

**CHAPTER 91: ANIMALS**

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### ***Cross-reference:***

*An act to allow Dare County to establish a special leash law district, see Special Acts, Article XXXI*

## **GENERAL PROVISIONS**

### **§ 91.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ACTS DEEMED PUBLIC NUISANCES.** Those acts described in §§ 91.002, 91.003, 91.008, 91.025 through 91.029.

**ADEQUATE FOOD.** The provision at suitable intervals, of a quantity of suitable foodstuff suitable for the species and age, sufficient to maintain the animal's health and well-being.

**ADEQUATE SHELTER.** A structure which provides for an animal's protection from inclement weather or sun, appropriate for that animal.

**ADEQUATE WATER.** Access to a supply of water that is clean, fresh, and visibly free of excessive debris and organic material, provided in a sanitary manner at suitable intervals for the species.

**ANIMAL.** Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.

**ANIMAL CONTROL OFFICER.** The person appointed to exercise the powers and responsibilities prescribed in this chapter and otherwise allowed by statute to a county dog warden, who shall have the powers of a county dog warden in addition to the other powers set out in this chapter.

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

**AT-LARGE.** Any animal shall be deemed to be **AT-LARGE** when it is off the property of its owner and not under the control of a competent person.

**DANGEROUS ANIMAL.** An animal that:

- (1) Has killed or inflicted serious injury on a person;
  - (2) Is determined by the Health Director or the Dangerous Animal Appeal Board to be potentially dangerous as defined herein;
- or
- (3) Any animal owned or harbored primarily or in part for the purpose of animal fighting, or any animal trained for animal fighting

**DANGEROUS ANIMAL APPEAL BOARD.** The Board appointed as needed by the Chairperson of the Dare County Board of Health to hear appeals from the determination by the Health Director that an animal is a dangerous animal or a potentially dangerous animal and comprised of at least 3 members of the Board of Health.

**DARE COUNTY ANIMAL CONTROL.** The person or entity under contract or otherwise designated by the Dare County Board of Commissioners to exercise the authority, powers and responsibilities given for the control of animals and their welfare under the provisions of Chapter 91 of the Dare County Code of Ordinances and under the provisions of the North Carolina General Statutes.

**EXPOSED TO RABIES.** An animal has been **EXPOSED TO RABIES** if it has been bitten by or been exposed to any animal known or suspected to have been infected with rabies.

**IDENTIFICATION TAG.** The metallic or other tag or identification device issued by the Animal Control Department for attachment to the collar or harness of a dog.

**KENNEL, DEALER, BREEDER or PET SHOP.** Any person engaged in buying, selling, breeding or boarding pet animals.

**NEUTERED MALE.** Any male animal which has been operated upon to prevent reproduction.

**OWNER.** Any person or legal entity that has a possessory property right in an animal or that keeps, has charge of, shelters, harbors, takes care of or has custody of an animal.

**OWNER'S REAL PROPERTY.** Any real property owned or leased by the owner of the animal, but does not include any public right-of-way or a common area of a condominium, apartment complex or townhouse development.

**POTENTIALLY DANGEROUS ANIMAL.** An animal that the Health Director or the Dangerous Animal Appeal Board determines to have:

- (1) Inflicted a serious injury upon a person;
- (2) Killed or inflicted serious injury upon a domestic animal when not on the owner's real property; or

(3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

**RESPONSIBLE PARTY.** A person having custody of an animal, or who keeps or harbors an animal, feeds or shelters, or who permits an animal to remain on or about any premises occupied or controlled by such person.

**RESTRAINT.** An animal is under **RESTRAINT** if it is controlled by means of a chain, leash or other like device, or is sufficiently near the owner or handler to be under his or her direct control and is obedient to that person's commands, or is on or within a vehicle being driven or parked or is within a secured enclosure.

**SERIOUS INJURY.** Any physical injury that results in lacerations, punctures, broken bones or other injuries for which medical treatment is required.

**SPAYED FEMALE.** Any female animal which has been operated upon to prevent conception.

**STRAY DOG.** Any dog within the county wandering at-large or lost or any dog within the county whose owner fails to pay for and procure a dog tax and fails to have the dog vaccinated against rabies by a veterinarian.

**TETHER.** A means by which an animal is fastened so that it can range only within a set radius.

**TETHERING.** To restrain a dog outdoors by means of a rope, chain, wire or other type line for holding a dog, one end of which is fastened to the dog and the end of which is connected to a stationary object or to a cable or trolley system. This does not include walking a dog with a handheld leash.

**VICIOUS ANIMAL.** Any animal that has made an unprovoked attack on a human by biting or in any manner causing abrasions or cuts of the skin; or one which habitually or repeatedly attacks farm stock and other pets.

(Prior Code, § 91.01) (Ord. passed 11-6-1978; Am. Ord. passed 2-16-2009; amended 5-15-2017)

## **§ 91.002 CRUELTY TO ANIMALS.**

It shall be unlawful for any person to molest, torture, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The words **TORTURE**, **TORMENT** or **CRUELTY** shall be held to include any act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted, but such terms shall not be construed to prohibit lawful shooting of birds, deer or other game for human food, or to prohibit the Animal Control Department or their agents or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner.

(Prior Code, § 91.02) (Ord. passed 11-6-1978) Penalty, see § 10.99

## **§ 91.003 VICIOUS ANIMALS.**

It shall be unlawful for any owner to keep any vicious, fierce or dangerous animal within the county, unless it is confined within a secure building or enclosure or unless it is securely muzzled and under restraint by a competent person who, by means of a leash, chain or rope, has such animal firmly under control at all times.

