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Coalition for Humane Treatment of Animals

Humane Change Through Unity, Strength, and Courage

A 501(3)c NC Non-Profit Organization

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July 16, 2010

Mr. Huey Marshall
BC County Attorney
30 Government Center Dr NE
Suite 325
PO Box 249
Bolivia, NC 28422

Via Email

Dear Mr. Marshall:

Thank you for meeting with Peter MacQueen and me a couple of weeks ago to briefly discuss a few of the Brunswick County Animal Control ordinances.

Our purpose for reviewing the animal control ordinances is:

- (1) to improve humane treatment of animals,
- (2) to clarify the intent and meaning of certain language so that it is less subjective to individual interpretation,
- (3) to make language easier for citizens to understand both their rights and responsibilities, and
- (4) to give animal control better tools to ensure humane treatment of animals

Because of the copious amount of input we received, both Peter and I worked to consolidate the comments which are both embedded into the text and added as "comments" in the right margin. Sometimes you'll find a question in the comment section which needs to be answered. Attachment I contains suggestions to the current ordinance and Attachment II provides excerpts of language used by other NC counties which supplements Attachment I.

If you need further explanation or have questions, you can reach me at 910.520.7471 or by return email/address on this letterhead. Peter MacQueen can be reached at 910.477.0368 or by email at dltpm3@aol.com.

Thanks again for your time and assistance. May 2010 bring much needed humane relief for the many abused and neglected animals in our county.

Regards,

/S/

Margarete J. O'Leary
President and Founder

Attachments: 2

Copy: M. Lawing
BC Commissioners
D. Stanley
D. Swain
P. MacQueen/HSENC
CHR Panel

ATTACHMENT I
Review of BC Animal Control Ordinances

Compiled by the Coalition for Humane Treatment of Animals (CHTA),
The Humane Society of Eastern NC (HSEC), and
Citizens for Humane Reform (CHR)
July 2010

ARTICLE I. AUTHORITY, PURPOSE, AND GENERAL PROVISIONS

Sec. 1-3-2. Purpose and objective.

This chapter is established for the following purposes and objectives:

(10) ***Destruction of animals.*** To regulate and establish procedures for **destroying** diseased, strayed, unwanted or unclaimed animals.

Comment [CG1]: SUBSTITUTE "EUTHANIZING" which has humane connotations

(New) ***Animal Rescue.*** Any animal control officer or law enforcement officer shall have the authority to rescue any animal that appears to be suffering from a serious medical emergency (illness/injury) and does not have proper or timely access to medical care. The rescued animal shall be provided with immediate veterinary care if the officer deems such care to be necessary to prevent physical pain, suffering, disability or death to the animal. (Forsyth County *Ord. No. 5-99, § 1, 11-8-99*)

Comment [MC12]: There needs to be some means of allowing AC to rescue animals that need immediate medical help while still protecting owner and caretaker rights.

Alternatively or in conjunction with this section, appoint cruelty investigators. See Article III

Sec. 1-3-3. General provisions.

The following general provisions shall apply to this chapter:

(1) ***Animal services.*** Authority is hereby granted to animal services to enforce this chapter. This chapter shall be enforced by all animal services officers (as defined in subsection (3), having all rights, powers and immunities granted in subsections (1)a.--m.

All employees of animal services are hereby granted the following rights, powers, and immunities and said employees, through animal services shall:

a. Have the responsibility, along with law enforcement agencies to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling this duty;

Comment [CG3]: Needs to be clarified and the state cruelty laws should be listed in the ordinances i.e. NCGS 14-360

f. Investigate cruelty or abuse of animals and protect animals from cruelty or abuse;

Comment [CG4]: Better define so that necessary action is required as is the authority to take possession of the animal if necessary to protect it. Also see Article II Cruelty Investigators

ARTICLE II. RABIES CONTROL

Sec. 1-3-54. Sanctions, penalties, fines and remedies.

(3) ***Dogs or cats without valid rabies tags and the owner is unknown.*** If a dog or cat is observed not wearing a valid rabies vaccination tag and the owner is

unknown and cannot be found, the animal services director or his designee may impound the animal. Written notice of impoundment shall be posted at the animal shelter for a minimum of five (5) days. If the animal has not been redeemed by the owner after five (5) days the animal shall become the property of the county to be disposed of according to this chapter. If the owner is found, the animal shall be released upon payment of all redemption fees and a civil penalty for failure to wear a valid rabies vaccination tag. The owner may also be subject to other appropriate penalties described in article IV, plus a civil penalty for the animal being at large.

Comment [CG5]: Is a notice posted at the animal control facility? If so, how can citizens see it after hours if they are unable to come in during business hours?

Comment [MC16]: Reference other NCGS if necessary

ARTICLE III. ANIMAL CRUELTY

Sec. 1-3-101. Definitions.

As used in this article the following terms are defined below:

Adequate shelter means an enclosure of at least three (3) sides, a roof and a floor. The enclosure shall be ventilated and must have sufficient room for the animal(s) to move around freely and to lie down comfortably. Animals housed under the following conditions shall not constitute adequate shelter:

Comment [CG7]: More complete definition of humane shelter with adequate weather protection is needed. See below.

- (1) Underneath outside steps, decks and stoops;
- (2) Inside of vehicles;
- (3) Underneath vehicles;
- (4) Inside metal barrels (Plastic ??) placed in direct sunlight during the summer; or
- (5) Inside cardboard boxes.

Comment [CG8]: All barrels should be prohibited. They are not intended for use as shelters and provide NO insulating qualities just as plastic igloos do not.

Animal means every non-human species, both domestic and wild.

(Adequate Shelter Language Orange County & Other) –

Comment [CG9]: Example of improved language to define adequate shelter

Adequate shelter means that shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moistureproof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor raised off the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shaving, or the equivalent. For all animals, the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to eliminate rapidly excess water or moisture. Aquatic or semiaquatic animals shall have an adequate amount of clean water in which to move.

Examples of inadequate shelter include, but are not limited to the following:

- a. Underneath outside steps, decks, stoops or under plywood or other material that leans on or rests against other objects).
- b. Underneath houses, sheds or other structures.
- c. Inside, tethered to or underneath motor vehicles.
- d. **Inside metal or plastic barrels.**
- e. Inside cardboard boxes.
- f. **Inside temporary animal carriers or crates.**
- g. Shelters located in flood-prone areas.
- h. Shelters surrounded by waste, debris, garbage, hazards materials or objects, obstructions, or impediments that may endanger an animal.

Cruelty and cruel treatment means every act, omission, or act of neglect whereby unjustifiable, pain, suffering or death is caused or permitted, or attempted to be caused or permitted, against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping animals unlawfully. By way of example and not limitation, the following acts or conditions shall constitute prima facie evidence of animal cruelty:

Additional example from Orange County: *Cruelty and cruel treatment* means every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted or attempted to be caused or permitted. Such acts or omissions shall include but not be limited to beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare.

Add the following language:

It shall be illegal to torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure an animal to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed or to subject the animal to conditions detrimental to its health or general welfare.

Comment [CG10]: Add definition language

Seizure/impoundment. In addition to criminal or civil penalties, animal control is authorized to seize or impound an animal for violation of specific provisions of this chapter as set forth herein.

- (1) A collar, rope or chain embedded in or causing injury to an animal's neck;
- (2) **Dogs or cats left out in the rain, snow, extreme heat or cold without proper and adequate shelter:**
- (3) Animals that have not been fed or watered adequately;
- (4) Intentionally allowing animals to engage in a fight;
- (5) Allowing animals to live in unsanitary conditions;
- (6) Allowing animals to live under crowded conditions; and

Comment [CG11]: Add defining language.

Comment [MC112]: Define what is or what is not considered crowded conditions. Consider breed, age, weight, etc.

(7) Failure or refusal of an owner to obtain medical treatment for an animal when in an animal services officer's opinion such treatment is needed.

Add New (8): striking, beating, choking, dragging, restraining with excessively heavy chain or wire, failure to use proper collar with restraint, restraining with a short tether (Ref: 1-3-103(13 new section) that prevents adequate movement for exercise and forces exposure to adverse effects of heat and cold.

