

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** 4 November 2013

**SUBJECT:** Revisions to Animal Ordinance and Animal Services Advisory Committee (ASAC) bylaws

**PRESENTER:** Sarah Zambon

**RELATED DOCUMENTS:** Revised Animal Ordinance and Revised Bylaws

**SUMMARY OF REQUEST:**

The Animal Services Advisory Committee (ASAC) has reviewed their bylaws and the Henderson County Animal ordinance. At their October meeting they recommended the following changes to this Board:

- Clarifying the definition and regulations surrounding nuisance or at large animals;
- Removal of Dangerous Dog notification procedures since they are required by state statute.
- Deletion of provision regarding setting traps at the request of the Sheriff's Department;
- Changes to aggressive dog provisions including allowing dogs in public areas if muzzled and preventing aggressive animals from being adopted out;
- Restructure of Spay-Neuter Assistance Program; and
- Change Companion Animal Permit Program to a Companion Animal Registry.

The changes ASAC recommended at their July meeting involve required attendance for members.

County staff will present further information on this matter.

**BOARD ACTION REQUESTED:**

Approval of the Ordinance amendments and revised bylaws.

If the Board is so inclined, the following motion is suggested:

***I move that the Board approve the revisions to the Henderson County Animal Ordinance and the Animal Services Advisory Committee bylaws as recommended.***

**Chapter 16**  
**Animals**  
**Part 1 - Animal Regulations**  
**Article I - General Provisions**

[HISTORY: Adopted by the Board of Commissioners of Henderson County. Amended 3-23-2005; 5-19-2006.]

**§ 16-1. Definitions.**

The following terms are defined for purposes of this Chapter:

- (1) 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.
- (2) 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.
- (3) 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.
- (4) Adoption- the legal taking of ownership voluntarily and accepting all responsibilities and liabilities therein.
- (5) Adult - A person 18 years of age or older who has not been judicially declared incompetent.
- (6) Aggressive Animal - Any domestic animal with a history established through more than 2 documented verbal or written warnings for attacking or threatening people, domestic animals or livestock without provocation while on or off the owner's property. Examples of aggressive behavior include but are not limited to:
  - a. Any domestic animal when unprovoked bites, claws, or attempts to bite or claw any person;
  - b. Any domestic animal found to menace, chase, threaten any person;
  - c. Any domestic animal which engages in or is found to be trained to engage in fighting;
  - d. Any domestic animal that terrorizes a person such as by repeated unprovoked aggressive encounters or by pinning the person in an area without a clear and reasonable escape; or
  - e. Any domestic animal approaching a person where the individual must fend the animal off by yelling, brandishing an object or discharging a weapon.
- (6) 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.
- (7) Animal Services 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.
- (8) Animal Services Director - The director placed in supervision of the Animal Services Center.
- (9) At Large - An animal when:
  - a. Not on the owner's property,
  - b. Not under control of a competent person or unrestrained by a leash or harness, or
  - c. Not controlled by other similar physical means.
- (10) Cat - A domestic feline of either sex.
- (11) Companion Animal - Any dog or cat.
- (12) 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.
- (13) County - Henderson County, North Carolina
- (14) County Director of Public Health - The Director of the Henderson County Department of Public Health.
- (15) Dangerous/Potentially Dangerous Dog - Any dog whose behavior constitutes a risk of severely injuring or killing a human 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 (1) 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.
- (16) Day - A period of 24 hours, including Saturdays, Sundays and holidays.
- (17) Department - The County Animal Services Department and Animal Enforcement.
- (18) Dog - A domestic canine of either sex.
- (19) Domestic Animal - Any animal whose physiology has been determined or manipulated through selective breeding which does not occur naturally in the wild, or which can be vaccinated against rabies with an approved rabies vaccine, and which has an established rabies quarantine observation period.
- (20) 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.
- (21) Exposed to Rabies - An 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.
- (22) Frivolous - Any complaint which is filed more than 3 times by 1 person or common household within a period of 48 hours; and in which such complaint is clearly insufficient on its face and is brought about with the intent to embarrass, disturb, harass, or otherwise annoy.
- (23) General Statutes - The North Carolina General Statutes, as amended.
- (24) Harboring an Animal - Feeding or sheltering an animal 7 days or more unless the animal is being boarded for a fee at a licensed kennel.
- (25) Haven - A nonprofit organization that provides care for an animal (same as "Rescue"). A haven must comply with the companion animal permit program unless it falls under state law.
- (26) Hybrid - A "hybrid" is an animal which is the product of the breeding of a domesticated animal with a non-domesticated animal, including but not limited to other hybrid animals or wolves.
- (27) Impound - To apprehend, seize, catch, trap, net, quarantine, tranquilize, or confine an animal in a humane manner.
- (28) Incorporated Area - Any area located within any incorporated municipality located wholly or in part within the County.
- (29) Inherently Dangerous Animal- Any live animal, including hybrids, which due to their inherent nature, may be considered dangerous to humans and include but is not limited to:
  - a. 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*).
  - b. Felidae, including any member of the cat family weighing over 15 pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (*Felis catus*).
  - c. Ursidae, including any member of the bear family, or any hybrids thereof.
  - d. Venomous Reptiles.
- (30) 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".
- (31) Microchip - An electronic identification device that is intended to be implanted within an animal.

