

Chapter 66A: ANIMALS

[HISTORY: Adopted by the Board of Commissioners of Henderson County 1-25-2005. *Editor's Note: This ordinance also repealed former Ch. 66A, Animals, adopted 1-5-2004. Amendments noted where applicable.*]

Part 1 Animal Regulations

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 all elements of the weather and will allow the animal to stand, sit, and lie down without restriction.

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.

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 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 officer placed in supervision of the Animal Service Officers and all other employees and agents of the Department.

ANIMAL SERVICE OFFICERS — Any persons designated by the County as the primary enforcement officers of ordinances regulating animals and owners of animals, and for the enforcement of sections of the General Statutes pertaining to the care and control of animals.

CAT — A domestic feline of either sex.

COMPANION ANIMAL — Any dog or cat.

COMPETENT PERSON — A 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 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 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 the owner or trespassing on the owner's property;
- (2) Any person or other animal that has 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 (Control) Services Department.

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 method approved by the American Veterinary Medical Association or the North Carolina Veterinary Medical Association as a humane means to accomplish such purpose.

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 from time to time.

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.

MICROCHIP — An electronic identification device approved by the Animal Service Director which is intended to be implanted within an animal.

NEUTERED MALE — Any male dog or cat, which has been rendered sterile by a surgical procedure.

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.

PUBLIC NUISANCE — An animal is a public nuisance if it bites without provocation or if it habitually does any of the following: 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. Nothing contained in this chapter shall be deemed to address the sound created by any animal.

SECURE ENCLOSURE — An enclosure from which an animal cannot escape unless freed by the owner. An Animal Service 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.

SPAYED FEMALE — A female dog or cat that has been rendered sterile by a surgical procedure.

STRAY — Any dog within the County wandering at large or lost or which does not bear evidence of the identification of any owner, or any dog or cat within the County whose owner, if determinable, has failed to pay for a rabies vaccination tag.

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 the owner.

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.

§ 66A-2. Authority and territorial application.

- A. 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. (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 Animal Service Director of Henderson County.
- B. The County may contract annually with any municipality located within the County to 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.

§ 66A-3. Animal Service Advisory Committee.

The County Animal Service Advisory Committee, or a duly appointed subcommittee thereof, shall act as the Animal Service Appellate Board.

§ 66A-4. General duties of Animal Service employees.

The Animal Service Director and Animal Service Officers are charged with the responsibility of:

- A. Enforcing all County ordinances relating to the care, custody and control of domestic animals.
- B. 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.
- C. Investigating complaints with regard to companion animals arising under this chapter.
- D. Protecting animals from neglect; investigating companion animal mistreatment (as defined in § 66A-11).
- E. Seizing and arranging for impoundment, where deemed necessary, of any dog or cat involved in a violation of this chapter or the General Statutes.
- F. Operating the County Animal Service Center pursuant to policies adopted by the County Board of Commissioners.
- G. Keeping, or causing to be kept, accurate and detailed records of:
 - (1) Seizure, impoundment, and disposition of all animals coming into custody of the Animal Service Center.
 - (2) Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances, and breed.
 - (3) All monies derived from fees and penalties.
 - (4) Any other matters deemed necessary by the Animal Service Director.

§ 66A-5. Citations.

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

§ 66A-6. Tranquilizer guns.

Animal Service Officers 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 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. 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.
- B. In addition to any other enforcement remedies available under this chapter, if an Animal Service Officer determines a companion 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 Service 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.
- C. Owners of domestic animals 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.

§ 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.
- 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'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 Animal Service Director shall have the authority to declare a dog to be a dangerous/potentially dangerous dog.