Add New (9) Tethering of a dog except under the circumstances set forth in 1-3-103 (13):

Comment [CG13]: Ban tethering/chaining except under specified circumstance. Add conditions for Tethering in 1-3-103

Add New (10) It shall be unlawful to allow a choke or pinch collar to be used as a primary collar when the animal is left unsupervised or tethered unattended.

Comment [MC114]: Many dogs have died because they found themselves hanging by a tether and could not slip their collars. This is totally preventable.

Add New (10) Failure to provide reasonable socialization for dogs

Comment [MC115]: Goes to creating aggressive dogs and bite risks

Add New (11) Penning (kenneling) Please see **Attachment II.I** for considerations.

Sec. 1-3-103. General care and prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and failure of the owner or possessor of the animal to abide by the provisions listed below shall subject the owner or possessor to the sanctions described in section 1-3-105.

(1) **Food, water and shelter.** All animals in the possession of any persons shall be provided proper and adequate food and water. All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals not to exceed twenty-four (24) hours, a quantity of wholesome foodstuff suitable for the species and age, in a stable container not easily tipped over that is suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition. All animals shall have access to a constant supply of clean, fresh water that is in a stable container not easily tipped over. In winter, ice shall be removed from the water container and in summer, water shall be out of direct sunlight. **All animals shall be provided “proper and adequate” shelter from the weather at all times.**

Comment [CG16]: Change to 12 hours.

Comment [CG17]: Add this language

Comment [MC118]: Food and water won't do any good if the animals can't get to it or it's contaminated. Define.

(2) **Clean shelter.** All shelter for animals and the area surrounding said shelter shall be kept clean at all times.

Comment [MC119]: You can not use the same word (clean) to define itself. Specify what is and/or isn't clean.

(3) **Medical treatment.** All owners or possessors of animals shall provide proper medical attention for sick, diseased or injured animals. A sick animal shall go no longer than twenty-four (24) hours without veterinary care.

Comment [CG20]: Authorize ACO to seize sick or injured animals that are not provided medical care within 24 hours. Immediate seizure when animal is in critical condition.

(4) **Cruelty and cruel treatment.** No person shall beat, torment, overload, overwork, tease, molest or bait an animal or otherwise cruelly treat an animal as defined in section 1-3-101. No person shall shoot a dog or any other animal, either on or off the owner's property, unless the animal is in the act of attacking a human being, sheep, cattle, hog, goat, or poultry or any domestic animal or as otherwise allowed by the state wildlife resources commission. This shall not apply to animal services officers when in the performance of their duties. No person shall trap a dog or cat without the permission of animal services.

Comment [CG21]: Except in the case of negligence or when such shooting is unnecessary and cruel.

Comment [CG22]: The issue of trapping animals should be addressed and clarified. See Article XII

Comment [CG23]: Add permission for ACO to legally enter vehicle to rescue an animal if no immediate resolution is at hand.

(7) **Confining animals to motor vehicles or transporting animals.** No person shall leave an animal in a closed car, truck or other vehicle for such duration or at temperatures as an animals services officer, in his sole discretion, deems harmful or potentially harmful to the animal. No person shall carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner.

Add Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from, or hanged (suspended) from the vehicle.

Comment [CG24]: Add language to restrict carrying dogs in open area of vehicle. That is a vehicle safety hazard.

(8) **Abandonment.** No person shall turn loose or discard any domesticated animal or pet with the intent of abandoning such animal or pet.

(13) (Add New) **Tethering of a dog** except under the certain circumstances: (Please specifically see Attachment II.E(6) for language and considerations)

Comment [MC125]: Tethering can be an acceptable method of restraint if done properly and used in conjunction with proper exercise and socialization. Tethering 24/7 is not humane.

(14) (Add New) **Penning.** (Please see Attachment II.I for considerations)

Comment [MC126]: Penning can be as cruel as tethering. Need to address.

Please See Attachment II.B and II.E for language used by Orange & Durham County

Sec. 1-3-105. Sanctions, penalties, fines and remedies.

Violations of this article are punishable by prosecution in criminal court as provided by G.S. 14-4, unless a greater penalty is provided elsewhere, or by the imposition of civil penalties, as prescribed in article XIII, or both. Collection of civil penalties may be by civil action or by the use of a collection agency.

Comment [CG27]: Are civil penalties being levied at this time? What is the process? Civil penalties can save court time and help protect the animals.

(1) **Failure to adequately provide for animals and cruel treatment of animals.**
Add Bond requirement

Comment [CG28]: NCGS 19A-70 new bond requirement for seized animals that can be established by the ordinance

(4) Violation of subsections 1-3-103(4)--(9). When it has been determined by an animal services officer that there has been a violation of one or more of (add – the state animal laws or the county animal ordinances,) the following subsections: 1-3-103(4)--(9), he may initiate the issuance of a criminal summons or warrant for violating the following criminal statutes:

Comment [CG29]: Some of the state animal statutes are missing.

Comment [CG30]: Should include all statutes under Article 47 - Cruelty to Animals under G.S. 14

- G.S. 14-360, Cruelty to animals;
- G.S. 14-361.1, Abandonment of animals;
- G.S. 14-362 and 14-362.1, Cockfighting and other animal fights;
- G.S. 14-363, Transporting animals cruelly;
- G.S. 14-401, Animal poisoning;
- G.S. 106-403 and 106-405, Disposing of dead animals.

Add the following new or revised statutes from NCGS 14
§ 14-361. Instigating or promoting cruelty to animals.
§ 14-362.2. Dog fighting and baiting.
§ 14-362.3. Restraining dogs in a cruel manner.

Comment [CG31]: Add new and revised Statutes

A person who maliciously (**take out the word maliciously**) restrains a dog using a chain or wire grossly in excess of the size necessary to restrain the dog safely is guilty of a Class 1 misdemeanor. For purposes of this section, "maliciously" means the person imposed the restraint intentionally and with malice or bad motive. (2001-411, s. 2.)

§ 14-363.1. Living baby chicks or other fowl, or rabbits under eight weeks of age; disposing of as pets or novelties forbidden.

§ 14-363.2. Confiscation of cruelly treated animals.

Add -- Displaying any dog or cat on public property for the purpose of selling or giving the animal away. This subsection shall not apply to the display of animals in a pet shop, commercial kennel, veterinarian's office, or display by a nonprofit animal welfare entity organized and operated under 501(c)(3) of the Internal Revenue Code.

Comment [CG32]: Add language to address this problem.

Any person found guilty under any of the above criminal statutes shall be subject to the penalty therein prescribed, or if no penalty therein prescribed, or if no penalty is prescribed, then according to G.S. 14-4.

(New Section 1-3-106) Animal cruelty investigators: Appoint one or more full-time animal cruelty investigators that are separate from ACOs under NCGS Chapter 19A. Please See **Attachment II.G** from New Hanover County for examples of specific language.

Comment [MC133]: Having full time investigators would serve to benefit AC, citizens, and the animals who fall prey to abuse and neglect. There are citizens who would be interested in helping with this.

ARTICLE IV. ANIMALS AT LARGE AND CONFINEMENT OF DOGS IN ESTRUS

Sec. 1-3-153. Animals at large.

The owner of an animal shall keep the animal on his property or under restraint at all times. Any animal that has been reported as being off of the owner's property, or has previously caused injury to a person or animal, or has displayed vicious tendency, or has been a public nuisance, must be restrained by leash, chain, fence or enclosure by the owner even when on the owner's property.

Sec. 1-3-155. Sanctions, penalties, fines and remedies.

Violations of this article are punishable by prosecution in criminal court as provided by G.S. 14-4, unless a greater penalty is provided elsewhere, or by the imposition of **civil penalties as prescribed in article XIII, or both**. Collection of civil penalties may be by civil action or by the use of a collection agency.

(1) **Animal at large.** If animal services received a "first time" at large complaint and an **animal services officer does not personally observe the animal at large**, the officer shall investigate said complaint. The animal services officer shall have authority to go on and about private property to investigate said complaint. Upon a finding of **probable cause** to believe the animal was at large he may issue a written notice of violation and civil penalty. If an animal services officer observes an animal off the owner's property and not under restraint, he may impound the animal.

Comment [CG34]: Based on what standard of proof (how is probable cause determined)?

The **owner of an animal deemed at large may be issued a written notice of violation and assessed a civil penalty for the first violation and additional civil penalties for each subsequent violation.**

Comment [MC135]: This is based on the owner's offense, not the number of dogs involved in the offense.