(Prior Code, § 91.03) (Ord. passed 11-6-1978) Penalty, see § 10.99

## **§ 91.004 HUNTING OF WILDLIFE; RESTRICTIONS.**

(A) It shall be unlawful for any person to hunt wildfowl within the exclusive geographic area licensed by the County Game and Wildlife Commission to another person, unless the licensee is present in the blind or near vicinity and has authorized the use by a nonlicensee or, if not present in the near vicinity, has authorized in writing the use by the nonlicensee.

(B) In the case of a club or corporate licensee, the person shall have written authorization by the licensed entity to use the area on his or her person or within the licensed area.

(C) All open water hunting or migratory wildfowl shall be from a duly licensed blind.

(D) It shall be unlawful to hunt wildfowl from a floating blind or other movable device on water, unless the same has been licensed by the county's Game and Wildlife Commission.

(E) For the purposes of this section, the following definitions will apply:

**BLIND.** A permanent or semi-permanent structure or device on land or in or over water for the purpose of concealing a hunter of migratory wildfowl.

**FLOAT BLIND.** A movable object or structure on water for the purpose of concealing a hunter of migratory wildfowl.

**OPEN WATER.** All sounds and bays.

(Prior Code, § 91.04) (Ord. passed 10-3-1977) Penalty, see § 10.99

### **§ 91.005 HUNTING BLACK BEARS.**

The seasons for hunting black bears in Tyrell and Washinton Counties in 1988 and succeeding years, and in Dare County in 1990 and succeeding years, shall be established as authorized by G.S. Ch. 113; provided, however, there shall be no season for the year for hunting black bears in a county if the Board of Commissioners of that county adopts an ordinance stating the county's objection to the season that would otherwise be established for that year as authorized by G.S. Ch. 113.

(Sess. Laws 1989, ch. 837, § 2, being G.S. § 113-133.1(e)) (Prior Code, § 91.041)

### **§ 91.006 TRAPPING PROHIBITED AT CERTAIN TIMES.**

(A) It is unlawful to take by trapping any game or fur-bearing animal except as provided by the rules and regulations of the North Carolina Wildlife Resources Commission. Notwithstanding the forgoing, it shall be unlawful to take by trapping any game or fur-bearing animal by use of the 330 Conibear steel trap or any similar trap until after January 2 of each year.

(B) Violation of this act is a misdemeanor punishable for a first conviction by a fine of not less than \$10 nor more than \$50 or imprisonment not to exceed 30 days, and punishable for a second or subsequent conviction within three years by a fine of not less than \$50 nor more than \$200, imprisonment not to exceed 90 days, or both.

(C) This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

(Sess. Laws 1985, ch. 178., §§ 1-3) (Prior Code, §91.042) (Am. Ord. passed 9-15-2008) Penalty, see § 10.99

### **§ 91.007 PROHIBITION OF FEEDING BLACK BEARS FROM A PUBLIC HIGHWAY RIGHT-OF-WAY.**

(A) It is unlawful to feed black bears from a public highway right-of-way.

(1) Division (A) applies only to the direct feeding or broadcasting of food or other attractants by private individuals for the purpose of feeding, attracting or baiting black bears.

(2) Exempted from this section are state and local government programs (and programs sponsored by the state or local governments) that have the purpose of beautifying public roadsides or managing public highway rights-of-way to provide or improve wildlife habitat.

(3) It is not the purpose of this section to prohibit any person from feeding black bears on their private property, nor does this section prohibit persons from using natural or artificial bait while fishing in public highway canals and waterways.

(B) The term **HIGHWAY** shall be as defined by G.S. § 20-4.01(13).

(C) A violation of this section shall be punished as provided in G.S. § 14-4(a) as a Class 3 misdemeanor.

(Prior Code, § 91.043) (Ord. passed 12-18-2000)

## **§ 91.008 OWNER RESPONSIBLE FOR CARE AND BEHAVIOR OF HIS OR HER ANIMALS.**

The owner is responsible for the care, actions and behavior of his or her animals.

(Prior Code, § 91.05) (Ord. passed 11-6-1978)

## **§ 91.009 EXEMPTIONS.**

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except for the sections on cruel treatment and manner of keeping animals generally.

(Prior Code, § 91.06) (Ord. passed 11-6-1978)

## **§ 91.010 PRIVITIZATION OF OPERATION OF ANIMAL SHELTER; CONTRACT.**

There is hereby granted approval for the county to enter into a contract with an independent contractor to provide services for animals, operate and maintain an animal control shelter and adoption center and such other services in keeping with the regulations of this chapter. The contract shall be kept on file with the county for public inspection.

(Prior Code, § 91.07) (Ord. passed 7-20-1992; Am. Ord. passed 2-15-1993)

## **§ 91.011 MANNER OF KEEPING AND TREATING ANIMALS GENERALLY.**

It shall be unlawful for any person to keep animals under unsanitary or inhumane conditions; to fail to provide proper food and water daily, shelter from the weather, reasonably clean quarters, and proper medical attention for sick, diseased or injured animals, as well as adequate inoculation against disease, according to the species of the animal kept.

