Impoundment. Animals who have been deemed aggressive and found running astray or being kept in a manner in violation of the ordinance shall be impounded at the Animal Services Center. The animal shall not be returned to the owner until all fines, fees, and related costs have been paid.
  3. Authority to immobilize or kill an aggressive dog. If any animal deemed aggressive, dangerous, or potentially dangerous is running at large in public places or on private property without the permission of the owner or occupant of the property and such animal cannot be safely taken up and impounded, such animal may be slain by any law enforcement official or animal enforcement officer.
- F. Exceptions. No animal shall be deemed aggressive in instances where:
1. the person is unlawfully present on the premise occupied by the owner or keeper;
  2. The behavior is committed against a person who is or has teased, abused, tormented, or assaulted the animal;
  3. Where the person is committing or attempting to commit a crime;
  4. The animal is involved in a hunt with its owner;
  5. Animal is protecting the owner or the animal's young.

#### **§66A -28 Prohibition of possession of inherently dangerous or wild animals**

- A. It shall be unlawful for any owner to keep, possess, harbor, or have under their control an inherently dangerous animal or a wild animal within the County.
- B. Exceptions: Persons with a valid and current license with the USDA shall be exempt. Person must currently hold the license; application to USDA shall not count under this exception.
- C. Recapturing: The owner of any inherently dangerous animal or wild animal shall reimburse Henderson County for all cost incurred while attempting to recapture any escaped inherently dangerous mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall also pay these cost.
  - a. Animal Enforcement may take and impound an animal under these provisions at any time for the protection of public health, safety, and welfare.
  - b. If an animal cannot be taken safely by Animal Enforcement or if proper and safe housing cannot be found for the animal, Animal Enforcement may immediately destroy the animal.

## **§66A -29 to 49. (Reserved)**

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### **Part 2 Rabies**

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#### **ARTICLE II Rabies Control**

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##### **§ 66A-50. Compliance with state rabies laws; supplement to state rabies laws.**

- A. Failure to comply unlawful. It shall be unlawful for any animal owner or other person to fail to comply with the state public health laws relating to the control of rabies.
- B. Providing procedure. It is the purpose of this chapter to supplement the General Statutes by providing procedure for the enforcement of state laws relating to rabies control (in addition to the criminal penalties provided by the General Statutes).

##### **§ 66A-51. Vaccination of dogs, cats and other pets.**

- A. Failure to vaccinate unlawful. It shall be unlawful for an owner to fail to provide current vaccination against rabies for any dog or cat four months of age or older. Should it be required by the County Director of Public Health 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 to fail to provide current vaccination against rabies for that pet.
- B. Current rabies vaccination. The owner of every dog and cat over four months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the State Veterinary Commission. Rabies vaccine shall be administered as required in General Statutes § 130A-185.

- Adopted animals. Every dog or cat adopted from the Animal Services Center shall
- C. be vaccinated by a licensed veterinarian or certified rabies vaccinator within 2 weeks of adoption unless the animal is under 4 months and then it shall be vaccinated when medically possible. If the animal is not vaccinated prior to adoption, a rabies vaccine voucher shall be given in exchange for a \$100 deposit purchased. Owners shall have the burden to provide vaccine information to Animal Enforcement and Animal Services after the animal received the vaccine. If proof of vaccination is not provided to Animal Services within 2 weeks of adoption, Animal Services shall keep the deposit. In addition, the adopted animal may be impounded by Animal Enforcement Officers and/or penalties may be assessed against the owner.

- Failure to vaccinate; penalty. The owner of a dog or cat not having a current rabies
- D. vaccination shall be subject to a civil penalty as determined in this chapter if such owner does not produce a valid and current rabies vaccination tag or form within 5 days of the demand for same by an Animal Enforcement Officer or law enforcement officer. Failure to produce the tag or form under this subsection is a separate

offense for each animal.

- Certification of vaccination. The owners of dogs and cats 4 months of age or older
- E. shall have the dogs or cats vaccinated against rabies with an approved vaccine administered by a licensed veterinarian. The veterinarian shall issue the owner of the animal a vaccination certificate and such owner shall retain such certificate until vaccination is renewed. At the time of vaccination, an owner shall be issued a metal tag by the veterinarian showing the information required by North Carolina state law.