If the animal is impounded, the owner must redeem the animal within five (5) days. If the owner fails to redeem the animal within **five (5) days**, the animal shall become the property of the county and may be disposed of according to this chapter. To redeem the animal the owner must pay the civil penalty, all boarding fees and the redemption fee. The owner of a dog, which is involved in the unprovoked bite of another person, while the dog is running at large, shall be assessed a civil penalty.

Comment [MC136]: What provision, if any, is there for extenuating circumstances such as extended vacations and hospitalization/medical issues?

When the same animal has been impounded three (3) times **or the owner has been cited three (3) times for his animal(s) being at large**, the animal services director shall declare the **animal(s)** a public nuisance and/or cite the owner for maintaining a public nuisance. The **animal(s)** shall then be housed or confined according to the instructions of the animal services director. If the **animal(s)** is/are subsequently found at large or the owner is subsequently cited for his **animal(s)** being at large, the animal services director or health director may impound the **animal(s)** and initiate an action in district court for custody of the animal or animals based on the owner's failure to abate the nuisance.

**ARTICLE V. CATS AS PUBLIC NUISANCE AND CONFINEMENT OF CATS
IN ESTRUS**

Sec. 1-3-201. Definitions.

As used in this article the following terms shall have the meanings set forth below:

Cats means any and all domestic felines.

In estrus means a female cat in what is commonly called "heat".

Nuisance means the owner shall be responsible for any cat(s) creating a nuisance. The commission on more than one occasion of any of the following qualifying act(s) or conditions described in subsections (1) through (7) shall be deemed prima facie evidence of cat a nuisance:

- (1) Gets into or turns over garbage pails;
- (2) Walks on and sleeps on automobiles of another;
- (3) Damages gardens or other foliage or other real or personal property;
- (4) Is found on the property of another;
- (5) Roams;
- (6) Is maintained in an unsanitary condition so as to be offensive to sight or smell; or
- (7) In estrus is not confined to a building or secure enclosure.

Owner means any person, group of persons, firm, partnership or corporation owning, keeping, having charge or taking care of any cat or allowing any cat to remain on its property for more than seventy-two (72) hours.

Prior complaints means any verified verbal or written complaint to animal services about a specific cat being a nuisance or any verified verbal or written complaint about an owner allowing his cat or cats to be a nuisance shall constitute a prior complaint.

Add clarification language to cite how many occurrences of succession of occurrences comprise a nuisance. One or two incidents are not reasonable to be called a nuisance given the behavior of free-roaming cats.

Please See Attachment II.C for language used by Orange County

ARTICLE VI. ANIMAL NUISANCE

Sec. 1-3-251. **Definitions.** As used in this article the following terms shall have the meanings set forth below:

Animal nuisance the owner shall be responsible for any animal creating a nuisance.

ARTICLE VII. KEEPING STRAY ANIMALS

Sec. 1-3-301. Definitions.

Comment [MC137]: Strays and ferals should be addressed separately. Their actions are not necessarily under direct control of an "owner" or "caretaker" as are "owned" pets. See XII Feral Cats

Comment [CG38]: A cat "found" on the property of another that has not committed any act of negligence is not guilty of being a nuisance. -- Cats roam by nature. The fact that a cat roams does not mean it is guilty of nuisance behavior. What evidence constitutes proof of roaming? Are vigilante complaints that are unsupported by evidence of wrongdoing mean a cat is guilty of nuisance behavior? This ambiguous and overly simple generalization has resulted in the untimely and often preventable deaths of many pets especially at the hands of warring neighbors.

Comment [MC139]: This is purely subjective. Define to protect both cats and people.

Comment [MC140]: Goes to strays and ferals; address separately.

Comment [CG41]: This means that outdoor cats that are cared for by individuals do in fact have a caretaker/owner; However, it also assumes people have control over cat behavior. Have you ever tried to shoo away a cat and make it STAY away if it didn't want to?

Comment [CG42]: What does "verified" mean? What evidence of wrongdoing by a specific cat is required?

Comment [MC143]: This must be proven more than just hearsay or a grumbling neighbor. The offending animal must be positively identified.

Comment [CG44]: More than one incident involving the same animal should be required in order to declare nuisance behavior or to charge the owner. Positive identification of the offending animal should be required.

Stray means an animal within the county wandering at large or lost without evidence of the identification of an owner, or any animal within the county whose owner, if determinable, has failed to pay for and procure a license or vaccination tag, shall be deemed a stray.

Comment [CG45]: Provision is needed to address caretaker status of citizens that are caretakers of outdoor animals.

Sec. 1-3-302. Keeping stray animals.

It shall be unlawful for any person to harbor, feed, keep in possession by confinement or otherwise any stray animal which does not belong to him or her, unless he or she has, within seventy-two (72) hours from the time such animal came into his or her possession, notified animal services.

Comment [MC146]: We understand the underlying intent, but do you really expect/want folks to call AC every time someone feeds a stray that may disappear after a few days anyway? If the person adopts the stray, is the person exempt from this section? If the stray is adopted, then isn't it an owned pet and falls under those ordinances? What constitutes adoption?

ARTICLE VIII. DANGEROUS DOG

Note – The 3 day time for appealing decisions related dangerous dog actions by the county should be changed to 10 days.

Comment [CG47]: 3 days is not sufficient time to respond in a reasonable manner esp. if the owner is out of town, etc. What's the urgency in requiring 3 days to appeal?

ARTICLE IX. WILD OR EXOTIC ANIMALS AND POISONOUS REPTILES

(New) Ban the keeping of any/all exotic mammals (allowing for only birds, non-poisonous snakes, spiders, frogs and other small "pocket-type" exotics). Limit reptiles by size and/or species (such as snakes that do not exceed X length when full grown) (Note: certain organizations currently in business would have to be grandfathered or otherwise handled).

Comment [MC148]: The 24 hour rule is flawed and not enforceable. Unless someone notices or complains, AC will never know about these animals. Revise language to the effect that temporary permit must be obtained by the next business day. If AC is closed (as for the weekend/holiday), notify police/sheriff's dept., then follow up w/AC when they reopen.

If you can't ban exotics, then at least address humane care, treatment and living condition provisions to include provisions for animal neglect and cruelty. Minimum standards should be at least equal to the state and federal (USDA) requirements.

Comment [MC149]: Current language does not account for persons or organizations trained in TNR efforts for feral cats. AC should not loan traps to anyone not trained in TNR and who is not participating in a TNR program.

Sec. 1-3-403. Permit required to own or harbor a wild or exotic animal or a poisonous reptile.

(1) *Permit.* No owner may keep a wild or exotic animal or poisonous reptile in the county without first obtaining and then maintaining all permits required by the federal government, the state and county animal services. Any non-resident of the county who brings a wild or exotic animal or poisonous reptile into this county for a period of at least twenty-four (24) hours shall obtain a temporary permit from animal services. Any non-resident of the county who brings a wild or exotic animal or poisonous reptile into this county for short periods of time but on a regular basis must obtain an annual permit. What constitutes a regular basis shall be in the sole discretion of the animal services director.

Add language to exclude rescue groups, 501c3 organizations, and individuals trained in TNR from sanctions, penalties, etc. unless other ordinances or laws are broken.

Allow AC the option of requiring proof of training for individuals by a bona fide rescue or 501c3 organization before loaning traps or allowing citizens to use privately owned traps.

Allow AC the option of requiring registration of any person or organization engaged in TNR.

Trapping feral cats for TNR reduces euthanasia rates but also ensures a healthier colony (animals that are too sick or injured to be reasonably rehabbed are generally euthanized by a vet). It is our belief that TNR benefits the cats, the community, and ultimately saves taxpayer dollars. In addition, it is not uncommon for lost pets to take up with a colony and eventually be reunited with their families when TNR is begun (social cats are easily identifiable).

ARTICLE XI. TRAPPING OF DOGS AND CATS

Sec. 1-3-501. Trapping.