- (32) 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 7 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 1 owner responsible for an animal.
- (33) Owner's Real Property - Any real property owned or leased by the owner, but not including any public right-of-way or common area.
- (34) 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.
- (35) Provocation - With respect to an animal that has bitten or attacked a person, 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.
- (36) Public Nuisance – an animal that: ~~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.~~
- a. ~~Frequently runs at large as determined by one verbal or written warning;~~
  - b. ~~Damages, soils, or defecates on private property other than property possessed or controlled by the animal owner or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the animal owner or handler as determined by more than one verbal or written warning;~~
  - c. ~~Causes unsanitary or unsafe conditions;~~
  - d. ~~Causes a disturbance by excessive barking or other noisemaking; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property including public roads adjacent to the owner's property as determined by more than one verbal or written warning.~~
- (37) 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 6 months when a domestic animal suffers a rabies exposure.
- (38) 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.
- (39) 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.
- (40) Stray - A 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.
- (41) 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.
- (42) Trespass - Wrongful invasion of the property of another
- (43) Unaltered - An animal that has not been spayed or neutered.
- (44) Unfounded - Any complaint without merit or validity and in which a reasonable and prudent person would find a lack of merit or validity readily apparent.
- (45) Unincorporated Area - Any area of the County not within an incorporated area.
- (46) Vaccination - The administration of the rabies vaccine as required by N.C.G.S 130A-185.
- (47) Wild - An animal living in a state of nature; not tamed or domesticated. This also includes but is not limited to feral cats.

**§ 16-2. Authority and Territorial Application.**

- A. Purpose. As determined by state law, the Animal Services Center:
  - (1) Prevents the abuse and neglect of animals (N.C.G.S. 153A-127);
  - (2) Protects the public health, safety and welfare (N.C.G.S. 153A-121);
  - (3) Enforces regulations regarding the possession or harboring of dangerous/potentially dangerous dogs (N.C.G.S. 153A-131);
  - (4) Protects the public and domestic animals from rabies (N.C.G.S. 130A-185); and
  - (5) Educates the public regarding the proper care for animals.
- B. This article is adopted pursuant to the power granted the County in N.C.G.S. 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.
- C. 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. 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.

**§ 16-3. 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 Services Center. The Committee 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.

**§ 16-4. 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 Services Center pursuant to policies adopted by the County Board of Commissioners.
  - (3) Keeping, or causing to be kept, accurate and detailed records of:
    - a. Impoundment and disposition of all animals coming into custody of the Animal Services Center.
    - b. All monies derived from fees and penalties.
    - c. 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 §16-11.
  - (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:
    - a. Seizure, impoundment and disposition of all animals coming into custody of the Animal Services Center.

- b. Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances and breed.
- c. All monies derived from fees and penalties.
- d. Any other matters deemed necessary by the Sheriff.

**§ 16-5. Citations.**

The Animal Services Director, Animal Enforcement Officers, Sheriff and Sheriff's Deputies of the County may issue citations to any person who has violated provisions of this Chapter, in accordance with §16-19.

**§ 16-6. Tranquilizer guns.**

Animal Enforcement Officers and Animal Services employees are authorized to store at the Animal Services 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.

**§ 16-7. 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.
- C. Filing false reports. It shall be unlawful for any person to file a false report with the Department of Animal Control, or to provide false information to an officer involving any investigation of any reported violation of this article. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.
- D. Frivolous or unfounded complaints. It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with the Department of Animal Control in order to intimidate or harass any member of the department or any animal owner, or to otherwise hinder or interfere with any function of the Department of Animal Control. Any person found violating this provision shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$500.

**§ 16-8. 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 environment that results in odors considered excessive to a reasonable person; or, in an environment that is dangerous to the animal or to the public health, safety, welfare; or failure to maintain a condition of good order and cleanliness that 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 or welfare of the community because of the number, type, variety, density, or location of animals on the property. This includes the keeping, possessing, or harboring of wild or feral animals that threaten the public health, safety or welfare.
  - (3) Maintaining an animal that is diseased and dangerous to the public health.
  - (4) Harboring, keeping, owning, or possessing an animal that 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, motor vehicles or pedestrians, damages private or public property, turns over garbage cans, deposits feces on another's private property or on public property, or an animal running at-large. The prohibition against running at-large does not apply to animals in designated off-leash areas.
- C. In addition to any other enforcement remedies available under this Chapter, if an 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, including a permanent above-ground fence or tethering or chaining inside a fence; this does not include natural barriers. 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.