(Adopted 5-15-2017)

## **DOGS**

### **§ 91.025 COLLAR AND TAGS REQUIRED.**

(A) It shall be unlawful for any dog owner to fail to provide his or her dog with a collar or harness to which current vaccination and identification tags are securely attached. A collar or harness with attached tags must be worn at all times except when the dog is confined to an enclosure on the owner's premises or during the time animals are performing at shows, obedience trials, tracking tests, field trials, training schools or other events sanctioned and supervised by a recognized organization.

(B) It shall be unlawful for any dog owner to fail to provide his or her dog with an identification tag or fail to take the action as is necessary to insure that such identification tag is worn by the dog at all times, except as otherwise provided in this chapter.

(C) It shall be unlawful for any dog owner to fail to comply with state laws relating to the control of rabies, and it shall be unlawful for any dog owner to fail to provide any dog he or she owns with a suitable collar or harness for the wearing of the rabies tag to be issued upon compliance with state law or fail to take the action as is necessary to see that the tag is worn by the dog at all times, except as otherwise provided in this chapter.

(D) It shall be unlawful for any person to allow any dog to wear a vaccination tag or identification tag issued for another dog.

(Prior Code, § 91.15) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.026 STRAY DOGS.**

It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed or keep in possession by confinement or otherwise any dog which does not belong to him or her, unless he or she has, within 24 hours from the time the dog came into his or

her possession, notified the animal shelter. It shall be unlawful for any person to refuse to surrender any such stray dog to an authorized representative of the animal shelter upon demand of the representative.

(Prior Code, § 91.16) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.027 BEHAVIORS OF DOGS CONSTITUTING PUBLIC NUISANCES.**

It shall be unlawful for any dog owner to allow his or her dog to habitually or repeatedly chase, snap at, attack or bark at pedestrians, bicyclists or vehicles, turn over garbage pails, damage gardens, flowers or vegetables or conduct itself so as to be a public nuisance, or to permit a female dog to run at-large during the erotic stage of copulation.

(Prior Code, § 91.17) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.028 BARKING DOGS.**

It shall be unlawful for any dog owner to keep or have within a densely populated area a dog that habitually or repeatedly barks in such a manner or to such extent that it is a public nuisance.

(Prior Code, § 91.18) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.029 NOTICE OF INJURIES TO DOGS.**

It shall be unlawful for any person injuring a dog, by running over or into or coming into contact with the same with any automobile, motorcycle, bicycle or other vehicle, to fail to notify immediately the owner of the dog, the animal shelter or the Police Department if in a municipality or the Sheriff's Department if in the county.

(Prior Code, § 91.19) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.030 POTENTIALLY DANGEROUS DOG.**

(A) The Dare County Health Director is the person designated to determine when a dog is dangerous or potentially dangerous under the provisions of G.S. § 67-4.1 and to determine when an animal is dangerous or potentially dangerous as defined herein. The Chairperson of the Dare County Board of Health shall designate as needed, 3 members of the Dare County Board of Health to serve as the Dare County Dangerous Animal Appeal Board to hear appeals from the Health Director's determination that a dog or an animal is dangerous or potentially dangerous.

(B) Upon receipt of a report that an animal is dangerous or potentially dangerous:

(1) The Animal Control Officer shall promptly investigate the report and upon completion of the investigation present the findings of such investigation to the Health Director. Any animal which in the opinion of the animal control or law enforcement officer(s) who respond and which they reasonably believe constitutes a present threat to persons or other animals may be taken into their custody and impounded.

(2) Upon receipt of the investigative report, the Health Director shall determine whether there is probable cause to believe that the animal which is the subject of the report is dangerous or potentially dangerous.

(3) Upon determining that an animal is a dangerous animal or a potentially dangerous animal, the Health Director shall:

(a) Notify the owner in writing, giving the reasons for the determination, before the animal may be considered dangerous or potentially dangerous;

(b) Notify Dare County Animal Control of the Health Director's determination and if not already impounded as otherwise provided, direct that the animal be seized and impounded until final disposition has occurred as provided herein;

(c) Give the owner notice that the owner may appeal the determination by filing written objections with the Dare County Dangerous Animal Appeal Board within 3 days and provide the address at which to deliver such notice of the appeal;

(d) Direct the owner to immediately deliver the animal to the Dare County Animal Shelter if not previously seized by Dare County Animal Control, to be impounded until the animal's disposition is determined as provided herein; and

(e) If after reasonable efforts the owner or the whereabouts of the owner cannot be determined, the Health Director and Dare County Animal Control shall proceed as provided herein as if such notice was properly given.

(C) An animal control officer is authorized to serve a copy of the Health Director's notice upon the owner of the animal and to seize and impound the animal upon the Health Director's determination that the animal is dangerous or potentially dangerous or upon a reasonable belief that the animal is a present threat to persons or other animals.

(D) Within 3 days of receipt of notice of the Health Director's determination that an animal is dangerous or potentially dangerous, the owner may appeal the determination to the Dare County Dangerous Animal Appeal Board. In the event written notice of appeal is not received within the times prescribed herein, the determination of the Health Director shall be final. Upon a timely appeal, the Dare County Dangerous Animal Appeal Board shall convene within 10 days and conduct a hearing to determine whether the determination of the Health Director is affirmed. The hearing shall be conducted pursuant to the procedures adopted by the Dare County Dangerous Animal Appeal Board. The final decision of the Dare County Dangerous Animal Appeal Board may be appealed to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate Board and shall be heard de novo before a superior court judge sitting in Dare County. In the event that the notice of appeal and petition for review are not timely filed, the decision of the Dare County Dangerous Animal Appeal Board shall be final.