It shall be unlawful for any person to trap, by cage or mechanical device, a dog or cat without the written permission of animal services. It shall also be unlawful for any person to release a dog or cat from a trap set by animal services or from a trap

Ear-tipped feral cats that are trapped should be released unless they are injured or obviously sick as they are identifiable as part of a managed colony.

set by a person who has written permission from animal services. It shall not be a violation of this chapter for a person to apprehend an animal on his property by hand; however, the person must call animal services within twenty-four (24) hours of catching the animal. The animal services director may initiate the issuance of a criminal summons or warrant for any person violating this article. If convicted, the person shall be guilty of a misdemeanor punishable by a fine of up to five hundred dollars (\$500.00) or imprisonment for not more than six (6) months.

Note -- There are an increasingly substantial number of citizen concerns about **the trapping and killing of cats**. Some of the cats are under the care and protection of a caretaker. Others are owned by county citizens. There are serious issues in regard to the legality and ethics involved in **trapping and killing these animals**.

Comment [CG50]: Concerns about harm caused by cat trapping activities of animal control.

There are also serious legal, moral, and ethical concerns about the county's practice of **providing traps to untrained citizens** for use in trapping for their own private reasons. The traps are law enforcement tools and "citizen trappers" have no training and no qualifications in regard to the use of animal traps whether they are trapping domesticated animals or nuisance wildlife (which is illegal). This results in serious problems, particularly, in regard to owned animals (dogs and cats in particular) that are the property of the owners. Property rights come into question. There is a due process question and a question about the legality of vigilante trapping without a requirement that the alleged offending animal must be identified.

Comment [CG51]: Stop the practice of luring, trapping, killing and selling animals that belong to the citizens of Brunswick County.

Trapping is all too commonly used as a "revenge" tactic between neighbors who are quarrelling for any reason. By posting the trapping sign, roaming pets can be restrained for the duration of the trapping without fear of their pet being caught in another neighbor's "war."

Another problem is the absence of **notice to property owners** and animal owners that animal traps are set out on neighboring property

Comment [MC152]: Current language does not provide for citizens who have permission from AC to **notify neighbors** of such activity.

Add language to require any individual, group, or organization to post notice of trapping activity using a sign reasonably sized for visibility and clarity (which would be placed on the property where the trapping is occurring) which would be clearly visible to neighbors and passers-by.

There are also a growing number of concerns about **the killing and sale of cats**. A case can be made that outdoor cats (stray, feral or tame) may have caretakers/owners that meets the definition of "owner". There is no real discussion of feral cats in the ordinance. They can impound animals (feral cats) if they are observed without a rabies tag and that should be changed for managed cat colonies. In addition, **the ordinance does not authorize trapping for the purpose of "checking" for rabies tags**. Provisions should be made to allow and encourage managed feral cat colonies.

The issue of **trapping animals needs to be thoroughly addressed** and steel jawed traps must be banned in Brunswick County.

ARTICLE XII. IMPOUNDMENT OF ANIMALS

Sec. 1-3-551. Definitions.

As used in this article, the following terms shall have the meanings set forth below:

Feral cat means a domestic cat which has adapted to survive in the wild, is homeless and ownerless, having descended from stray and possibly generations of abandoned house pets.

Comment [CG53]: 1-3-551 Definitions. This section conflicts with 1-3-553 in that feral cats are defined as "ownerless" yet section 1-3-553 states they are held for redemption by possible "owner." Redefine and clarify "feral cat."

Comment [MC154]: Feral cats are not homeless; their home is the woods just like wildlife.

Sec. 1-3-552. Impoundment.

Not inconsistent with the proceeding articles of this chapter, any healthy animal, with the exception of a feral cat, which appears to be lost, strayed or unwanted, or any dog or cat which is found not wearing a current valid rabies vaccination tag, or any wild or exotic animal or poisonous reptile which has escaped or poses the danger of escaping may be confined to the animal shelter or any other appropriate facility in a humane manner for a minimum period of five (5) days, unless otherwise specified by this chapter, for redemption by the owner. Any animal not redeemed within five (5) days shall become the property of the county and shall be disposed of pursuant to this chapter. County animal services is authorized to obtain suitable board, maintenance and care from any available source for any impoundment animal for which the animal shelter is not equipped to care. The owner of any animal impounded and cared for under this provision may redeem the animal upon payment of all costs for maintenance, transportation and care plus regular redemption fees provided in article XII.

Comment [MC155]: Inconsistent; change to 5 business days.

Comment [MC156]: Same as MC154

Comment [MC157]: Cats presumed to be feral are held only 3 working days for redemption by a possible owner. This does not allow enough time for reclaim or time to allow the cat to become calmer so that a better assessment can be made. Cats that are trapped by AC are automatically assumed feral if they exhibit certain aggressive behavior. That assumption can be incorrect as most felines can be very fearful and/or aggressive if trapped.

Sec. 1-3-553. Feral cats.

A feral cat shall be held for three (3) working days for redemption by a possible owner. If the feral cat is not redeemed within three (3) working days, it may be euthanized pursuant to this chapter. Before a feral cat is euthanized, a panel of three (3) persons must unanimously declare the cat a feral cat. If the panel cannot agree unanimously, the cat must be held for five (5) days. The panel is to be made up of three (3) animal services staff members, each with a minimum of one year's experience with animal services.

Comment [MC158]: This section conflicts with 1-3-553 in that feral cats are defined as "ownerless" yet section 1-3-553 states they are held for redemption by possible "owner." Add language to indicate feral cats may be managed by a "caretaker," "guardian," or similar language which doesn't connote ownership but will include certain unique responsibilities. While "caretaker" does not indicate ownership, it does allow them the same rights as "owners" when it comes to reclaiming animals.

Sec. 1-3-554. Notice.

A good faith effort shall be made to notify known owners of impounded animals.

Comment [CG59]: Is this a caretaker? Or is this provision stating that the cat may not be "feral" and an owner may exist?

Sec. 1-3-651. Redemption of animals.

(3) *Payment of redemption fees, boarding fees and civil penalties.* The owner of an impounded animal must pay all redemption fees, boarding fees and civil penalties assessed against the animal before it can be released from the shelter. Any person, after presenting sufficient proof of ownership, may redeem the animal after paying the following fees and costs:

- 1st Redemption by owner \$50.00 + Boarding Fee + Civil Penalty
- 2nd Redemption by owner \$75.00 + Boarding Fee + Civil Penalty
- 3rd Redemption by owner \$100.00 + Boarding Fee + Civil Penalty
- 4th and Subsequent Redemption \$150.00 + Boarding Fee + Civil Penalty

Comment [CG60]: Panel member names should be posted at animal control, on the county website and in the paper. Records of actions taken by the "panel" should be available for inspection by the public

Comment [CG61]: The Panel should have a least one person from the general public with experience in handling cats.

Comment [CG62]: Telephone and other means of notification should be required. Email and mail are examples.

Comment [CG63]: The redemption fees are excessive and an incentive for citizens to abandon animals which results in increased expense relate to the care and killing of the animals. It also effects individuals who are in a less fortunate financial situation.

ARTICLE XIII. CIVIL PENALTIES

Sec. 1-3-601. Civil penalties.

Animal services is authorized to assess civil penalties for violations of this chapter. Any assessed civil penalty not paid within twenty (20) days of issuance may be turned over to a collection agency or efforts made to collect in civil court.

Comment [CG64]: Review and clarify the penalties.

Failure to wear rabies tag.....	\$ 50.00
Failure to vaccinate.....	100.00
Failure to notify, or provide information of a bite.....	100.00
Manner of keeping and treating animals..(Animal Cruelty not spelled out)	100.00
Failure to give notice of injuring animal.....	50.00
Failure to give notice of injured animal on property.....	50.00
Unprovoked dog bite while running at large.....	500.00
Animals running at large: (is not based upon the number of animals)	
1 st time..... (it is based on the number of times it occurs)	50.00
2 nd time.....	75.00
3 rd time.....	100.00
4 or more.....	150.00
Failure to confine dog/cat in estrus.....	75.00
Animal public nuisance:	
1 st time.....	50.00
2 or more.....	75.00
Harboring stray animals.....	50.00
Dangerous dog violations.....	100.00
Violation of exotic animal ordinance (per day).....	50.00
Interference with officer.....	150.00
Interference with trap or cage.....	100.00
Filing false dangerous dog complaint.....	300.00
Unspecified violations of this chapter (each).....	50.00
Miscellaneous fees:	
Euthanasia by request.....	50.00
Tranquilize small animal by request.....	50.00

Comment [CG65]: Clarify that this penalty is for neglect, cruelty, inadequate shelter, failure to provide vet care, etc.