Animal Enforcement is allowed to make periodic inspections.

- D. Animal Owners, where nuisances have been determined, shall be notified and ordered to abate said nuisance within 40 5 days by whatever means necessary. Failure to comply within this time frame shall constitute a separate offense for each day thereafter. No civil penalty shall accrue during the 40 5 day warning period.
- E. Reporting. Upon receipt of a detailed complaint to Animal Enforcement, the owner shall be notified by certified or registered mail or by hand delivery.
- F. Appeal. The owner shall have 40 3 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.
- H. In addition, any animal determined to be a nuisance under this section must be microchipped at the owner's expense within 5 days of the nuisance determination or appeal determination.

#### § 16-9. 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.

#### § 16-10. 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 that has killed a person shall be immediately euthanized by the Animal Services Center.
  - (1) Reporting requirement. A report must be made concerning 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; or (d) removal from territorial jurisdiction of the county. An animal's death must be reported by any of the following individuals:
    - a. owner, keeper or harbinger of a dog deemed dangerous/ potentially dangerous or of a dog that has attacked or bitten a person or domestic animal;
    - b. victim or a person witnessing such an attack or biting;
    - c. veterinarian treating a domestic animal for such an attack or biting; or
    - 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; or
  - (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 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 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 Services Director, and must be received by the Animal Services Director or postmarked within **§ 3** calendar days of the receipt by the owner of notice of declaration.
  - (2) Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 16-10E.
  - (3) Hearing procedures. Once properly appealed, the Animal Services 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 Services Appellate Board as being dangerous/potentially dangerous, then the owner shall comply with the terms of § 16-10E, F, G. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Services 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), within 30 days in a securely enclosed and padlocked pen with a concrete bottom and secure top. 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.
    - d. Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks or greenways.
  - (2) The owner must post a warning sign of at least 120 square inches that is visible to any adjoining property from each exposure of the residence or the structure in which the dangerous/potentially dangerous dog is confined. The 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) Microchip. Within **10 5** days of the determination or appeal determination, the owner of a dangerous/ potentially dangerous dog must demonstrate to Animal Enforcement that such dog 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 or chain 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.
    - c. **All animals deemed dangerous or potentially dangerous must be spayed or neutered within 30 days of the determination or an appeal determination.**

- F. Notification. ~~Within 24 hours Subject to state statute.~~
- ~~(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 the 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 Services 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,
- ~~(1) 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;~~
  - ~~(2) The Sheriff also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case.~~
  - ~~(3) 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 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 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 that 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.
    - ~~d. All dogs deemed dangerous or potentially dangerous must be altered within 30 days of the determination.~~

**§ 16-11. Mistreatment of animals prohibited.**

It shall be unlawful for any person owning, keeping or responsible for an animal to deprive, or cause the animal to be deprived of adequate food, adequate water, adequate shelter (as defined above in 16-1) and necessary medical attention.

- A. 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.
- B. Adequate Shelter.

- (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 unless a certified wildlife rehabilitation facility.
- C. An owner of an animal shall not permit injury or inflict pain upon such animal from an improperly fitting or embedded collar or harness.
- D. 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. Evidence of training animals to fight shall include but not be limited to: alterations to the animal for fighting such as removing spurs or a comb; tying animals to antagonize them and the discovery of a fighting ring or location.
- E. An owner of an animal shall not hit, physically abuse, or torment the animal.

**§ 16-12. Destruction of animals that cannot be seized or confined by reasonable means.**

- A. 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.
- B. 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.

**§ 16-13. Setting humane animal traps; authority to receive trapped animals. [Reserve]**

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 Services Center for removal of animals.

**§ 16-14. Impoundment.**

- A. In general. Any animal found being mistreated or kept under unsanitary or inhumane conditions, as provided in § 16-11; any animal found to be a public nuisance, as provided in § 16-8; 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 Services 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 Services 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 Services 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 purchase of a rabies vaccine voucher. The owner must have proof of current rabies vaccination or purchase of a rabies vaccine voucher, a voucher for microchip installation prior to release at the owner's expense. The owner of any

dogs and cats impounded for running at large in the county without a microchip or those impounded for mistreatment must purchase a voucher for microchip installation prior to release at the owner's expense unless there is a pending criminal action in the matter. All fees and expenses must be paid prior to the release of the animal. All animals impounded by Animal Services shall be micro-chipped. Animal and owner must be in compliance with state and federal law prior to redemption.