(E) Upon final determination that an animal is dangerous or potentially dangerous, the animal shall be humanely destroyed and the owner shall be responsible for all costs and expenses of impoundment and destruction as set forth on the schedule of fees adopted by Dare County Animal Control. Upon a final determination that an animal is not dangerous or potentially dangerous, the animal shall be returned to the owner.

(F) Notwithstanding any of the forgoing, the provisions of this chapter do not apply to:

(1) An animal being used by a law enforcement officer to carry out the law enforcement officer's official duties;

(2) An animal being used in a lawful hunt;

(3) An animal where the injury or damage inflicted by the animal was sustained by a domestic animal while the animal was working as a hunting animal, herding animal or predator control animal on the property of, or under the control of its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal; or

(4) An animal where the injury inflicted by the animal was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing or assaulting the animal, had tormented, abused or assaulted the animal, or was committing or attempting to commit a crime.

(Ord. passed 2-16-2009)

### **§ 91.031 RUNNING AT LARGE PROHIBITED WITHIN COLINGTON HARBOUR AND MARTIN'S POINT.**

(A) Within the area described herein no owner or keeper of any dog shall permit the animal to run at large.

(B) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AREA OF PROHIBITION.** All that land and water shown on the maps or plats of portions of Colington Harbour Subdivision identified on the list attached to Ord. passed 11-18-1996 and incorporated by reference herein, and all that land and water described as common areas in the Martin's Point Declaration of Covenants and Restrictions, Martin's Point Homeowners Association, Inc. Articles of Incorporation, By-laws, Regulations and Construction Guidelines, including common areas adjacent to and/or abutting private property.

**AT LARGE.** Off the premises of the owner or keeper and not under restraint.

**OWNER or KEEPER.** Any person or persons or firm, association or corporation, owning, keeping or harboring a dog.

**PREMISES.** Land and buildings.

**UNDER RESTRAINT.**



- (a) Controlled by means of a chain, leash or other like device;
- (b) On or within a vehicle being driven or parked; or
- (c) Within a secure enclosure which prevents the dog from injuring persons or running at large.

(C) A violation of this section shall be punished as provided in G.S. § 14-4(a) as a Class 3 misdemeanor. The fine shall not exceed \$50.

(Prior Code, § 91.21) (Ord. passed 11-18-1996; Am. Ord. passed 1-5-2004)

### **§ 91.032 PROHIBITION OF DOGS ON COUNTY OWNED RECREATIONAL AREAS.**

(A) It shall be unlawful for any dog owner to permit his or her dog on the premises of any county-owned recreational area, regardless of whether the animal is under restraint or free-roaming. This prohibition does not apply to dogs trained to provide assistance as aid dogs to disabled persons, and dogs used for law enforcement purposes.

(B) This does not apply to the Kitty Hawk Dog Park. Where a leash law does apply to all areas as you approach or exit the Kitty Hawk Dog Park (fenced in dog area), whether walking home to your parked vehicle. All dogs must be on a 6-foot or less leash and under the immediate control of a responsible person. Proper application and regulations must be completed prior to utilizing the Kitty Hawk Dog Park (fenced in dog area).

(C) A violation of this section shall be punished as provided in G.S. § 14-4(a) as a Class 3 misdemeanor.

(Prior Code, § 91.22) (Ord. passed 10-18-1999; amended 7-18-2011)

### **§ 91.033 GENERAL CARE AND TETHERING OF DOGS.**

(A) It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device on vacant or unoccupied property.

(B) It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device except under the following conditions:

(1) No person shall tether, fasten, chain, tie or restrain a dog, or cause such restraining of a dog, to a tree, fence, post, dog house, or other stationary object for more than a total of 3 hours in a 24-hour period.

(2) During periods of tethering, any tethering device used shall be at least 10 feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. If a cable trolley system is used for tethering, the length of the cable along with the tethering device must be at least 10 feet in length and the dog must be able to move 10 feet away from the cable perpendicularly and be attached to the dog in such a manner to prevent strangulation or other injury to the dog and entanglement with objects.

(3) The tether shall be connected to the dog by a body harness made of nylon or leather, not less than 1 inch in width and where the weight of the tethering device and the collar cannot exceed 10% of the dog's body weight.

(4) No person shall tether a dog with a chain or wire or other device, or cause such attachment that does not terminate at both ends with a swivel.

(5) No person shall tether with a chain or wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.

(6) Tethered dogs shall have access to adequate food, water, and shelter. This includes shelter from extreme heat or near freezing temperatures, flooding, tornadoes, thunderstorms, tropical storms and hurricanes.

(7) Tethered dogs shall be at least 6 months of age. Puppies shall not be tethered. Tethered dogs shall not be sick or injured.

(8) Tethering and restraint of dogs shall be allowed when actively engaged in organized and lawful animal activities including but not limited to hunting, obedience training, field and water training, law enforcement training, herding or shepherding of livestock, and/or in the pursuit of working or competing on those legal endeavors.

(C) A chain or rope is acceptable in the place of a leash when walking a dog as long as the dog has an appropriate collar or harness.

(D) Any person found in violation of the regulations described in this section shall be subject to the following fines:

(1) First offense: Subject to citation and \$100 fine (if the dog is not spayed or neutered, the fine may be voided in lieu of the owner having the pet spayed or neutered by a veterinarian and providing to the animal control officer documented proof of such within 14 days).

(2) Second offense: Subject to a class 3 misdemeanor and fine of up to \$500 and forfeiture of the dog to Dare County Animal Control.