Comment [CG66]: Penalty is based upon the number of occurrences not the number of animals – this is the generally accepted penalty for this offense.

Comment [MC167]: For chronic repeat offenders (humans, not animals), consider impounding animals or other more stringent remedies Repeat offenders unfairly put others at risk and just because they CAN pay all those fines doesn't mean they should be allowed to without further action.

Tranquilize large animal by request.....	50.00
Lost darts.....	10.00

Please see Attachment II.D for penalties prescribed by Durham and Cabarrus County

ARTICLE XIV. REDEMPTION OF ANIMALS

Sec. 1-3-651. Redemption of animals.

An owner of an animal, which has been impounded by animal services, may resume possession of the animal, except as already provided or in other articles of this chapter, upon compliance with the following provisions:

Note: Unaltered animals that are allowed to run loose or escape are potentially contributing to pet overpopulation. Releasing unaltered animals back to irresponsible owners doesn't serve to help alleviate the pet overpopulation problem. It actually contributes to the continued euthanasia of countless strays.

Add Require spaying/neutering of reclaimed animals within 30-60 days of redemption. Same criteria apply as if the animal were "adopted." Owner must sign spay/neuter agreement prior to redemption. If owner refuses, animal becomes county property after requisite hold period and compliance with any other applicable ordinance or law. Consider charging "adoption" fees (versus lower reclaim fees) for reclaims of UNaltered pets and give owner a s/n voucher if they income-qualify.

ARTICLE XV. DISPOSITION AND ADOPTION OF IMPOUNDED ANIMALS

Sec. 1-3-701. Disposition of impounded animals.

If an animal is not redeemed by its owner within the allowed time for redemption, the animal shall become the property of the county without any further notice to the owner. Once the animal becomes the property of the county, the animal services director is authorized to adopt the animal out or euthanize it. Any sick or diseased animal, which appears to be lost, strayed or unwanted and is found not wearing a rabies vaccination tag or any other form of identification may be euthanized immediately by order of the animal services director. Any sick or diseased animal, with proof of ownership, confined in the county animal shelter, may be euthanized by order of the animal services director after recommendation of a licensed veterinarian.

Comment [CG68]: New amendments to NC Statutes require changes to this provision. This provision does not address injured animals or the degree of sickness or injury that justifies killing the animal.

If an animal is not redeemed by its owner within the allowed time for redemption, the animal shall become the property of the county without any further notice to the owner. **Once the animal becomes the property of the county, the animal services director is authorized to adopt the animal out or euthanize it.** * Any sick or diseased animal, which appears to be lost, strayed or unwanted and is found not wearing a rabies vaccination tag or any other form of identification may be euthanized immediately by order of the animal services director. Any sick or diseased animal, with proof of ownership, confined in the county animal shelter,

Comment [CG69]: Establish Public access to these records

Comment [CG70]: Amendments to G.S. 130A-192 now address this subject. Also, does a veterinarian determine the seriousness of an illness or injury in regard to permission to euthanize an animal??

may be euthanized by order of the animal services director after recommendation of a licensed veterinarian.

*Note—Amendments to NCGS 130A-192 effective January 1, 2010 require changes in holding, adoption, and euthanasia policies.

Note: All animals that have been adopted (i.e. Paid for) should be sterilized BEFORE being released to the new owner. This will eliminate the need to follow up on adoption contract spay/neuter compliance and ensure the adopted pet does not contribute to pet overpopulation and increased euthanasia rates.

(New) Create, adopt, and execute a suitable and cost-effective means of sterilizing pets before they are given to new adopters (bona fide rescue groups exempted). Add appropriate language to ordinances stating the new requirement.

Comment [MC171]: Target date: July 2011; otherwise, charge a higher adoption fee for unaltered animals.

Please See Attachment I.A for more detail

ARTICLE XVII. APPEALS AND REQUESTS FOR REVIEW

Sec. 1-3-802. Appeal hearing.

Appeals of animal services civil citations shall be heard within thirty (30) days of the notice of appeal, unless a continuance is mutually agreed upon. The appeal hearing shall be held by the health director or his designee.

Comment [CG72]: Establish an independent –non-governmental panel A panel consisting of 3 members who have no official or unofficial connection with the county government. To be appointed by the county manager

ARTICLE XX. ENFORCEMENT AND EFFECT OF THIS CHAPTER

Sec. 1-3-951. Enforcement.

The animal services director or any other person duly authorized to initiate legal action on behalf of the county may take necessary legal steps to enforce this chapter. This chapter shall be enforced by imposing the specific sanctions, penalties, fines and other remedies described herein, by seeking injunctive relief, orders of abatement, orders of custody and any other means prescribed by statute or common law. Any violation of this chapter, which does not carry a specific sanction, penalty or fine, shall be punishable as a general criminal misdemeanor as defined by state law.

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ATTACHMENT II

NC General Statute References and Other County Ordinances

Compiled by the Coalition for Humane Treatment of Animals (CHTA) and
The Humane Society of Eastern NC (HSEC)
July 2010

A. NCGS § 130A-192. Animals not wearing required rabies vaccination tags.

(a1) **Before an animal may be sold or put to death, it shall be made available for adoption under procedures that enable members of the public to inspect the animal,** except in cases in which the animal is found by the operator of the shelter to be unadoptable due to injury or defects of health or temperament. **An animal that is seriously ill or injured may be euthanized if the manager of the animal shelter determines, in writing, that it is appropriate to do so.** Nothing in this subsection shall supersede (i) any rules adopted by the Board of Agriculture which specify the number of animals allowed for kennel space in animal shelters, or (ii) the duration of impoundment established by the county board of commissioners, or the 72-hour holding period, as provided in subsection (a) of this section.

Comment [CG73]: This is a new requirement

(a2) **(See note) Except as otherwise provided in this subsection, a person who comes to an animal shelter attempting to locate a lost pet is entitled to view every animal held at the shelter,** subject to rules providing for such viewing during at least four hours a day, three days a week. If the shelter is housing animals that must be kept apart from the general public for health reasons, public safety concerns, or in order to preserve evidence for criminal proceedings, the shelter shall make reasonable arrangements that allow pet owners to determine whether their lost pets are among those animals.

Comment [CG74]: New requirement

(a3) The Animal Control Officer shall maintain a record of all animals impounded under this section which shall include the date of impoundment, the length of impoundment, the method of disposal of the animal and the name of the person or institution to whom any animal has been released.

(b) **In addition to domesticated dogs and cats not wearing the required rabies tags, the provisions of subsection (a) of this section concerning the holding of animals for at least 72 hours and the permissible means of disposition of animals after expiration of that holding period also apply to all of the following:**

Comment [CG75]: Item 1 and 2 are new requirements

- (1) **Dogs and cats that are wearing rabies tags but are taken into custody for violation of statutes or ordinances not related to rabies control, such as ordinances requiring the leashing or restraining of dogs and cats.**
- (2) **Dogs and cats surrendered to an animal shelter by the owners of the animals, unless an owner provides to the shelter the following:**

a. **Some proof of ownership of the animal, and**

NOTE (Proof of ownership can consist of one of more of the following items and this is already included in the Brunswick Ordinance for redemption of impounded animals :

(1) *Proof and acknowledgement of ownership.*

Any person attempting to redeem an impounded animal shall present proof sufficient to satisfy shelter personnel of ownership of the animal. Evidence of ownership may include but is not limited to any of the following:

- a. License tag from another county;
- b. Rabies tag for the animal;
- c. Ownership documents, pedigree papers, bill of sale and any other document identifying the person as owner of the animal;
- d. Photographs of the animal with the owner or other family members; or
- e. Affidavit from two (2) people in the community stating that the animal has been seen in the presence or possession of the person attempting to resume possession.

Any person attempting to redeem an animal on behalf of an owner shall present proof sufficient to satisfy shelter personnel that he or she is acting as agent for the owner.

Comment [CG76]: This list of proof of ownership requirements can be used to meet the requirements of the amendments to NCGS 130A-192

b. **A signed written consent to the disposition of the animal, in a manner authorized by this section, before the expiration of the 72-hour holding period or of a longer period established by ordinance or local rule to which the shelter is subject.**

B. Orange County Ordinance

Comment [CG77]: Improved language

Sec. 4-41. Mistreatment of animals unlawful.