- 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 Services 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), are subject to euthanasia.
  - (2) No animal owner may be permitted to claim his/her animal under the provisions of this section unless and until he/she shall comply with the provisions of the policies of the County Animal Services Center.
  - (3) All unaltered dogs and cats adopted from the Animal Services Center shall be spayed or neutered. This shall occur prior to adoption; or, with a voucher and/or deposit to use their own veterinarian within 30 days of adoption; or, when medically appropriate, additional penalties may be applied.
  - (4) All dogs and cats adopted from the Animal Services Center that do not already have implanted in them a microchip shall have the same implanted in them prior to adoption. have a microchip at time of adoption or when the animal goes for spay or neuter surgery. This microchip shall be at the owner's expense.
  - (5) All dogs and cats adopted from the Animal Services Center shall have proof of current rabies vaccination or purchase of a rabies vaccine voucher, prior to adoption.
  - (6) Adoption Exceptions.
    - a. The Animal Services Center has the right to refuse adoption of animals to persons less than 18 years of age.
    - b. The Animal Services 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. The Animal Services Center has the right to adopt change an animals' ownership to a qualified non-profit organization that meets the Center's policy.
    - d. The Animal Services Center has the right to refuse adoption of animals to any individual who has relinquished an animal within the last 12 months.
    - e. 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) has 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 are 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 N.C.G.S. Chapter 130A.
- F. Final disposition of all unclaimed animals shall be arranged for by the Animal Services 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 Services Center will not adopt out any animal that demonstrates or has demonstrated aggressive behavior or any animal that appears to be unhealthy.

**§ 16-15. Voluntary relinquishment of animals.**

Owners wishing to relinquish animals in their possession may do so by delivering the same to the Animal Services Center. Such animals will be subject to the impoundment provisions set out in § 16-14, 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 Services Center and County harmless for fees, by reason of destruction of, or placement for adoption of, said animal;
- D. That the owner transfers ownership of said animal to the Animal Services Center and releases the Department from any and all future claims with respect to said animal; and
- E. Reason for surrender for data collection purposes and to notify potential adopted owners of any significant problems.
- F. If owner decides they want animal back after relinquishing, all reclaim or adoptions fees may apply.

**§ 16-16. 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 Services 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. Animals must be vaccinated after 4 months.
- 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.

**§ 16-17. 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 Services Center shall attempt to notify the owner before euthanizing such animal.

**§ 16-18. 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.

**§ 16-19. 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 N.C.G.S. 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 issuing 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 Services 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 Services 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:

<u>Section Violated</u>	<u>Animal Service Civil Penalty Fee Schedule Description</u>	<u>Civil Penalty Fee</u>
16-7A	Interference with Animal Enforcement Officer, or agent (per incident)	\$500
16-7B	Concealment of an animal to evade ordinance (per day of violation)	\$100
16-8	Public nuisance:	
	First violation	Warning only
	Second violation	\$50
	Third (and subsequent) violation (per day of violation)	\$100
16-10	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
16-11	Mistreatment of an animal (per day)	\$500
16-13	Release of an animal from County-owned trap (per incident)	\$100
16-27	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
16-26	Prohibition of giveaways in public places per incident per animal	\$50

- (5) Any person who fails to pay a fine within period of 30 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 N.C.G.S. 67-4.4.
  - (7) Violations taking place over continuous days shall be capped at 10 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.
- 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.

**§ 16-20. 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.

**§ 16-21. Fees.**

Animal Services fees 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.

**§ 16-22. 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.

**§ 16-23. 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, within 24 hours of such injury, to fail to notify at least one (1) of the following:

- A. The owner of the animal;
- B. An Animal Enforcement Officer;
- C. An appropriate law enforcement official; or
- D. The Animal Services Center.

**§ 16-24. Restraint/confinement of domestic animals required.**

- A. 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.
- B. 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.
- C. 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~~ used or trained for exhibition, performance, or obedience, or similar event, as long as said animal is in the process of participating or training for 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.
  - (5) Dogs may be allowed to run at large in off-leash areas of such properties as may be designated by Henderson County or the related municipality, that shall have the authority

to establish such rules and regulations as reasonably necessary for the operation of such properties. Dogs in designated off-leash areas must be accompanied by their owner, be under vocal control, in the line of sight, and not cause a public nuisance, safety hazard, harass people or other ~~dogs, or wildlife.~~ domestic or wild animals.

**§16- 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, r~~Redemption is defined as reclaim for abandoned animals, 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 microchipped. 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.

**§16 -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.

**§16 -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 3** 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. Aggressive dogs ~~shall not may~~ be permitted in public recreation areas including parks, dog parks, or **greenways but only if the animal is muzzled.**

- (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 with a padlock. 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. Any animal deemed aggressive must be microchipped 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, that 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 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.
  - (7) **No dog deemed aggressive may be adopted out.**
- E. Penalties and Consequences of Noncompliance.
- (1) Penalty. Penalties for violations of aggressive animals can be found in §66A-19.
  - (2) Impoundment. Animals that 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 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; or
  - (5) Animal is protecting the owner or the animal's young.

**§16 -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 government-issued license shall be exempt. Person must currently hold the license.
- C. Recapturing: The owner of any inherently dangerous animal or wild animal shall reimburse Henderson County for all costs 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 costs.
  - (1) Animal Enforcement may take and impound an animal under these provisions at any time for the protection of public health, safety, and welfare.
  - (2) 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.