(Adopted 5-15-2017)

## **IMPOUNDMENT OF DOGS OR CATS**

### **§ 91.050 AUTHORITY TO IMPOUND.**

Any dog or cat which appears to be lost or unwanted, which is found to be not wearing a currently valid identification or which is found to be not wearing a currently valid rabies vaccination tag, as required by state law or this chapter, or which is determined by the Animal Control Officer, based on reasonable cause, to be a vicious animal, stray dog or public nuisance may be apprehended and confined in the animal shelter.

(Prior Code, § 91.30) (Ord. passed 11-6-1978)

### **§ 91.051 NOTIFICATION OF OWNER.**

Immediately upon impounding a dog or cat the Animal Control Department shall give notice as prescribed in this chapter.

(Prior Code, § 91.31) (Ord. passed 11-6-1978)

### **§ 91.052 SALE OR DESTRUCTION OF IMPOUNDED DOGS OR CATS.**

If an impounded dog or cat is not properly redeemed by the owner, it may be sold or destroyed in a humane manner by the Animal Control Department.

(Prior Code, § 91.32) (Ord. passed 11-6-1978)

### **§ 91.053 ANIMALS SUSPECTED OF HAVING RABIES.**

Impounded dogs or cats which have been bitten by a rabid animal or appear to be suffering from rabies shall not be redeemed or sold but shall be dealt with as provided in §§ 91.065 through 91.074 herein.

(Prior Code, § 91.33) (Ord. passed 11-6-1978)

### **§ 91.054 ANIMALS OFFICIALLY SURRENDERED BY OWNERS.**

If an animal is officially surrendered by the owner to the Animal Control Department to be placed in a home or destroyed in a humane matter, it may be disposed of immediately.

(Prior Code, § 91.34) (Ord. passed 11-6-1978)

### **§ 91.055 BADLY WOUNDED OR DISEASED DOGS OR CATS.**

Any impounded dog or cat which is badly wounded or diseased (not a rabies suspect) and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the Animal Control Department shall attempt to notify the owner before disposing of the animal, but if the owner cannot be reached readily and the animal is suffering, the Animal Control Department may destroy the animal, at its discretion, in a humane manner.

(Prior Code, § 91.35) (Ord. passed 11-6-1978)

### **§ 91.056 REDEMPTION; ADOPTION.**

#### *(A) Redemption of dog or cat.*

(1) When any dog or cat has been impounded at the animal shelter, notice thereof shall be given to the owner, or if the owner is unknown, notice thereof shall be posted for 8 days, or until the animal is disposed of, on a bulletin board at the animal shelter, together with the time and place of taking the animal and the time and date of posting the notice. The time for redemption of the animal, as hereinabove provided, shall not begin to run until the notice has been given or posted.

(2) The owner shall be entitled, after the expiration of any required quarantine, to resume possession of his or her animal upon compliance with this chapter, the payment of a shelter fee and the payment of boarding expenses.

(3) Each additional impoundment of the same animal shall increase the owner redemption fee by an additional fee over the previous redemption fee for that animal.

*(B) Adoption of dog or cat.* After the 8-days' notice provided for in division (A) of this section, an animal may be adopted by a suitable applicant, upon payment of an adoption fee and the identification tag fee.

*(C) Fees.* The specific fee amounts mentioned in this section shall be as set forth in fee schedules adopted from time to time by the appropriate agency or department.

(Prior Code, § 91.36) (Ord. passed 11-6-1978)

## **RABIES VACCINATION AND CONTROL**

### **§ 91.065 INOCULATION REQUIRED.**

It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for his or her dog. Should it be deemed necessary by the County Health Director, Board of Commissioners or state public health veterinarian that other pet animals 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 inoculation against rabies for that pet animal.

(Prior Code, § 91.45) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.066 REPORT AND QUARANTINE OF BITING DOGS.**

Every dog which has bitten anyone or which shows symptoms of rabies shall be confined immediately by its owner and shall be promptly reported to the Health Department by its owner or the person having the dog in charge, and thereupon shall be securely quarantined at the direction of the Health Department for a period of 10 days and shall not be released from the quarantine except by written permission from the Health Department. The biting dog and its records of vaccination and registration shall be inspected by the Health Director, who will then observe the following policy:

(A) A properly vaccinated and registered dog may be confined on the owner's premises; provided, that the Health Director determines that the owner has an adequate means of confinement upon his or her own premises and the animal is subject to observation by the owner at any time during the 10-day period.

(B) A dog not properly vaccinated or registered but belonging to an owner shall immediately be confined in a veterinary hospital or the county animal shelter, in which case the expense shall be borne by the owner for the 10-day confinement.

(C) A stray dog shall immediately be confined in the county animal shelter for a 10-day period.

(Prior Code, § 91.46) (Ord. passed 11-6-1978)

### **§ 91.067 REFUSAL OF OWNER TO PERMIT INVESTIGATION; REDEMPTION OF DOGS FOUND NOT TO HAVE RABIES.**

Except as provided in § 91.066, it shall be unlawful for the owner to refuse an examination or investigation by the Health Director, upon demand, of any dog which has bitten a human. If the dog is confined in the county animal shelter and if rabies does not develop within 10 days, the dog may be reclaimed, upon payment not to exceed the amount as shall be established from time to time by ordinance for feeding and upon compliance with other provisions of this chapter.

(Prior Code, § 91.47) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.068 PROCEDURE WHEN RABIES DIAGNOSED.**

If an animal dies while under observation for rabies, the head of such animal may be submitted to the county's Health Department for shipment to the state's Laboratory of Hygiene for diagnosis.