- 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 Appellate Board.
- (1) Manner of appeal. The owner of a dog declared dangerous/potentially dangerous wishing to appeal such declaration must request in writing a hearing contesting such determination. The written appeal must be submitted to the Animal Service Director, and must be received by the Animal Service Director within three working days of the receipt by the owner of notice of the declaration that the animal is dangerous/potentially dangerous.
 - (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 hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct. In conducting this hearing the Animal Service Appellate Board shall operate in compliance with the North Carolina Open Meetings Law, and shall conduct this hearing in accordance with procedures for a quasi-judicial hearing.
 - (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 this chapter. 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:
 - (a) Confine the dog within the owner's residence (except when muzzled and controlled as required below); 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 (except when muzzled and controlled as required below).
 - (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) The owner of the dog shall insure that the dog at all times remains enclosed or controlled and muzzled as to meet the requirements of this chapter. Failure to do so shall subject the owner to penalty under this chapter.
 - (4) Confinement, muzzling and control of dangerous/potentially dangerous dogs. It shall be unlawful for any owner or person to keep any dangerous/potentially dangerous dog within the County unless it is either confined within a secure building or enclosure as set forth above, or 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.
 - (5) Tattooing/Microchip. Within 10 days of the determination set forth in this section, the owner of a dangerous/potentially dangerous dog must demonstrate that such dog has been tattooed on the inside of the right hind leg with an identification number or had a microchip implanted as directed by the Animal Service Director.
- F. Notification. Within 10 days:
- (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 Animal Service Director, stating the full name, 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 Animal Service Director.

- G. Notification prior to transfer. Prior to any transfer (with or without consideration) of a dangerous/potentially dangerous dog, the owner must provide to the Animal Service Director 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.
- 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 Officers shall euthanize the dog. Nothing herein shall be construed to in any way limit the use of civil penalties for a violation of this section.

§ 66A-11. Mistreatment of animals prohibited.

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

- A. Adequate food and water, as defined below, must be provided for all domestic 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 or responsible for any domestic animal shall fail to supply the animal with necessary medical attention when the animal suffers from illness, injury, or disease.
- C. Adequate shelter, protection from the weather and humanely clean conditions. No persons owning or responsible for any domestic 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 domestic 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 so that the animal may have access to food, water, and shelter.
- D. Properly fitted collars required. An owner of a dog or cat shall not permit injury or inflict pain upon such animal from an improperly fitting or embedded collar.

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

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. Vicious, dangerous/potentially dangerous animals so designated, 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.

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

The Animal Service Director and Animal Service 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 Animal Service Director or an Animal Service Officer to remove any dog or cat from the trap or to damage, destroy, or move, or tamper with the trap. The Animal Service Director is authorized to receive and impound animals that are trapped by other agencies or persons. Animal Service 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 dog or cat found being mistreated or kept under unsanitary or inhumane conditions, as provided in § 66A-11; any dog or cat 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 as required shall be seized, impounded, and confined by the Animal Service Officer and confined in the Animal Service Center in a humane manner. Impoundment of such dog or cat 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 a dog or cat, the Animal Service Director 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 a dog or cat 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.
- D. Adoption or euthanasia of unredeemed dog or cat.
- (1) If any impounded stray dog or cat is not redeemed by the owner within five days of impoundment (72 hours for puppies and kittens under four months old), 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 for operation of the County Animal Service Center for same.
 - (3) All unsterilized dogs and cats adopted from the Animal Service Center shall be either spayed or neutered in accordance with the policies for operation of the County Animal Service Center. If the person adopting the unsterilized animal fails to cause the animal to be sterilized within the time prescribed by the Animal Service Center, such failure shall constitute a violation of this chapter and shall subject said person to a civil penalty.
 - (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.
- 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 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 dogs and cats.

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

§ 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.

- B. Payment. Payment for the rabies vaccination provided for in this section will be the responsibility of the person redeeming the dog or cat.
- C. Time period for vaccination:
 - (1) For dogs and cats less than four months old: within 30 days of the dog or cat's four-month birthday.
 - (2) For dogs and cats more than four months old: within 30 days 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 dog or cat 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. If the dog or cat 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. 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 Service 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 Animal Service Director 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) The following civil penalties are hereby established for each incident violation of this chapter:
[Amended 3-23-2005]

Section Violated	Animal Service Civil Penalty Fee Schedule Description	Civil Penalty Fee
66A-7A	Interference with Animal Service 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

- E. 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.

§ 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 Service Officer.
- C. An appropriate law enforcement official.
- D. The Animal Service Center.