- Tag required to be worn. Every owner of cat or dog shall affix on the dog or cat at all times while off its owner's premises. It shall be unlawful for any person other than
- F. the owner to remove the collar from the dog or cat.
- Tags do not have to be worn in the following situations: confinement on owner's premises; animal shows; obedience trials; tracking tests; field trials; training schools or events by a recognized organization; supervised hunting.

- Tag, certificate etc. not transferable. No person shall use a rabies tag or veterinarian certificate or receipt for any dog or cat than for the dog or cat to which
- G. the rabies tag, veterinarian certificate or receipt was issued.

- Owner to provide proof of vaccination. Any Animal Enforcement Officer or any law enforcement officer may at any reasonable time require an owner to provide proof of
- H. rabies vaccination for any animals required so to be vaccinated. Any owner not possessing a current rabies tag, certificate, or receipt for such dog or cat over four months of age shall fall under the "Enforcement" section below.

- I. Impoundment. Any animal found off the owner's property not wearing the required vaccination tag or an animal that has been under investigation by law enforcement in the last 30 days and did not have proper rabies identification at the time or subsequently on or off the owner's property shall be impounded by an Animal Enforcement Officer. During the impoundment period, the Animal Enforcement Officer shall make reasonable efforts to locate the animal's owner. No animal shall be released until it is vaccinated against rabies, has a rabies voucher or the Animal Services Center is presented with evidence of current vaccination. An animal impounded under this section shall be released to its owner upon payment of all applicable fees, payment for care during the impoundment, and cost of vaccination when necessary. If the animal's owner is not found or the owner does not reclaim the animal section 66A-14 of this ordinance shall apply.

#### ~~Hybrid dogs.~~

- J. (1) ~~Defined. A "hybrid dog" is any animal which is the product of the breeding of a dog with a non-domesticated animal (including but not limited to wolves or other hybrid animals).~~
- (2) ~~All hybrid dogs shall be vaccinated against rabies on the same schedule as~~

~~any other dog. It is the intent of the provisions of this subject not to protect hybrid dogs but rather to protect the public safety in the event such hybrid dog should bite a person, and by lowering the pool of animals which could contract rabies.~~

- ~~(3) Notwithstanding the rabies vaccination status of a hybrid dog, a hybrid dog shall be immediately subject to euthanasia if a hybrid dog bites a human or domestic animal.~~

K.

Enforcement.

- 1) If an animal is found without a rabies tag on the owner's property, the owner shall have 5 calendar days to obtain proper proof of vaccination and present it to Animal Enforcement.
  - a. After 5 days, Animal Enforcement may check the vaccination on the animal and if there is still no proof of rabies vaccination, the owner shall be assessed a rabies fine for 5 days.
  - b. If after 5 days, the owner has proof of rabies vaccination for the animal(s), no fine shall be assessed.
- 2) If an animal is found off the owner's property, the animal shall be impounded for 72 hours for owner reclaim. Prior to release, the animal's vaccination history shall be verified and a vaccine given if necessary a rabies vaccine voucher shall be purchased if required.

**§ 66A-52. Report and confinement of dogs and cats biting persons or showing symptoms of rabies.**

- A. Quarantine. Every dog or cat which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Service Center, and thereupon shall be securely quarantined, at the direction of the Animal Service Center, for 10 days commencing from the time of the bite. Animals quarantined under this section shall be confined at the expense of the owner.
1. All dogs and cats shall be housed at the County Animal Service Center unless approved by the Public Health Director or his/her designee in writing.
  2. Animals may be quarantined in approved veterinary quarantine at the veterinarian's office. This must be approved by the County Director of Public Health in writing. In instances where this option is used, the owner must sign a document produced by the County where the owner accepts all liability for the animal. At the end of the quarantine, the owner or the veterinarian must provide documentation stating the animal does not have rabies and has been properly vaccinated against rabies.
  3. Animals quarantined at the Henderson County Animal Shelter must be claimed no more than 24 hours after the end of the quarantine period. After this period the animal shall be considered relinquished to Henderson County Animal Services.

- B. Authority to seize animals for noncompliance. If the owner or the person who

controls or possesses the dog or cat refuses to confine the animal as required by this section, the County Director of Public Health may order seizure of the animal and its confinement for 10 days in such a place as the County Director of Public Health designates, at the expense of the owner.