(Prior Code, § 91.48) (Ord. passed 11-6-1978)

### **§ 91.069 EMERGENCY AREA-WIDE QUARANTINE.**

(A) When reports indicate a positive diagnosis of rabies, the county's Health Director shall order an area-wide quarantine for a period as he or she deems necessary; and upon invoking of the emergency quarantine by the Health Director, no pet animal shall be taken into the streets or permitted to be in the streets during the period. During the quarantine, no animal may be taken or shipped from the county without written permission of the Health Director, and each member of the Animal Control Department, Police and Sheriff's Department is hereby fully authorized, during such emergency, to impound any dog found running at-large in the county. During the quarantine period, the local health authorities shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination clinics strategically located throughout the county.

(B) No dog which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during the period of emergency rabies quarantine, except by special authorization of the Health Director.

(Prior Code, § 91.49) (Ord. passed 11-6-1978)

### **§ 91.070 ANIMALS BITTEN BY KNOWN RABID ANIMAL.**

Animals bitten by a known rabid animal shall be immediately destroyed, unless the owner agrees to strict isolation of the animal in the animal shelter in the case of dogs or cats, or at a veterinary hospital in the case of other animals, for a period of 6 months, or if the animal has a current rabies inoculation, revaccination and confinement for a period of 6 months.

(Prior Code, § 91.50) (Ord. passed 11-6-1978)

### **§ 91.071 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 Health Director.

(Prior Code, § 91.51) (Ord. passed 11-6-1978)

### **§ 91.072 KILLING; RELEASING OR REMOVING ANIMALS FROM COUNTY PROHIBITED.**

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies or any animal biting a human, or to remove the animal from the county without written permission from the Health

Director.

(Prior Code, § 91.52) (Ord. passed 11-6-1978) Penalty, see § 10.99

### **§ 91.073 SURRENDER OF CARCASSES OF DEAD ANIMALS EXPOSED TO RABIES.**

The carcass of any dead animal exposed to rabies shall be surrendered to the Health Department. The head of the animal may be submitted to the state's Laboratory of Hygiene for diagnosis.

(Prior Code, § 91.53) (Ord. passed 11-6-1978)

### **§ 91.074 FAILURE OR REFUSAL TO SURRENDER ANIMALS WHEN DEMANDED BY HEALTH DIRECTOR.**

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this chapter when demand is made therefor by the Health Director.

(Prior Code, § 91.54) (Ord. passed 11-6-1978) Penalty, see § 10.99

## **ENFORCEMENT**

### **§ 91.085 ANIMAL CONTROL DEPARTMENT.**

(A) There is hereby created an animal control department of the county, which shall be composed of the employees as shall be determined by the Board of Commissioners. The employees shall be appointed and compensated in accordance with policies of the Board of Commissioners.

(B) The Animal Control Department shall be charged with the responsibility of:

(1) Enforcing in the county all state or county laws, the provisions of this chapter and any applicable ordinances and resolutions of the county relating to dogs and cats;

(2) Cooperating with the Health Director and assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of dogs against rabies and the confinement or leashing of vicious animals (without limiting, the foregoing reference is particularly made to G.S. Ch. 67 and §§ 106-304 *et seq.*);

(3) Investigating cruelty or abuse with regard to dogs and cats;

(4) Making such canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all dogs are duly and properly listed for identification purposes and that all dogs are vaccinated against rabies;

(5) Operating, pursuant to the policies of the Board of Commissioners, the County Animal Shelter;

(6) Listing for identification and issuing identification tags for dogs, and maintaining a reference file in connection therewith, all in accordance with the provisions of this chapter and the policies of the Board of Commissioners; and

(7) Keeping or causing to be kept accurate and detailed records of:

(a) Impoundment and disposition of all animals coming into the animal shelter;

(b) Bite cases and complaint investigations;

(c) All money which was derived from impoundment fees, penalties and sales of animals; and

(d) All other records deemed necessary by the County Manager.

(Prior Code, § 91.65) (Ord. passed 11-6-1978)

## § 91.086 INTERFERENCE WITH ENFORCEMENT OFFICIALS PROHIBITED.

It shall be unlawful for any person to forcibly interfere with, hinder or molest the Animal Control Department or its agents or animal control officers or veterinarians in the performance of any duty authorized by this chapter.

(Prior Code, § 91.67) (Ord. passed 11-6-1978) Penalty, see § 10.99

## FERAL CATS

### § 91.095 PURPOSE.

The purpose of this subchapter is to permit and establish the requirements regarding the keeping of feral cats in order to reduce the population of feral cats, benefiting public health, improving the quality of life for residents and visitors, and ensuring the humane treatment of feral cats.

(Ord. passed 1-19-2016)

### § 91.096 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning. When not inconsistent with the context, words used in the present tense include the future and the past, words in the plural include the singular, and words in the singular include the plural.

**ANIMAL CONTROL AGENCY.** Any agency or person, including an animal control officer, authorized by law to implement animal control laws and provide animal care and control on behalf of the municipality.

**ANIMAL WELFARE ORGANIZATION.** Any charitable corporation whose purpose includes promotion of animal welfare and that has been granted 501c3 nonprofit status by the Internal Revenue Service.

**CAREGIVER.** Any person who regularly provides food and water to a feral cat colony approved through and in compliance with the requirements of this subchapter.