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this article:

- (1) It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water. With respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.

(2) It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; however, this subsection shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.

(3) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

(4) It shall be unlawful for any person to tether any fowl.

(5) It shall be unlawful to restrain any animal except in a humane fashion; minimum standards of restraint are set out in section 4-33, under the definition of "under restraint."

(6) It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper.

(7) It shall be unlawful to possess any paraphernalia related to dog fighting, cockfighting or other animal fighting, including but not limited to gaffs.

(8) It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit.

(9) It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of G.S. 14-362, as they relate to dogs, or to commit any other act made unlawful by any other law of the state relating to animal fighting or animal baiting. The repeal of such laws of the state shall have no effect upon this subsection, and the acts made unlawful in this subsection shall, in the event of such repeal, be those referred to in the laws immediately prior to such repeal.

(10) It shall be unlawful for any person to abandon or forsake any animal within the county.

(Ord. of 6-16-1987, § XI, eff. 1-1-1988)

C. Orange County Ordinance

Sec. 4-45. Public nuisance.

Comment [CG78]: Improved procedure for handling nuisance complaints – add to Brunswick Ordinance

It shall be unlawful for an owner or keeper to permit an animal to create a public nuisance, or to maintain a public nuisance created by an animal. Compliance shall be required as follows:

- (1) When an animal control officer or law enforcement officer observes a violation, the owner or keeper will be provided written notification of such violation and be given 24 hours or less to abate the nuisance.
- (2) Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance, the animal control director shall cause the owner or keeper of the animal in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report to be prepared.
- (3) If the written findings indicate that the complaint is justified, the animal control director shall cause the owner or keeper of the animal in question to be notified in writing, and shall order abatement of such nuisance within 24 hours or such lesser amount of time, which shall be designated on the abatement order.
- (4) If, after 24 hours or such lesser time as is designated in the abatement order, the nuisance is not abated, the animal creating the nuisance may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

(Ord. of 6-16-1987, § XV, eff. 1-1-1988; Ord. of 11-1-1995, eff. 1-1-1997)

D. Example Penalties from Other Ordinances:

Comment [CG79]: Ordinances for comparison

Durham County

Sec. 4-9. Sanctions and penalties.

(a) *Civil penalties.* Unless otherwise provided for in a particular section, animal control is authorized to assess civil penalties in the following manner:

- (1) A civil penalty of \$50.00 shall be assessed for the first violation of any provision of this chapter.
- (2) A civil penalty of \$100.00 shall be assessed for each second or subsequent violation of this chapter.
- (3) A civil penalty of \$500.00 shall be assessed for violation of any provision of this chapter by a dog that has been declared dangerous or potentially dangerous.
- (4) A civil penalty of \$150.00 shall be assessed for habitual violations, as defined herein, of any provision of this chapter, other than a violation of article VIII.

Comment [CG80]: Penalty imposed on individual acts not acts of animals. i.e. dogs running at large

A civil penalty is due and owing upon assessment. Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a

civil penalty is not received within five working days of issuance, animal control may initiate legal proceedings to recover the amount of the penalty.

(b) *Seizure/impoundment.* In addition to criminal or civil penalties, animal control is authorized to seize or impound an animal for violation of specific provisions of this chapter as set forth herein.

(Ord. of 6-22-98(2); Ord. of 5-10-04, § 4; Ord. of 8-14-06(1), § 1)

Cabarrus County

State law reference—Similar provisions, G.S. 14-361.1.

Sec. 10-6. - Restraint.

(d) *Violations.* Issuance of a citation for a violation of subsection (a) of this section is directed toward and against the owner of an animal. The purpose of the issuance of a citation is to effect the conduct of the owner of an animal by seeking to have an owner responsibly maintain sufficient restraint and confinement of his/her animal. Therefore, an owner of an animal shall be subject to escalating penalties for each violation of subsection (a) of this section allowed by the owner, whether the animal is the same animal, a different animal, or various animals belonging to the owner. Each violation of subsection (a) of this section shall subject the owner to the following escalating citation penalties:

Owner's offense	Penalty
1st	\$50.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.
2nd	\$150.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.
3rd and subsequent offenses	\$250.00 fine. Seizure of the animal unless the owner immediately complies with subsections (a) and (b) of this section.

Comment [MC181]: Humans are fined; not animals.

(Ord. of 8-17-92, art. I, § 9; Ord. of 3-15-93, § 1; Ord. of 3-19-96, art. I, §

E. Durham County Sec. 4-62. General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

(1) *Failure to provide adequate food.* All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.

(2) *Failure to provide adequate water.* All animals shall have constant access to a supply of clean, fresh, potable water or a supply of clean, fresh potable water provided at suitable intervals. If access is not constant, then adequate amounts of

water must be provided at least twice in a 24-hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one hour during each interval.

(3) ***Failure to provide adequate shelter.*** All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include, but are not limited to the following:

- a. Underneath outside steps, decks and stoops.
- b. Underneath houses.
- c. Inside or underneath motor vehicles.
- d. **Inside metal or plastic barrels.**
- e. Inside cardboard boxes.
- f. **Inside temporary animal carriers or crates.**
- g. Shelters located in flood-prone areas.
- h. Shelters surrounded by waste, debris, obstructions, or impediments that may endanger an animal.

(4) *Failure or refusal of any owner in contact with or having knowledge of a sick, diseased or injured animal* to provide proper medical treatment for the animal or notify the animal control division of the condition. A sick animal shall go no longer than 24 hours without veterinary care.

(5) ***Animal abuse.*** Examples of animal abuse include, but are not limited to the following:

- a. Allowing a collar, rope, or chain to become embedded in or cause injury to an animal's neck.
- b. **Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.**
- c. Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.

Comment [CG82]: Add these 2 items to cruelty section of Brunswick Ordinance

(6) **Tethering of a dog** except under the following circumstances:

Comment [CG83]: Add Tethering guidelines and restrictions

When participating in recognized exempt activities or when a dog is on an attended leash, tethered dogs shall be attended by a responsible person and shall be tethered in a manner that does not cause unjustifiable pain, suffering, or risk of death. Tethers must be made of rope, twine, cord, or similar material with a swivel on one end or must be made of a chain that is at least ten feet in length with swivels on both ends and which does not exceed ten percent of the dog's body weight. All collars or harnesses used for the purpose of tethering a dog must be made of nylon or leather. (Also see Attachment II.H below for additional samples of other tethering ordinance language and considerations)

(7) Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal.

(8) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from the vehicle.

(11) **Displaying any dog or cat on public property for the purpose of selling or giving the animal away.** This subsection shall not apply to the display of animals in a pet shop, commercial kennel, veterinarian's office, or display by a nonprofit animal welfare entity organized and operated under 501(c)(3) of the Internal Revenue Code.

F. Orange County Ordinance:

This section is about Bunchers and people in the business of buying and selling animals.
May apply to cat purchases.

DIVISION 3. ANIMAL COLLECTION

Sec. 4-96. Permit required.

A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in the county in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a privilege tax set by the board of commissioners and demonstration by the applicant that the requirements of this division shall be met.

(Ord. of 6-16-1987, § XX(A)(Preamble), eff. 1-1-1988; Ord. of 3-1-1988, eff. 3-1-1988)

Sec. 4-97. Permit application.

(a) An application for a collection permit shall be made by each individual involved in the collecting of dogs and/or cats in the county for the purpose of sale or other disposal. Any such application for the purpose mentioned in this section shall have to be made to the animal control director on a form prescribed by the animal control director.

(b) An investigation may then be conducted by the animal control director, which may include inspection of the premises where the animals are to be kept and any vehicles in which animals are to be transported.

(c) Upon the determination by the animal control director or person duly authorized by the animal control director that the requirements of this section have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one year shall be issued, upon payment of

Comment [CG84]: Relates to people or companies gathering, collecting and selling dogs and cats. Carolina Biological for example.
The entire section can be added to the Brunswick Ordinance

applicable privilege taxes, to the individual applicant only for the specific individual applicant, premises and vehicles listed on the application.

(d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than 30 days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a civil penalty.