- C. Disposition of animal other than dog, cat or ferret. An animal other than a dog or cat or ferret that bites a person shall be immediately euthanized and its head forwarded to the North Carolina State Laboratory of Public Health for rabies testing.
- D. Quarantine of stray animals. In the case of stray animals whose ownership is not known, the supervised quarantine required by this section shall be at the County Animal Service Center.
- E. Authority to euthanize unclaimed animals. If any animal is unclaimed after a ten-day confinement, then the County Animal Service Director may have the animal euthanized.
- F. Release from quarantine. If rabies does not develop within the ten-day quarantine period under this section, the animal may be released from quarantine to its owner. If the animal has been confined by the Henderson County Sheriff's Department upon reclaiming the animal, the owner shall pay any such fee established by resolution of the Board of County Commissioners for each day of confinement to defray the cost of sheltering the animal.
- G. Report of bites. Every physician or other medical practitioner who treats a person or persons for any animal bite or scratch or any person having knowledge of an animal bite or scratch shall within 12 hours, report such treatment to the Animal Service Center giving the name, age, sex and precise location of the bitten/scratched person or persons and such other information as the officer or agency may require.
- H. Euthanization of wounded, diseased or suffering animals. Badly wounded, diseased, or suffering animals, which are suspected of having rabies, may be humanely euthanized immediately, and the head forwarded for rabies testing.

#### **§ 66A-53. Destruction or confinement of animal bitten by known rabid animal.**

- A. Animals not vaccinated against rabies which are bitten by or exposed to a known rabid animal or rabies suspect shall be immediately destroyed, unless the owner agrees to strict isolation of the animal at a veterinary hospital for a period of up to six months at the owner's expense unless a similar quarantine facility is approved by the Public Health Director.
- B. If the animal has a current rabies vaccination, it shall be revaccinated within 72 hours of the bite.

#### **§ 66A-54. Area-wide emergency quarantine.**

- A. Quarantine ordered. When reports indicate a positive diagnosis of rabies in an animal found within Henderson County or any adjacent County, the County Director



of Public Health may order an area-wide quarantine for such period, as he/she deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the County without written permission of the County Director of Public Health. No animal shall be adopted if it is a stray unclaimed by its owner or keeper, except by special authorization from the County Public Health Director. All Animal Service and law enforcement officers are duly authorized in North Carolina General Statutes § 130A-195 to seize, impound, or shoot any dog or cat found not under control in the County during an emergency quarantine. During the quarantine period, the County Director of Public Health 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. Extension of quarantine. 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 County Director of Public Health.

#### **§ 66A-55. Postmortem rabies testing.**

- A. Testing of dogs or cats under observation. If a dog or cat dies while under observation for rabies, the dog or cat shall be submitted to the Western Animal Disease Diagnostic Laboratory for shipment to the State Laboratory of Public Health for rabies testing.
- B. Surrender of dead dog or cat. The carcass of any dead dog or cat exposed to rabies shall be surrendered to the Animal Service Center. The animal shall be submitted to the State Laboratory of Public Health for rabies testing.

#### **§ 66A-56. Unlawful killing or releasing of certain animals.**

It shall be unlawful for any person to kill or release any dog or cat under observation for rabies, suspected of having been exposed to rabies, or biting a human, or to remove such dog or cat from the County without written permission from the County Director of Public Health. Violation of this section shall be subject to penalties as prescribed in § 66A-58.

#### **§ 66A-57. Failure to surrender dog or cat for quarantine or euthanasia.**

It shall be unlawful for any person to fail or refuse to surrender any dog or cat for quarantine or euthanasia as required in this chapter when demand is made therefore by the County Director of Public Health or his/her designee.

#### **§ 66A-58. Civil penalties.**

In addition to and independent of any criminal penalties and other sanctions provided in this article, violation of this article may also subject the offender to the civil penalties hereinafter set forth.

- A. The Animal Service Director, Animal Enforcement Officers, Sheriff, or Sheriff's Deputies may issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a citation. Citations so issued may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The citation shall impose upon the violator a minimum civil penalty of \$50 or such greater amounts for offenses as may be set by ordinance. The imposed civil penalty shall be paid in full to the Animal Service Center within 30 days of receipt of the citation assessing the civil penalty. This civil penalty is in addition to other fees or costs authorized by this chapter.
- B. In the event that the owner of an animal or other alleged violator does not appear in response to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or criminal summons may be issued against the owner or other alleged violator of this chapter, and upon conviction, the owner shall be punished as provided by state law. The Sheriff is expressly authorized to initiate and prosecute small claims actions in District Court to collect civil penalties and fees due to the Department and may call on the County Legal Department for assistance as needed.
- C. The following civil penalties are hereby established and subject to revision by the Board of County Commissioners for each incident violation of this chapter:

<b>Section Violated</b>	<b>Animal Service Civil Penalty Fee Schedule Description</b>	<b>Civil Penalty Fee</b>
66A-51C	Failure to have current rabies vaccination for an animal (per day, not including quarantine time)	\$100
66A-56	Killing or release of an observed animal	\$500
66A-57	Failure to surrender an animal for rabies quarantine (per day)	\$250

## **§ 66A-59 Spay-Neuter Assistance Program**

- A. Purpose. Pet overpopulation poses a serious problem to Henderson County and its citizens. It can lead to additional expenditure of funds for animal upkeep at the Animal Shelter, threatens the health and safety of the community, create the opportunity for inhumane and cruel treatment of animals, and can cause the unnecessary destruction of adoptable animals in Henderson County. It is in the best of Henderson County and its citizens to promote animal alterations through assistance, adoptions, and education to decrease costs to taxpayers and to provide healthy adoptable animals safe and caring homes in the County.
- B. Adopted Animals. Henderson County shall adopt practices and policies to encourage adoptions of animals held at the Animal Shelter to responsible pet owners.
  - (1) All cats and dogs 4 months of age or older adopted out in Henderson County must be altered prior to adoption.

(2) For the purpose of this section, adoption means not commercially sold and includes but is not limited to adoptions coordinated through the Henderson County Animal Service Center, all rescues, havens, shelters or other animal welfare non-profit organizations.

A. Assistance Program.

1. Authority. Henderson County Animal Services is authorized to establish, equip, operate, maintain and provide spay/neuter services for Henderson County dogs and cats. Animal Services is likewise authorized to contract with any individual, corporation, nonprofit organization, governmental body or any other group for the purpose of providing alteration services for Henderson County cats and dogs.
2. Assistance Fund. Henderson County Animal Services Center may establish a Spay and Neuter Assistance Program Fund to collect and distribute funds to assist eligible resident of Henderson County with financial resources for animal alteration. These monies may also be used toward the education program costs. These monies may also be used toward the education program costs. Funds collected at the Henderson County Animal Services Rabies Clinics shall be contributed to this fund.
3. SNAP Voucher program. Vouchers may be available at the Henderson County Animal Services Center to low-income residents of Henderson County which may be redeemed for spay/neuter services at designated local providers.
4. Boarding charge. Henderson County Animal Services shall establish a return date by which a person submitting an animal for alteration shall pick up the animal or be subject to a reasonable boarding fee as established by Henderson County to commence after the return date. If the animal is not picked up within 5 business days of the return date, Animal Services shall consider the animal abandoned and/or relinquished and may adopt out or euthanize the animal as necessary.

B. Education program.

1. Written Information. Henderson County will prepare and distribute educational information to Henderson County pet owners regarding responsible pet ownership, importance of animal alteration, and resources to assist eligible pet owners have their animals altered.
2. Educational events. Henderson County may coordinate with related organizations and individuals to provide Henderson County residents with classes, events, and other activities to enhance the community's awareness of animal issues including animal overpopulation, responsible pet ownership, and the importance of alteration.

C. Impoundment and Enforcement.

1. Purpose: Because of the increased likelihood that animals impounded at the Animal Services Center are more likely contributing to the pet overpopulation problem and to better target county policies toward problem pet owners and not the responsible pet owners of Henderson County, owners of unaltered animals that are impounded by Animal Services shall face increased penalties as follows:

- a. The first time an unaltered animal is impounded, the animal shall be micro chipped and Animal Services shall educate the owner regarding the importance of altering the animal and resources available to spay or neuter the animal.
  - b. The second time in a twelve month period an unaltered animal is impounded, the owner must either pay \$100 fine OR take an educational class on responsible pet ownership at the owner's expense. The owner must pay \$100 upfront and if he or she takes the class, \$75 shall be returned to the owner after the completion of the class.
  - c. The third and subsequent times an unaltered animal is impounded, the owner shall face escalating fines, AND participation in a responsible pet owner education class at the owner's expense.
2. Appeals. Any appeals under this Article must be made in writing to the Animal Services Director or postmarked within 5 calendar days from the time of the event connected to the appeal. Upon receipt of appeal, the Animal Services Appellate Board shall hear the appeal within 30 days.
  - a. If the animal in question is impounded during the appeal period, the owner shall be held responsible for those fees and must pay those fees prior to the animal's release regardless of the outcome of the appeal.