- D. Testing: In the event the County performs genetic testing on the animal, if the test provides positive returns, the owner may be held civilly liable for the cost of testing.

**§16 -29. Through 16-49. (Reserved)**

**Part 2 – Rabies**

**Article II - Rabies Control Miscellaneous**

**§ 16-50. Compliance with state rabies laws; supplement to state rabies laws.**

- A. Failure to comply is 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).

**§ 16-51. Vaccination of dogs, cats and other pets.**

- A. Failure to vaccinate is 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 N.C.G.S. 130A-185.
- C. Adopted animals. Every dog or cat adopted from the Animal Services Center shall be vaccinated by a licensed veterinarian or certified rabies vaccinator **within** 30 days of adoption unless the animal is under 4 months and then it shall be vaccinated when medically possible **or when animal is brought back for spay or neuter surgery**. If the animal is **over 4 months and** not vaccinated prior to adoption, a rabies vaccine voucher shall be 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 30 days 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.
- D. 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 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.
- E. Certification of vaccination. The owners of dogs and cats 4 months of age or older 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.
- F. Tag required to be worn. Every owner of a cat or dog shall affix a rabies tag on the dog or cat at all times while off its owner's premises. It shall be unlawful for any person other than the owner to remove the tag 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, or supervised hunting.
- G. 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 the rabies tag, veterinarian certificate or receipt was issued.
- H. 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 rabies vaccination for any animals. Any owner not possessing a current rabies tag, certificate or receipt for such dog or cat over 4 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 its 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.
- J. 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 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 rabies vaccine voucher shall be purchased if required.

**§ 16-52. Report and confinement of dogs and cats biting persons or showing symptoms of rabies.**

- A. Quarantine. Every dog or cat that has bitten a person or that shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Services Center, and thereupon shall be securely quarantined, at the direction of the Animal Services 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 Animal Services 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 Animal Services Center.
- E. Authority to euthanize unclaimed animals. If any animal is unclaimed after a 10 day confinement, then the Animal Services Director may have the animal euthanized.
- F. Release from quarantine. If rabies does not develop within the 10 day quarantine period under this section, the animal may be released from quarantine to its owner. If the animal had 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 Services 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 that are suspected of having rabies may be humanely euthanized immediately and the head forwarded for rabies testing.

**§ 16-53. Destruction or confinement of animal bitten by known rabid animal.**

- A. Animals not vaccinated against rabies that 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 6 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.

**§ 16-54. 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 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. The Director of Public Health can place a moratorium on adoptions of animals from the County Shelter.~~ All Animal Services and law enforcement officers are duly authorized by 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.

**§ 16-55. 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 Services Center. The animal shall be submitted to the State Laboratory of Public Health for rabies testing.

**§ 16-56. Unlawful killing or releasing of certain animals.**

It shall be unlawful for any person to kill or release any dog or cat that is under observation for rabies, suspected of having been exposed to rabies, or having bitten 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 § 16-58.

**§ 16-57. 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.

**§ 16-58. 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 Services 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 this ordinance. The imposed civil penalty shall be paid in full to the Animal Services 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. 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:

<u>Section Violated</u>	<u>Animal Service Civil Penalty Fee Schedule Description</u>	<u>Civil Penalty Fee</u>
16-51C	Failure to have current rabies vaccination for an animal (per day, not including quarantine time)	\$100
16-56	Killing or release of an observed animal	\$500
16-57	Failure to surrender an animal for rabies quarantine (per day)	\$250

#### § 16-59 Spay-Neuter Assistance Program

- A. Purpose. ~~To promote spay and neuter of domestic dogs and cats by providing funds and education for alteration for Henderson County residents on spay and neuter services and issues. 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 adopted out in Henderson County must be altered prior to adoption per 66A-14.~~
- ~~(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.~~
- B. Assistance Program. For the purpose of this section, adoption means not commercially sold and includes all rescues, havens, shelters or other animal welfare, non-profit organizations in Henderson County, in addition to the County Animal Services Center.
- C. 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 residents of Henderson County with financial resources for animal alteration. These monies may also be used toward 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.
- D. Education program.
- (1) Written Information. Henderson County will prepare and distribute educational information to Henderson County pet owners regarding responsible pet ownership **and retention**, 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 retention** and the importance of alteration.
- (3) Henderson County may prepare and distribute educational information regarding responsible pet ownership, animal alteration, spay/neuter assistance, and resources for assistance with other issues.
- (4) 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.
- E. ~~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. ~~When 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.~~
- (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.~~

**§16-60 Through 16-85. (Reserved)**

### **Article III Annual Animal Tax and Licenses**

**§16-80 Through 16-85. (Reserved)**

### **Article ~~IV~~ III Companion Animal Permitting Program (CAPP)**

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

#### **§16-86. Companion Animal Permit.**

No household shall own, house, or care for more than 10 domestic animals on their property without a Companion Animal Permit (CAP).