(e) No individual shall be issued a collection permit unless:

(1) The individual is properly licensed by the U.S. Department of Agriculture and/or the state department of agriculture, and such license is unsuspended and unrevoked.

(2) The individual complies with this article and all other applicable laws and regulations.

(3) All requirements of this section have been met.

(f) The following information shall be provided on or with the application for a collection permit:

(1) The name, address and telephone number of the applicant.

(2) U.S. Department of Agriculture and/or state department of agriculture license number under which the applicant operates.

(3) A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping of animals, and all arrests or convictions involving any matter or law in any way pertaining to animals.

(4) A complete description, including vehicle identification number and vehicle license number of each vehicle that will be used to collect and/or transport animals.

(5) The address and location where the animals will be kept or maintained for the five days after collection.

(Ord. of 6-16-1987, § XX(A)(1), eff. 1-1-1988; Ord. of 3-1-1988, eff. 3-1-1988)

Sec. 4-98. Permit requirements.

No permit shall be issued or remain valid unless the animal control director or person duly authorized by the animal control director is satisfied that both the vehicles in which the animals will be collected and transported and/or the premises where the animals will be housed meet the following requirements:

(1) *Premises.* All premises shall meet the same standards as set for class II commercial kennels in section 4-71.

(2) *Vehicles.*

a. Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.

b. The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.

c. The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.

(3) *Enclosures in or on vehicles.*

- a. Enclosures, including compartments, cages, cartons or crates, used to transport animals are to be well constructed, well ventilated, and designed in such a way to protect the health and ensure the safety of the animals.
- b. These enclosures must be constructed or placed on the vehicles so that:
 1. Every animal in the vehicle has sufficient fresh air for normal breathing.
 2. The openings of these enclosures are easily accessible for emergency removals at all times.
 3. The animals are adequately protected from the elements, including heat and cold.
 4. The animals are adequately protected from one another.
- c. Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six months of age shall not be transported in the same enclosure with adult animals, other than their mother.
- d. Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.
- e. Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.
- f. All enclosures used to transport animals shall be disinfected after each use and as needed.

(4) *Care in transit.*

- a. The attendant or driver shall be responsible for inspecting the animals frequently enough to ensure the health and comfort of the animals and to determine if emergency care is needed and to obtain emergency care if needed.
- b. If any animal is in a vehicle for more than three hours, it shall be provided fresh, drinkable water, and food as appropriate.
- c. Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

(Ord. of 6-16-1987, § XX(A)(2), eff. 1-1-1988; Ord. of 3-1-1988, eff. 3-1-1988)

Sec. 4-99. Records.

(a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:

- (1) The number of animals received by the collector.

- (2) The sex, breed and a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal.
- (3) The name, address and telephone number of the location to which the animal will be taken for the following five days.
- (4) The name, address and telephone number of the collector.
- (5) The name, address and telephone number of the person surrendering the animal.
 - (b) A written report containing the information in subsection (a) of this section shall be delivered by the person collecting the animals to the animal shelter within 24 hours of the surrender of the animal.
 - (c) A record shall be kept of the disposition of every animal collected.
 - (d) Every collector shall maintain a copy of all receipts and disposition records for one year.

(Ord. of 6-16-1987, § XX(A)(3), eff. 1-1-1988; Ord. of 3-1-1988, eff. 3-1-1988)

G. New Hanover County Animal Cruelty Investigator and Advisory Committee + NCGS Info

Advisory committee.

An advisory committee is created to advise the board of health and the animal control director with respect to animal control matters. The advisory committee shall be composed of members appointed by the board of health and shall serve at the pleasure of the board. Members will include but are not limited to interested citizens and persons representing animal care, welfare or similar organizations.

(Code 1978, § 3-2)

Animal cruelty investigators: All persons appointed by the board of city alderman as county animal cruelty investigators under G.S. chapter 19A.

- (1) The animal control director shall designate employees or agents enforcing this article as animal control officers and rabies control officers. Animal **cruelty investigators** may be appointed by the board of county commissioners as provided by law.

Sec. 4-7. Other officers, committees and boards.

(a) **County appointed animal cruelty investigators.** Any person appointed by the board of commissioners to serve as an animal cruelty investigator pursuant to G.S. § 19A-45 shall serve a one-year term renewable each year, subject to removal for cause by the board of commissioners and shall have the following rights, powers and immunities:

- (1) To investigate cruelty or abuse of animals and to protect animals from cruelty or abuse.

- (2) To make inspections of buildings or dwellings with the consent of the owner or occupant, or by administrative search warrant when there is reasonable cause to believe that this chapter is being violated.
- (3) To seize animals pursuant to this chapter and G.S. § 19A-46 et seq., or with the consent of an owner or occupant of the property, or as evidence, if the animals are in plain view, or by administrative search warrant, if the animals are being cruelly treated or abused.
- (4) To go upon private property and into the yard of animal owners to inspect the condition of animals.
- (5) To go upon private property to seize animals pursuant to the provisions of this chapter, state statute or court order.
- (6) To issue notices of violation and impose sanctions for violations of this chapter.

(b) ***Animal control advisory committee.*** The animal control advisory committee shall advise the board of commissioners and the county manager with respect to animal control matters and shall serve in any other capacity designated by the board of commissioners and/or the county manager. The animal control advisory committee shall be composed of seven members appointed by the board of commissioners to serve at the pleasure of the board of commissioners. The membership of this committee shall consist of at least one member of the board of administrators of the county animal protection society, at least one member who is a licensed veterinarian, and at least one member designated by the county district attorney's office, with the remaining four members being appointed from the general public. Members of the committee may serve two consecutive three-year terms and may resume service on the committee after a hiatus of at least one term. Members of the committee shall not be members of the animal control review board during any portion of their term.

(c) ***Animal control review board.*** The animal control review board is hereby established and designated by the board of commissioners, pursuant to G.S. § 67-4.1(c), as the board responsible for hearing the appeal of dog owners who have had their dogs declared dangerous or potentially dangerous. The animal control review board is also designated as the board to hear all reviews and appeals authorized by this chapter. The animal control review board shall be composed of three members appointed by the board of commissioners to serve at the pleasure of the board of commissioners. It shall be preferable to have at least one member who is a licensed veterinarian with the remaining members being appointed from the general public. Members of the review board may serve two consecutive three-year terms and may resume service on the board after a hiatus of at least one term. Members of the review board shall not be members of the animal control advisory committee during any portion of their term.

NCGS 19A, Article 4.
Animal Cruelty Investigators.

§ 19A-45. Appointment of animal cruelty investigators; term of office; removal; badge; oath; bond.

(a) The board of county commissioners is authorized to appoint one or more animal cruelty investigators to serve without any compensation or other employee benefits in his county. In making these appointments, the board may consider persons nominated by any society incorporated under North Carolina law for the prevention of cruelty to animals. Prior to making any such appointment, the board of county commissioners is authorized to enter into an agreement whereby any necessary expenses of caring for seized animals not collectable pursuant to G.S. 19A-47 may be paid by the animal cruelty investigator or by any society incorporated under North Carolina law for the prevention of cruelty to animals that is willing to bear such expense.

(b) Animal cruelty investigators shall serve a one-year term subject to removal for cause by the board of county commissioners. Animal cruelty investigators shall, while in the performance of their official duties, wear in plain view a badge of a design approved by the board identifying them as animal cruelty investigators, and provided at no cost to the county.

(c) Animal cruelty investigators shall take and subscribe the oath of office required of public officials. The oath shall be filed with the clerk of superior court. Animal cruelty investigators shall not be required to post any bond.

(d) Upon approval by the board of county commissioners, the animal cruelty investigator or investigators may be reimbursed for all necessary and actual expenses, to be paid by the county. (1979, c. 808, s. 1.)

§ 19A-46. Powers; magistrate's order; execution of order; petition; notice to owner.

(a) Whenever any animal is being cruelly treated as defined in G.S. 19A-1(2), an animal cruelty investigator may file with a magistrate a sworn complaint requesting an order allowing the investigator to provide suitable care for and take immediate custody of the animal. The magistrate shall issue the order only when he finds probable cause to believe that the animal is being cruelly treated and that it is necessary for the investigator to immediately take custody of it. Any magistrate's order issued under this section shall be valid for only 24 hours after its issuance. After he executes the order, the animal cruelty investigator shall return it with a written inventory of the animals seized to the clerk of court in the county where the order was issued.