**EARTIP.** A mark identifying a feral or stray cat as having been sterilized, specifically the removal of a quarter inch off the tip of the cat's ear in a straight line cut while the cat is anesthetized.

**FEEDING STATION.** A small area with an established purpose of putting out food and water for a feral cat colony.

**FERAL CAT.** A cat that is not socialized to humans and is not an owned cat.

**FERAL CAT COLONY AND COLONY.** A group of greater than 6 feral or stray cats that congregate, more or less, together as a unit and share a common food source.

**FERAL CAT SANCTUARY.** An enclosure designed to and which contains a feral cat colony within the bounds of the sanctuary.

**NUISANCE.**

(1) Conduct by feral or stray cats that:

(a) Disturbs the peace, including habitually or continually howling or making loud noises; and

(b) Destroys property;

(c) Gets into or turns over any solid waste container or trash can;

(d) Walks on, sleeps on, or scratches a vehicle or other property owned by someone or some entity other than the owner of the cat;

(e) Damages real or personal property owned someone or some entity other than the owner of the cat;

(f) Defecates and/or urinates upon property owned by someone or some entity other than the owner of the cat.

(2) It shall also constitute a nuisance to:

(a) Keep feral or stray cats in violation of this subchapter;

(b) To keep or maintain feral or stray cats in unsanitary conditions so as to be offensive to sight or smell or resulting in infestations of fleas, ticks or other vermin;

(c) Fail to confine a feral cat in estrus from other domestic cats.

**OWNED CAT.** A cat that is a companion to a person, is regularly fed and sheltered within that same person's habitation and carries visible indicia of ownership, including a collar, tag or microchip.

**SHELTER.** A structure that provides feral and stray cats with protection from cold, rain and other weather-related elements.

**STERILIZE.** To spay or neuter.

**STRAY CAT.** A cat that is socialized to humans and is not an owned cat.

**TNR.** The method of managing feral and stray cats known as Trap-Neuter-Return, pursuant to which feral and stray cats are trapped, sterilized, vaccinated against rabies, eartipped, and returned to the location authorized in accordance with this subchapter.

(Ord. passed 1-19-2016)

## **§ 91.097 MANAGEMENT OF FERAL CAT COLONIES.**

Caregivers shall be entitled to maintain feral cat colonies in accordance with the terms and conditions of this subchapter. Populations must be maintained in manageable numbers not exceed 1 cat per 400 square feet of property upon which the cats are to be located. (Ord. passed 1- 19-2016)

## **§ 91.098 CAREGIVER RESPONSIBILITIES AND REQUIREMENTS.**

(A) *All caregivers.*

(1) All caregivers shall adhere to the standards of care established in § 91.099.

(2) Maintain records of all feral cat colonies managed by their caregivers pursuant to the requirements of this section.

(3) All animals shall be sterilized and vaccinated.

(4) Maintain records provided by caregivers (4) on the size and location of colonies, as well as vaccination and sterilization records of cats in the colonies.

(5) Assume all medical costs in relation to their colonies.

(6) Help resolve any complaints regarding the conduct of caregivers.

(7) Make reasonable efforts to trap all cats in a colony and have all trapped cats sterilized, vaccinated against rabies, and eartipped by a licensed veterinarian.

(8) Make a reasonable effort to recapture all cats to update rabies vaccinations as required by law.

(9) Keep and maintain vaccination, sterilization, and medical records for all trapped cats.

(10) Make a reasonable effort to trap and obtain proper medical attention for a colony cat that appears to require it.

(B) *Caregivers.* Caregivers shall keep and maintain individual animal vaccination and sterilization records and shall make them accessible to the Dare County Animal Shelter and the Dare County Sheriff's Office upon their request. In addition, caregivers shall maintain and keep the following information and shall make accessible to the Dare County Animal Shelter and Dare County Sheriff's Office upon their request:

(1) Total number of colonies located in Dare County.

- (2) Location of all colonies.
- (3) Individual colony reports including;
  - (a) Total number of cats in the colony and total number of cats in that colony that are sterilized.
  - (b) Number of cats that were sterilized and vaccinated over the past year.
  - (c) Number of cats and kittens removed from the colony that year for adoptive purposes.
  - (d) Number of cats and kittens that died over that year.
  - (e) Number of cats and kittens that have otherwise left the colony.

(Ord. passed 1-19-2016)

### **§ 91.099 COLONY LOCATION AND CARE REQUIREMENTS.**

#### **(A) Cat colonies.**

(1) Caregivers shall provide adequate food and water to the colonies. Adequate feed is not to exceed one-half cup of dry cat food per cat per day. If feeding anything other dry cat food, provisions shall be reduced to maintain proper population control. Over-feeding and other increased resources result in higher population sustainability. In the winter months slightly more food may be given, provided population management remains level.

(2) Food is not to be left down for more than 2 hours a day in an effort to reduce resources for new animals and optimize health standards for the colony.

(3) Cats appearing unhealthy or containing serious and contagious illnesses may not be returned to the colonies unless illness has been resolved through veterinary care.

(4) Colony locations shall be upon property owned by the caregiver or upon property for which the caregiver has written permission from the property owner.

(5) Feeding stations and shelters shall be no less than 100 yards from property for which no written permission to maintain a colony has been obtained. Feral cat enclosures that contain feral cat colonies within the caregiver's own property such that the cats cannot leave the property, and which do not constitute a nuisance as defined herein, are exempt from the 100 yard rule.