- A. Standards required receiving and maintaining the permit will be promulgated by the Animal Services Department. All state, federal, and local laws must also be met.
- B. All permits will specify a maximum amount of animals permitted. Keeping more animals than permitted may result in the revocation of the permit, animal impoundment, and civil and criminal penalties.

- (1) ~~Animals impounded under this section must be reclaimed within 24 hours or the animals become property of Henderson County.~~
- C. ~~Animal Services and law enforcement shall be permitted to inspect all permitted parties at any time. Refusal of inspection shall be grounds for permit revocation.~~
- D. ~~Permits may be denied, suspended, or revoked for failure to comply with the CAP rules or federal, state, or local laws regarding animals.~~
- (1) ~~Revoked permits can't be reinstated for 6 months and require a new permit fee.~~
- (2) ~~Animal Services Director may permit reduction schedule but failure to comply may result in revocation of the permit.~~
- (3) ~~Appeals under this provision must be made within 5 days of revocation or 24 hours of animal impoundment, whichever is earlier to the Animal Services Appellate Board in a quasi-judicial proceeding at its next regularly scheduled meeting.~~
- E. ~~Exclusions:~~
- (1) ~~No permits will be issued to anyone convicted of cruelty or mistreatment within the last 10 years or violation of animal related laws within last 2 years.~~
- (2) ~~Individuals may have 1 litter per year without a permit as long as they meet this Article after the litter is 4 months old.~~

**§66A-86. Companion Animal Registration.** No household shall own, house, or care for more than 10 domestic animals on their property without registering with Animal Services Center.

- A. Law enforcement shall be permitted to inspect all registered parties at any time. Refusal of inspection shall be grounds for registry revocation.
- B. The owner must notify Animal services if the number of animals increases.

**§16-87. Enforcement.**

Failure to comply with the provisions of this Article may result in criminal or civil penalties as contemplated in §16-19 of this Ordinance. Violators with more than 10 animals ~~who do not have a permit~~ are not registered or have excess animals from their ~~permit~~ registry 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~~ or become the immediate property of Henderson County.

**§16-88. 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 shops. Nor shall anything in this Article conflict with any state, local, or municipal laws regarding land use.

**§ 16-89 Through 16-93. (Reserved)**

**Article IV. Livestock**

**§ 16-94. Allowing livestock to run at large forbidden.**

If any person shall intentionally, willfully, knowingly or negligently allow his livestock to run at large, he shall be guilty of a Class 3 misdemeanor.

**§ 16-95. 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.

**§ 16-96. 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.

**§ 16-97. 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.

**§ 16-98. 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, 1 to be selected by the owner of the livestock, 1 to be selected by the impounder and a third to be selected by the first 2. 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 2 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.

**§ 16-99. 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 3 days after the notice and demand as provided herein is received or within 3 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 3 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.

**§16-100. 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.

**§ 16-101. 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.

**§ 16-102. Right to feed impounded livestock; owner liable.**

When any livestock is impounded under the provisions of this Chapter and remains without reasonably adequate food and water for more than 24 hours, any person may lawfully enter the area of impoundment to supply the livestock with food 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 food and water.

**§ 16-103. Penalties for violation of this Article.**

A violation of this article is a Class 3 misdemeanor.

**§ 16-104. 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 3 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 said magistrate may, in his discretion, order the Sheriff or other officer to kill the fowls when they are running at large as herein provided.

**§16-105. Codification of General Statutes.**

This Article codifies N.C.G.S. Chapter 68, Article 3, its subsequent amendments, additions, or deletions, and the case law of the State of North Carolina arising there under.

**§16-106. Through 16-125. (Reserved)**

## **ANIMAL SERVICES ADVISORY COMMITTEE**

### **CHARTER**

The Animal Services Advisory Committee (ACS) shall assist the Board of Commissioners by providing input on the operations and policies of the Henderson County Animal Services Department regarding both the operation of the Animal Shelter and enforcement of the Animal Ordinance. This may include efforts such as collaborating staff on operating procedures or providing expertise and recommendations regarding the Animal Ordinance. This Committee shall also hear dangerous dog appeals in a quasi-judicial format.