§ 66A-24. Restraint/confinement of dogs and cats 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. (Reserved)

§ 66A-26. (Reserved)

§ 66A-27. (Reserved)

§ 66A-28. (Reserved)

§ 66A-29. (Reserved)

§ 66A-30. (Reserved)

§ 66A-31. (Reserved)

§ 66A-32. (Reserved)

§ 66A-33. (Reserved)

§ 66A-34. (Reserved)

§ 66A-35. (Reserved)

§ 66A-36. (Reserved)

§ 66A-37. (Reserved)

§ 66A-38. (Reserved)

§ 66A-39. (Reserved)

§ 66A-40. (Reserved)

§ 66A-41. (Reserved)

§ 66A-42. (Reserved)

§ 66A-43. (Reserved)

§ 66A-44. (Reserved)

§ 66A-45. (Reserved)

§ 66A-46. (Reserved)

§ 66A-47. (Reserved)

§ 66A-48. (Reserved)

§ 66A-49. (Reserved)

Part 2 Rabies

ARTICLE II Rabies Control

§ 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.
- C. Failure to vaccinate; penalty. The owner of a dog or cat not having a current rabies 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 10 days of the demand for same by an Animal Service Officer or law enforcement officer. Failure to produce the tag or form under this subsection is a separate offense for each animal.

D. Hybrid dogs.

- (1) Defined. A "hybrid dog" is any animal which is the product of the breeding of a dog with a nondomesticated animal (including but not limited to wolves).
- (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 such dog is the biting dog in an animal bite.

§ 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. Dogs and cats may be housed at locations other than the County Animal Service Center upon prior approval from the County Director of Public Health or Animal Service Director that said alternate location meets proper confinement specifications as enumerated herein and set forth in Animal Service Center protocols. Animals quarantined under this section shall be confined at the expense of the owner.
- 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. Release upon permission of County Director of Public Health. Animals confined pursuant to this article shall not be released from confinement except by permission from the County Director of Public Health or his designee.
- D. Disposition of animal other than dog or cat. An animal other than a dog or cat that bites a person shall be immediately euthanized and its head forwarded to the North Carolina State Laboratory of Public Health for rabies testing.
- E. 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.
- F. 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.
- G. 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 in the County Animal Service Center, 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.
- H. 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.
- I. 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 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.

- B. If the animal has a current rabies vaccination, it shall be revaccinated within 72 hours of the bite and confined for a period of up to six weeks.

§ 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. 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 Western Animal Disease Diagnostic Laboratory for shipment 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 therefor 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, 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 Animal Service Director 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:

Section Violated	Animal Service Civil Penalty Fee Schedule Description	Civil Penalty Fee
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. (Reserved)

§ 66A-60. (Reserved)

§ 66A-61. (Reserved)

§ 66A-62. (Reserved)

§ 66A-63. (Reserved)

§ 66A-64. (Reserved)

§ 66A-65. (Reserved)

§ 66A-66. (Reserved)

§ 66A-67. (Reserved)

§ 66A-68. (Reserved)

§ 66A-69. (Reserved)

§ 66A-70. (Reserved)

§ 66A-71. (Reserved)

§ 66A-72. (Reserved)

§ 66A-73. (Reserved)

§ 66A-74. (Reserved)

§ 66A-75. (Reserved)

§ 66A-76. (Reserved)

§ 66A-77. (Reserved)

§ 66A-78. (Reserved)

§ 66A-79. (Reserved)

Part 3 Annual Animal Tax and Licenses [Added 3-23-2005]

ARTICLE III

§ 66A-80. (Reserved)

§ 66A-81. (Reserved)

§ 66A-82. (Reserved)

§ 66A-83. (Reserved)

§ 66A-84. (Reserved)

§ 66A-85. (Reserved)

ARTICLE IV Kennels and Catteries

§ 66A-86. Permit procedures.

A noncommercial kennel/cattery license permit, with categories set out in this article, is hereby established.