**66A-60 to 79. (Reserved)**

### **ARTICLE III: ANNUAL ANIMAL TAX AND LICENSES [ADDED 3-23-2005]**

**§66A- 80to 85. (Reserved)**

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#### **ARTICLE IV Companion Animal Permitting Program (CAPP)**

**\* Former Kennel/Cattery Program is revoked and replaced with below.**

**§66A-86. Companion Animal Permit.** Any person who owns, houses, cares for more than 10 domestic animals in their home, residence, dwelling or property shall first acquire a Companion Animal Permit.

- A. Standards. The Animal Service Director shall promulgate rules for the issuance of license permits, which shall include minimum requirements for humane care of all animals and for compliance with the provisions of this other applicable laws.
- B. Maximum Number. Any permit shall be for a specified number of animals. It shall be unlawful for any party to keep companion animals in excess of the permitted amount.
  1. Violation of this provision may be grounds for permit suspension or revocation and may result in the impoundment of animals or civil or criminal penalties as discussed below.
  2. Animals impounded by Animal Services under this section must be reclaimed or the decision appealed within 24 hours of the animal impoundment. After 24 hours, the animals become the property of Henderson County.
  3. At the discretion of Animal Services and Animal Enforcement, the excess animals may be impounded at the Animal Services Center or the owner may

find other homes for the animals within 14 days of notification of violation of this section.

- C. Right to Inspect. Permitted parties must allow Animal Services and Animal Enforcement staff to inspect all animals and the premises where animals are kept at any time. Refusal of inspection shall be grounds for permit revocation. ~~Lifetime Permit Fee.~~
- D. Permit Denial, Suspension or Revocation. The Animal Service Director may deny, suspend or revoke any license permit if the holder refuses or fails to comply with this article, the rules promulgated by the Animal Service Director, or any law governing the protection and keeping of animals.
  - 1. *Revocation.* If a permit is revoked, the individual may not apply to reinstate the permit for 6 months and must pay the permit fee again.
  - 2. *Reduction Schedule.* Permits may be given contingent on the owner following a reduction schedule as determined by the Animal Services Director. If the reduction schedule is not met the permit shall be revoked and the additional animals shall be impounded.
  - 3. *Appeals.* Appeals of permit denial or revocation must be made to the Animal Services Appellate Board within 10 days of revocation or within 24 hours of animal impoundment when it occurs, which ever is earlier and shall be heard in a quasi-judicial proceeding at its next regularly scheduled meeting.
- E. Exclusions.
  - 1. No person convicted of cruelty or mistreatment to animals within the last 10 years or violation of the State Animal statute or County Animal Ordinance in the last 2 years shall be issued a license permit under this article.
  - 2. *Litter.* Individuals whose companion animal has a litter do not have to get a companion animal permit provided the total number of animal meets the provisions of this Article after all the animals have been weaned. Individuals may have one litter per year.

**§66A-87. Enforcement.** Failure to comply with the provisions of this Article may result in criminal or civil penalties as contemplated in §66A-19 of this Ordinance. Violators with more than 10 animals who do not have a permit or have excess animals from their permit must pay \$50 per additional animal more than 10 per day they are in violation. Excess animals may also be impounded at the owner's expense. Excess animals impounded under this Article must be reclaimed within 24 hours of impoundment and then become the immediate property of Henderson County.

**§66A-88. Compliance with Existing Laws.** Nothing in this Article shall be construed to conflict or supplant any federal, state or municipal laws, rules or regulations especially those concerning the licensing of kennels, shelters, or pet shop. Nor shall anything in this Article conflict with any state, local, or municipal laws regarding land use.

## **§ 66A-88 to 66A-93 RESERVED**

### **Article V. Livestock**

**§ 66A-94.** Allowing livestock to run at large forbidden. If any person shall allow his livestock to run at large, he shall be guilty of a Class 3 misdemeanor.