### **BYLAWS AND RULES OF PROCEDURE**

- I. NAME: Animal Services Advisory Committee (ASAC).
- II. CHARTER. On the \_\_\_ day of \_\_\_\_\_, \_\_\_\_, the Henderson County Board of Commissioners approved the revised charter for the Animal Services Committee (hereinafter referred to as "ASC") and subsequently appointed members to the Committee. The terms of the charter shall govern the activities of the Committee, and to the extent that these bylaws conflict with the charter, the terms of the charter shall control.
- III. PURPOSE. The purpose of this Committee is to make recommendations to the Board of Commissioners and staff regarding the Animal Ordinance, policies and procedures at the Animal Services Center, and any other issues requested by the Board of Commissioners. This Committee shall also hear dangerous dog appeals.
- IV. MEMBERSHIP
  - A. Selection of Membership. The Committee shall consist of 9 members. All appointments will be made by the Henderson County Board of Commissioners. Members will serve an initial 3 year staggered terms. Seven members shall be from the general public with various affiliations and diverse backgrounds in addition to one veterinarian and one representative from the Sheriff's Department.
  - B. Duties of Members. Duties of Committee will be as assigned by the Henderson County Board of Commissioners.
  - C. Terms of Service. The term of service shall be 3 years. No member shall serve more than two consecutive full three-year terms.
  - D. Vacancies and Reasons for Dismissal. All members serve at the pleasure of the Board of Commissioners. Members may be dismissed for any reason without cause including but not limited to failure to attend meetings. Vacancies shall be filled at the earliest convenience of the Board of Commissioners. A vacancy of the chair shall be filled by the Committee at a special election at the next regular meeting of the Committee and shall be approved by the Board of Commissioners. A vacancy in the vice chair shall be elected by a majority of the Committee at the next regularly scheduled meeting.
  - E. Compliance with Animal Ordinance. All members must comply with the Henderson County Animal Ordinance, and local, state and federal law as applies to animals. Failure to comply with this provision shall result in the immediate dismissal from the Committee.

### V. MEETINGS

- A. Open-Meetings Law. It is the public policy of North Carolina and Henderson County that the hearings, deliberations, and actions of this Committee be conducted openly. Except as allowed by NCGS 143-318.11, each meeting of the Committee shall be open to the public and any person is entitled to attend such a meeting. The public's right to attend such meeting does not necessary entitle the public to participate in the meeting.
- B. Regularly Scheduled Meetings. The Committee shall hold meetings of the Animal Services Committee.—A regular schedule of meetings to be held on a quarterly basis on the second Thursday of the month at 5:30 pm in the Meeting Room of the Committee shall be kept on file with the secretary of the Committee and the Clerk to the Henderson County Board of Commissioners. The Committee shall have the authority to change the schedule of regular meetings, and/or to change the date of a particular regularly scheduled meeting without the approval of the Board of Commissioners. If the Committee changes the schedule of regular meetings, the secretary shall forward a copy of the new schedule to the Clerk to the Board of Commissioners at least seven (7) days prior to the first meeting held pursuant to the new schedule. If a particular regularly scheduled meeting date is changed, the secretary shall comply with the notice provisions of paragraph C below, SPECIAL MEETINGS.
- C. Special Meetings. The chair of the Committee, the Appellate Board of Animal Services Committee, or the majority of the members of the Committee may at any time call a special meeting of the Committee by signing a notice stating the time and place of the meeting and the subjects to be considered. Such notice must be:
- i. Posted on the bulletin board in the Animal Services Center lobby;
  - ii. Posted on the bulletin board in the front lobby of the Henderson County Courthouse;
  - iii. Posted on the bulletin board for the County Administration Building,
  - iv. Mailed or delivered to each newspaper, wire service, radio station and television station which has filed a written request for notice with the secretary;
  - v. Mailed or delivered to any entity or person that has requested to be on the Committee's sunshine list as prescribed by law;
  - vi. Delivered to all members of the Committee at least 48 hours before the meeting.
  - vii. Only the business that is specified in the notice of the meeting may be transacted during a special meeting.
- D. Public Input. Public input at all Committee meetings that are not quasi-judicial in nature shall have a 3 minute limit per speaker.
- E. Attendance. All members of the Committee are expected to attend the regular and/or special meetings of the Committee. Any member not able to attend must notify the secretary in advance of the meeting. **Any member missing more than 25% of regular meetings in a calendar year** will be asked to resign or reported to the Board of Commissioners to be replaced.
- F. Voting.
- a. DUTY TO VOTE. It is the duty of each member, including the chair, to vote unless otherwise excused. The Committee may excuse members from voting on any matter involving their own financial interest, official conduct, or when a member has indicated an inability to be impartial in any quasi-judicial matter before the Committee.

- b. ABSTENTIONS. Should a member fail to vote on any matter before the Committee, without having been excused from such vote, such abstention will count as an affirmative vote.

## VI. QUASI-JUDICIAL HEARINGS

- A. Appeals. Appeals heard under the Henderson County Animal Ordinance shall be quasi-judicial in nature and shall be heard by the Animal Services Appellate Board.
  1. The Appellate Board shall consist of 3 members of Animal Services Committee. Remaining members of the Committee shall serve as alternates. One of the members of the Appellate Board must be the chairperson of the Committee who shall serve as chair of the Appellate Board. The vice chair shall not be designated as a regular appellate board member but shall serve in the chair's absence.
  2. The Appellate Board shall **meet schedule an appeal** within 2 weeks of an appeal being filed in writing with Animal Services.
  3. Appellate Board meetings shall be special meetings.
- B. Dangerous Dog Appeals. Dangerous Dog appeals shall be quasi-judicial in nature and will be heard by the Appellate Board.
- C. Procedure. Each quasi-judicial proceeding must be conducted in substantial conformity with the sections of Henderson County Board of Commissioners Rules of Procedure pertaining to the quasi-judicial proceedings and applicable law.