(6) Colonies are not permitted on federally protected wildlife preserves and shall be maintained a reasonable distance from such preserves.

(7) When providing structures for cat colonies they shall be in a location safeguarded from the public.

#### **(B) Feral cat sanctuaries.**

(1) Feral cat sanctuaries are structures built for containing a feral cat colony within the structure and shall adhere to the same standards and requirements as established in § 91.098 and division (A) of this section.

(2) In addition, feral cat sanctuaries shall be inspected annually by a representative of the Dare County Animal Shelter. Feral cat sanctuary caregivers are also required to grant a Dare County Animal Shelter representative access to the property upon written notice. Admittance to the property shall be granted within 3 business days of notice from the Dare County Animal Shelter.

(Ord. passed 1-19-2016)

### **§ 91.100 WITHDRAWAL OF CAREGIVER.**

In the event that a caregiver of a colony is unable or unwilling to continue in that role, he or she shall notify the Dare County Animal Shelter in writing and shall make reasonable efforts to secure a replacement caregiver.

(Ord. passed 1-19-2016)



## **§ 91.101 DISPOSITION OF COLONY CATS.**

Caregivers shall notify Dare County Animal Shelter when colony cats are missing. When the Dare County Animal Shelter has trapped or received an eartipped cat, they shall take reasonable steps to notify all caregivers, if known, of the description and sex of the cat and of the address or location where the cat was captured. Caregivers shall have up to 72 hours after notification to arrange for the cat to be retrieved.

(Ord. passed 1-19-2016)

## **§ 91.102 ENFORCEMENT.**

Dare County Animal Control or the agency designated by Dare County to provide animal control services and law enforcement agencies with jurisdiction shall have the right to:

(A) Investigate and enforce any violation of this subchapter and/or any nuisance complaint allegedly caused by a feral or stray cat or feral cat colony;

(1) If it is found that a feral or stray cat or feral cat colony is causing a nuisance, the caregiver if known, shall be given written notice delineating the nuisance and location of the cat or colony with specificity.

(2) If a cat or cats belonging to a feral cat colony is causing a nuisance, then the caregiver of the colony shall have 10 days from the date that written notice was provided pursuant to this division (A) to cure the nuisance. If the caregiver fails to cure the nuisance within 10 days, an Animal Control Agency shall remove the offending cat or cats.

(B) Reassign caregiver responsibility of feral cat colonies if the caregiver repeatedly fails to comply with the requirements of § 91.098 and the caregiver does not correct the situation within 10 days of being given written notice delineating its failures with specificity.

(C) Upon complaint of a property owner, remove a feral cat without notice, from the property of the complaining property owner.

(Ord. passed 1-19-2016)

## **§ 91.103 GRACE PERIOD.**

(A) If an Animal Control Agency locates or becomes aware of a feral cat colony, reasonable efforts shall be made by the Animal Control Agency or to provide written notice to the caregiver of the colony, if known, of the requirements of § 91.098.

(B) Upon receipt of written notice as set forth in § 91.102, a caregiver of a feral cat colony shall have 30 days to comply with § 91.098. During the 30-day period, no cat from the colony shall be removed by an Animal Control Agency or by Dare County for reason of causing a nuisance, unless such cat or colony is upon the property of another, without that persons written permission and from whom a complaint has been received, in which case, the cat(s) or the cat colony shall be removed without notice.

(Ord. passed 1-19-2016)

## **§ 91.104 PUBLIC RESPONSIBILITY.**

(A) No person shall harass feral cats or feral cat colonies compliant with this subchapter and not located upon their property or the property upon which they are a tenant.

(B) No person shall harass or prevent a caregiver's ability to care for a compliant cat colony.

(C) No person shall dump out, remove/move, or disturb any food/water at any compliant cat colonies.

(D) If members of the public feel a caregiver is out of compliance with this subchapter, they are to report such delinquencies to the Dare County Animal Shelter.

(Ord. passed 1-19-2016)

## **§ 91.105 RESPONSIBILITIES OF OWNERS OF DOMESTICATED CATS.**

(A) Owners should take reasonable precautions to identify their cat as owned. These precautions include providing the cat with a microchip, collar, or tag. Collar and tags are required to be worn by cats, pursuant to G.S. § 130A-190.

(B) Due to the overwhelming number of cats in Dare County, owners of domesticated cats shall take reasonable precautions not to allow unsterilized cats to roam at large.

(C) Owners of domesticated cats shall take reasonable precautions not to allow their cat(s) to act as a public nuisance.

(D) Owners of domesticated cats shall not abandon their cats.

(E) When feeding outdoors, owners of domesticated cats shall not allow the food to be available for more than 2 hours a day in an effort to reduce the resources for other animals.

(Ord. passed 1-19-2016)

## **§ 91.106 VIOLATION MISDEMEANOR AND SUBJECT TO CIVIL PENALTY.**

In accordance with G.S. § 153A-123, unless provided otherwise in this subchapter, a violation of this subchapter shall be considered a Class 3 misdemeanor under the provisions of G.S. § 14-4, punishable upon conviction by a fine not exceeding \$50 or by imprisonment not exceeding 30 days and shall be further subject to a civil penalty of a \$50 per day for each of the first 15 days such violations continue after written notice of the violation has been issued, \$100 per day for the sixteenth through the thirtieth day such violation continues after the initial written notice and \$500 per day or the maximum amount authorized under the provision of the North Carolina General Statutes, for each day after 30 days that such violation continues after initial written notice.

(Ord. passed 1-19-2016)