- § 66A-95.** Impounding livestock at large; right to recover costs and damages. Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid in order to locate the owner.
- § 66A-96.** Notice and demand when owner known. If the owner of impounded livestock is or becomes known to the impounder, actual notice of the whereabouts of the impounded livestock must be immediately given to the owner and the impounder must then make demand upon the owner of the livestock for the costs of impoundment and the damages to the impounder, if any, caused by such livestock.
- § 66A-97.** Notice when owner not known. If the owner of the impounded livestock is not known or cannot be found, the impounder shall inform the register of deeds that he has impounded the livestock and provide the register of deeds with a description of the livestock. The register of deeds shall record the information in a book kept for that purpose, and shall charge the impounder a fee of \$10.00. The register of deeds shall immediately publish a notice of the impoundment of the animal by posting a notice on the courthouse door. The notice on the courthouse door shall be posted for 30 days, and shall contain a full description of the livestock impounded, including all marks or brands on the livestock, and shall state when and where the animal was taken up. The impounder shall publish once, in some newspaper published and distributed in the county, a notice containing the same information as the notice posted by the register of deeds. The fees for publishing the notice shall be paid by the impounder.
- § 66A-98.** Determination of damages by selected landowners or by referee. If the owner and impounder cannot agree as to the cost of impounding and maintaining such livestock, as well as damages to the impounder caused by such livestock running at large, then such costs and damages shall be determined by three disinterested landowners, one to be selected by the owner of the livestock, one to be selected by the impounder and a third to be selected by the first two. If within 10 days a majority of the landowners so selected cannot agree, or if the owner of the livestock or the impounder fails to make his selection, or if the two selected fail to select a third, then the clerk of superior court of the county where the livestock is impounded shall select a referee. The determination of such costs and damages by the landowners or by the referee shall be final.
- § 66A-99.** Notice of sale and sale where owner fails to redeem or is unknown; application of proceeds. If the owner fails to redeem his livestock within three days after the notice and demand as provided herein is received or within

three days after the determination of the costs and damages as provided in this article, then, upon written notice fully describing the livestock, stating the place, date, and hour of sale posted at the courthouse door and 3 or more public places in the township where the owner resides, and after 10 days from such posting, the impounder shall sell the livestock at public auction. If the owner of the livestock remains unknown to the impounder, then, 30 days after publication of the notice required herein, the impounder shall post at the courthouse door and three public places in the township where the livestock is impounded a written notice fully describing the livestock, and stating the place, date, and hour of sale. After 20 days from such posting, the impounder shall sell the livestock at public auction. The proceeds of any such public sale shall be applied to pay the reasonable costs of impounding and maintaining the livestock and the damages to the impounder caused by the livestock. Reasonable costs of impounding shall include any fees paid pursuant to this article in an attempt to locate the owner of the livestock. The balance, if any, shall be paid to the owner of the livestock, if known, or, if the owner is not known, then to the school fund of the county where the livestock was impounded.

**§66A-100.** Illegally releasing or receiving impounded livestock misdemeanor. If any person willfully releases any lawfully impounded livestock without the permission of the impounder or receives such livestock knowing that it was unlawfully released, he shall be guilty of a Class 3 misdemeanor.

**§ 66A-101.** Impounded livestock to be fed and watered. If any person shall impound or cause to be impounded any livestock and shall fail to supply to the livestock during the confinement a reasonably adequate quantity of good and wholesome feed and water, he shall be guilty of a Class 3 misdemeanor.

**§ 66A-102.** Right to feed impounded livestock; owner liable. When any livestock is impounded under the provisions of this Chapter and remains without reasonably adequate feed and water for more than 24 hours, any person may lawfully enter the area of impoundment to supply the livestock with feed and water. Such person shall not be liable in trespass for such entry and may recover of the owner or, if the owner is unknown, of the impounder of the livestock, the reasonable costs of the feed and water.

**§ 66A-103.** Penalties for violation of this Article. A violation of this article is a Class 3 misdemeanor.

**§ 66A-104.** Domestic fowls running at large after notice. If any person shall permit any turkeys, geese, chickens, ducks or other domestic fowls to run at large on the lands of any other person while such lands are under cultivation in any kind of grain or feedstuff or while being used for gardens or ornamental purposes, after having received actual or constructive notice of such running at large, he shall be guilty of a Class 3 misdemeanor.

If it shall appear to any magistrate that after three days' notice any person persists in allowing his fowls to run at large in violation of this section and fails or refuses to keep them upon his own premises, then the said magistrate may, in his discretion, order any sheriff or other officer to kill the fowls when they are running at large as herein provided.

**§66A-105.** This Article codifies Article 3 of Chapter 68 of the North Carolina General Statutes and its subsequent amendments, additions, or deletions.

These revisions to the Animal Ordinance were approved by the Henderson County Board of Commissioners on this the \_\_\_\_ day of \_\_\_\_\_, 2009.

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William Moyer, Chairman

Attest: (County Seal)

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Terry Wilson, Clerk to the Board