- A. Owners or operators of noncommercial kennels or catteries (defined as a kennel or cattery where no fee is collected from an owner for the keeping of the dog or cat by the owner or operator), or owners of more than seven companion animals, or households or structures where more than seven companion animals (whether or not the same animals) regularly reside, shall obtain a license permit, renewable annually, and pay the fees therefor in the amounts dependent on the category (as established in this article) of kennel/cattery as adopted annually by the Board of Commissioners.
- B. This article is intended to supplement and not supplant any licensing or regulation of kennels or catteries under North Carolina law or by any agency of the United States. Any areas of operation of a kennel or cattery, whether commercial or not, not specifically subject to state or federal licensing regulation shall be subject to the provisions of this section, specifically including any rules promulgated under this article.
- C. No person required by § 66A-86A to obtain a license permit may keep or shelter seven or more companion animals without first obtaining a permit under this article. The Animal Service Director shall promulgate rules for the issuance of license permits, which rules shall include minimum requirements for humane care of all animals and for compliance with the provisions of this article and other applicable laws. Such rules shall supplement any North Carolina laws or regulations for facilities harboring companion animals, and shall not allow a standard lower than such North Carolina laws or regulations. Upon a showing by an applicant for a permit of readiness and ability to comply with the rules, a license permit shall be issued upon payment of the applicable fee.
- D. If there is a change in ownership of a kennel or cattery, the new owner may apply to have the current annual license permit reissued in his name upon payment of a transfer fee in an amount set by the Board of Commissioners.
- E. The Animal Service Director may 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.
- F. It shall be a condition of the issuance of any license permit under this article that the Animal Service

Officer's staff shall be permitted to inspect all animals and the premises where animals are kept at any time. Refusal to allow any such inspection shall be grounds for revocation of the permit for such establishment.

- G. No person who has been convicted of cruelty to animals within 10 years next preceding the date of the application shall be issued a license permit under this article.
- H. The owner, resident or operator of any home, structure or facility required to have a license permit under the terms of this article must possess a valid proof of current rabies vaccination for each companion animal found in such home, structure or facility.
- I. Any license permit issued under this article shall be for a specified maximum number of animals.
 - (1) It shall be unlawful for any person required under this article to obtain a license permit to house a cumulative total of companion animals kept in excess of the maximum number allowed in the holder's license.
 - (2) In addition to any criminal penalties for housing a cumulative total of dogs or cats in excess of the maximum number allowed in the holder's license permit, a civil penalty is hereby established, in the amount of \$50 per day per animal in excess of the maximum number allowed in the holder's license permit.
- J. Any house, structure or facility licensed hereunder shall comply with all state regulations for kennels, catteries or similar facilities as may be from time to time established. In addition to any criminal penalties for failure to comply with said regulations, a civil penalty is hereby established of \$50 per animal per day during which a failure to comply with said regulations exists.
- K. In the absence of a permit issued pursuant to this article, it shall be unlawful to be the owner (as defined in this article) of seven or more companion animals. In addition to any criminal penalties for failing to possess a license permit under this article, a civil penalty is hereby established for acting as the owner of seven or more companion animals without a license, in the amount of \$50 per day per animal in excess of six.

§ 66A-87. License categories.

The following categories and eligibility requirements for homes, structures or facilities which are required to obtain a license under this article are established for the purpose of this article:

- A. General noncommercial license.
 - (1) The applicant must be the owner of all companion animals which are housed in any home, structure or facility which is to be the subject of the license permit applied for.
 - (2) The license permit application must specify the maximum number of companion animals which may be kept, sheltered or harbored in the home, structure or facility which is to be the subject of the license permit applied for.
 - (3) All companion animals kept, sheltered or harbored in the home, structure or facility which is to be the subject of the license permit applied for shall be spayed or neutered, and the applicant must provide proof of the same for each such animal upon the request of an Animal Service Officer.
- B. Breeder kennel permit: Any person who is the owner of seven or more companion animals, one or more of which have not been spayed or neutered, may apply for a breeder license. In the absence of a breeder license permit, it shall be unlawful to be the owner of five or more companion animals that have not been spayed or neutered.

§ 66A-88. Revocation of license.

The Animal Service Director may, after notice and hearing, revoke any permit for repeated failure to comply with this article or any other law governing the protection and keeping of animals.

§ 66A-89. Buffering of kennels and catteries.

- A. Buffers and screening requirements are hereby established in all zoning districts allowing residential use for kennels and catteries (including noncommercial kennels and catteries), if kennels or catteries are allowed in such zones.

- B. All buffers must be sufficient to insure the peaceful use of all residences allowed in the district. The following are established as minimum buffers:
- (1) Setback of kennels and catteries from property boundaries of property upon which kennel or cattery sits: 100 feet.
 - (2) Planted visual screening border around kennel or cattery depth, at minimum height of eight feet: 15 feet.
 - (3) Maximum noise requirements: same as Noise Ordinance (Chapter 125 of Henderson County Ordinances), except that decibel limits are set at 85% of the level specified therein.