(b) The animal cruelty investigator may request a law-enforcement officer or animal control officer to accompany him to help him seize the

animal. An investigator may forcibly enter any premises or vehicle when necessary to execute the order only if he reasonably believes that the premises or vehicle is unoccupied by any person and that the animal is on the premises or in the vehicle. Forcible entry shall be used only when the animal cruelty investigator is accompanied by a law-enforcement officer. In any case, he must give notice of his identity and purpose to anyone who may be present before entering said premises. Forcible entry shall only be used during the daylight hours.

(c) When he has taken custody of such an animal, the animal cruelty investigator shall file a complaint pursuant to Article 1 of this Chapter as soon as possible. When he seizes the animal, he shall leave with the owner, if known, or affixed to the premises or vehicle a copy of the magistrate's order and a written notice of a description of the animal, the place where the animal will be taken, the reason for taking the animal, and the investigator's intent to file a complaint in district court requesting custody of the animal pursuant to Article 1 of this Chapter.

(d) Notwithstanding the provisions of G.S. 7A-305(c), any person who commences a proceeding under this Article or Article 1 of this Chapter shall not be required to pay any court costs or fees prior to a final judicial determination as provided in G.S. 19A-4, at which time those costs shall be paid pursuant to the provisions of G.S. 6-18.

(e) Any judicial order authorizing forcible entry shall be issued by a district court judge. (1979, c. 808, s. 1.)

§ 19A-47. Care of seized animals.

The investigator must take any animal he seizes directly to some safe and secure place and provide suitable care for it. The necessary expenses of caring for seized animals, including necessary veterinary care, shall be a charge against the animal's owner and a lien on the animal to be enforced as provided by G.S. 44A-4. (1979, c. 808, s. 1.)

§ 19A-48. Interference unlawful.

It shall be a Class 1 misdemeanor, to interfere with an animal cruelty investigator in the performance of his official duties. (1979, c. 808, s. 1; 1993, c. 539, s. 318; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 19A-49. Educational requirements.

Each animal cruelty investigator at his own expense must attend annually a course of at least six hours instruction offered by the North Carolina Humane Federation or some other agency. The course shall be designed to give the investigator expertise in the investigation of complaints relating to the care and treatment of animals. Failure to attend a course approved by the board of county commissioners shall be cause for removal from office. (1979, c. 808, s. 1.)

H. Tethering Ordinances from Various Places

Asheville, North Carolina

September 22, 2009

This ordinance prohibits animals from being unattended and restrained by tether in any manner that prevents them from having access to food, water or shelter.

Section 3-12(i) of the Code of Ordinances City of Asheville is hereby repealed in its entirety and the following substituted in lieu thereof:

(i) It shall be unlawful for an owner to leave a dog unattended and restrained by tether while outdoors or restrain an animal in any manner whereby the animal is prevented from having access to food, water or shelter. In addition, any animal under a prior order from the City shall remain in full effect and shall not be repealed by this ordinance.

Chapel Hill, North Carolina

March 23, 2009

Effective March 23, 2010

Tethering of dogs is prohibited except under special circumstances. If special circumstances apply, tethering cannot exceed seven consecutive days.

Sec. 4-5 Cruelty to Animals

(d) It shall be unlawful to tether a dog except under the following circumstances:

(1) Tethering for a period not to exceed seven consecutive days while actively engaged in:

(i) Shepherding or herding livestock.

(ii) Lawful dog activities such as hunting training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors.

(iii) Meeting the requirements of a camping or recreational area.

Cumberland County, North Carolina

February 2, 2009

This ordinance prohibits the chaining of dogs outdoors except under certain circumstances, such as if tethering is necessary for the dog's safety and a guardian remains with the dog while he or she is tethered.

(H)

1. No pet shall be tethered outdoors unless the keeper or owner of the pet is holding the tether.
2. It shall be an affirmative defense to a violation of subsection 1 above that the tethering is required to protect the safety or welfare of a person or the dog, if the keeper or owner of the dog remains with the dog throughout the period of tethering.

3. The provisions of subsection 1 above shall not apply to a temporary tether (a) during a lawful animal event, veterinary treatment, grooming, training, or law enforcement activity, or (b) to a keeper or owner walking a dog with a hand-held leash, or (c) during lawful hunting activities if reasonably necessary for the safety of the dog, or (d) while a dog is actively engaged in sheperding [sic] or herding livestock, or (e) when meeting the requirements of a camping or recreation facility, or (f) when the animal's caretaker is outside and within eyesight of the animal, or (g) after taking possession of a dog that appears to be a stray dog and after having advised the Animal Control Department of the stray.
4. The provisions of subsection 2 and 3 above shall apply only if (a) the tether is not placed directly around the dog's neck and is attached to a properly fitting collar or harness of nylon or leather worn by the dog, and (b) the weight of the tether does not exceed more than one-tenth of the dog's body weight, and (c) the tether is unlikely to become tangled or twisted, and (d) the tether is arranged to be free of any obstacles which may limit the moveable length of the tether, and (e) the dog is tethered in a manner that permits access to necessary shelter and water.

Clayton, North Carolina

August 4, 2008

(effective October 4, 2008)

Tethering is banned. No animal shall be tied, chained, fastened, or otherwise tethered to any stationary or inanimate object.

Section 91.26 (D) Space requirements. Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical conditioning. The animal should be able to sit, stand, turn, and lie without obstruction. Adequate space for food and water containers must be provided. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavioral patterns. Animals shall not be tied, chained, fastened, or otherwise tethered to any stationary or inanimate object as a means of confinement or restraint to property, but must be in an approved enclosure.

Durham County, North Carolina

September 8, 2008

(effective January 1, 2010)

Tethering is prohibited except when on an attended leash.

Sec. 4-13. Definitions

Tethering means tying out or fastening outdoors on a rope, chain or similar restraint for holding an animal. This shall not preclude restraining an animal within a secure enclosure inside the home or on an attended leash.

Sec. 4-62. General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

(6) Tethering of an animal except under the following circumstances:

Tethering for a period not to exceed 7 days while actively engaged in:

- A. shepherding or herding livestock
- B. lawful dog activities such as hunting training and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment, and/or the pursuit of working or competing in these legal endeavors
- C. meeting the requirements of a camping or recreational area

When participating in recognized exempt activities, tethered dogs shall be attended by a responsible person and shall be tethered in a manner that does not cause unjustifiable pain, suffering or risk of death.

New Hanover, North Carolina

1978

Chaining or tethering dogs is prohibited. A chain or rope is not to be used in place of a leash when walking dogs.

Sec. 3.4 (d) Restraint: An animal is under restraint within the meaning of this chapter if it is controlled by means of a leash, or is sufficiently near the owner or handler to be under his direct control and is obedient to that person's command; or is on or within a vehicle being driven or parked; or is within a secure enclosure. Exceptions to restraint are as follows: Organized and lawful animal functions e.g. hunting, obedience training, field and water training, law enforcement training and/or in the pursuit of working or competing in those legal endeavors. When a dog is on the property of its owner or guardian it shall be secured when not supervised by a competent person. Ropes, chains, and the like shall not constitute adequate security under this ordinance.

Carthage, Missouri

December 8, 1992

Tethering dogs is prohibited.

Sec 4-7 (a) All dogs must be confined within a fenced area, unless on a leash not longer than six feet long. At no time may any dog be tied to or leashed to inanimate objects i.e. trees, posts, etc. (b) Persons found guilty of violating this section will be liable to fines ranging from: \$25.00 - \$200.00. However, if said dog has been spayed or neutered the fines may be reduced, upon provided proof.

I. Penning Considerations

Penning (Kenneling). It is recommended that dogs should not be confined in a caged or chain linked space outdoors for longer than 5 hours in a 24-hour period. Moreover, a dog should not be kept outdoors in an animal crate or carrier. The enclosed area should be at least 100 sf for dogs under 25 lbs. and 150 sf for dogs over 25 lbs. As with tethering, a penned dog is often left in isolation with no exercise and sometimes little or no shelter from rain, cold or sun. A dog penned or chained for long periods is denied everything that its nature craves as they are of pack mentality and very social. Such a dog is a prisoner, yet longs to be a pet. (HSUS and various rescue organizations)