## VII. OFFICERS

- A. Required Officers
  1. **PRESIDING OFFICER**. The presiding officer of each meeting of the Committee shall be the chair of the Committee. In situations where the chair is unavailable or unable to participate in the meeting or any particular matter before the Committee, the vice chair shall preside. In the event that neither the chair nor the vice chair is available, the members of the Committee, by affirmative vote of the majority, may appoint an acting chair who shall have all powers of the chair while acting as presiding officer.
  2. **SELECTION OF THE CHAIR AND VICE CHAIR**. The chair shall be selected by majority vote of the Committee unless the Board of Commissioners indicates to the Committee that the Board of Commissioners will appoint said chair, in which case the appointment shall be made by the Board of Commissioners. The vice chair shall be elected by a majority vote of the Committee.
  3. **POWERS AND DUTIES OF THE CHAIR AND VICE CHAIR**. The chair shall preside at all meetings of the Committee but shall also have the right to engage in discussion and vote on any matter before the Committee unless otherwise excused. The chair shall have the power to call a special meeting, rule on procedural matters during a meeting, call a brief recess of a meeting at any time, and adjourn a meeting in an emergency. At any other time, adjournment shall be by motion, duly approved. The vice chair shall have all powers and perform all the duties of the chair in his or her absence.
  4. **DUTIES OF THE SECRETARY**. The staff person assigned to the Committee shall serve as the secretary of the Committee and shall perform the following:
    - a. The secretary shall ensure that all meetings of the Committee are properly noticed.

- b. The secretary shall maintain the sunshine list that is a list of those persons or entities that have filed a written request indicating a desire to receive notice of all special meetings of the Committee.
- c. The secretary shall take and record the actions of the Committee and draft minutes of the meetings accordingly. Minutes shall be sent to Committee members one week prior to their next regularly scheduled meeting. The secretary shall also forward a copy of the minutes as they are approved to the Clerk to the Board of Commissioners.
- d. The secretary shall be responsible for maintaining an accurate list of members of the Committee, submitting to the Clerk to the Henderson County Board of Commissioners a quarterly attendance report for its members and notifying the Clerk to the Henderson County Board of Commissioners of any resignations of any of its members, or any other change in membership of the Committee.

- B. Schedule for Elections. Elections shall take place annually at the regularly scheduled meeting in January for chair and vice chair. Selection of regular members for the Animal Services Appeal Board shall also take place at this time.
- C. Committees. Committees shall be formed based on the discretion of the Committee or at the direction of the Board of Commissioners.

VIII. RULES OF CONDUCT. This Committee shall follow Roberts Rules of Order.

IX. REPORTS.

- A. Annual Report. The Committee shall make a report to the Henderson County Board of Commissioners at least annual. This report must be submitted no later than July 1 of each year. The Committee shall also make reports to the Board of Commissioners as needed or as requested.
- B. Public Records Law. The Committee shall abide by North Carolina Public Records Law N.C.G.S. Chapter 132.

X. ACTION BY THE COMMITTEE.

- A. Quorum. A majority of the members shall constitute a quorum. No action of the Committee may be taken at any meeting where less than a quorum is present. Once a quorum has been established, it will not be defeated if members leave.
- B. Motions. Action of the Committee may be taken upon a motion made by any member, including the chair, without the need for a second. A motion shall be adopted if approved by the affirmative vote of a majority of the members present and not excused after full discussion of the motion by the members.
- C. Minutes. Minutes shall be kept of all meetings of the Committee. The secretary of the Committee shall present such minutes to the Committee for approval. Minutes of the meetings of the Committee shall be public records. The secretary shall be responsible for sending a copy of all approved minutes to the Clerk to the Board of Commissioners.
- D. Staff Support. County staff shall be assigned to the ASC, acting as the liason between the ASC, County departments, and the Board of Commissioners and shall have the charge of correspondence, minutes, notifying members of meetings, and other information.

XI. AMENDMENTS. The Committee may amend these bylaws by action of the Committee; provided however, that amendments shall not be effective until they are approved by the Henderson County Board of Commissioners.

Respectfully submitted by the Animal Services Advisory Committee on this the \_\_\_\_ of \_\_\_\_\_, 2009.

---

Gaby Johnsen, Chair

Approved by the Henderson County Board of Commissioners on this then \_\_\_\_ day of \_\_\_\_\_, 2009.

---

William Moyer, Chairman