

## **CHAPTER 91: ANIMALS**

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## GENERAL PROVISIONS

### § 91.01 DEFINITIONS.

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

**ABANDON.** To forsake, desert or give up an animal previously under the custody or possession of a person without having secured another owner or custodian or by failing to make reasonable arrangements for adequate care for 24 or more consecutive hours. A community cat caregiver who provides care to or has temporary custody of a community cat in accordance with a Trap-Neuter-Return Program as defined in this chapter is not deemed to have abandoned the cat.

**ABUSE.**

(1) Failing to provide an animal with adequate food and potable water for more than 24 hours without written instructions from a veterinarian who has recommended withholding food and water for medical reasons, or failing to consistently provide food at intervals sufficient to maintain the animal's health and well-being;

(2) Overworking or overdriving any animal causing physical pain, suffering or death to the animal;

(3) Beating, torturing, molesting, harassing, injuring, tormenting, poisoning or mutilating any animal causing physical pain, suffering or death to the animal;

(4) Failing to provide adequate medical attention for any sick, diseased or injured animal in order to prevent physical pain, suffering or death to the animal;

(5) Keeping any animal under conditions which cause physical pain, suffering, disability or death to the animal or which increase the probability of the transmission of disease;

(6) Failing to provide an adequate shelter for an animal wherein the animal can be protected from extremes of weather (heat, cold, rain, sun and the like) and which is large enough to allow the animal to make normal body movements;

(7) Failing to provide for animals, which are kept outside, a shelter, which is surrounded on three sides, covered by a roof and has a floor (excluding barns), and which is structurally sound, maintained in good repair and constructed in the manner that it is water and wind resistant;

(8) Conveying any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle or in a truck or the back of a truck in the way as to cause physical pain, suffering, disability or death to the animal; or

(9) Placing or confining an animal or allowing an animal to be placed or confined in a motor vehicle under the conditions or for the period of time as to cause physical pain, suffering or death to the animal due to temperature, lack of food or drink or other conditions.

**ANIMAL.** Excluding fish, any non-human vertebrate species, domestic or non-domestic.

**ANIMAL BITE.** An animal bite occurs when the teeth of the animal scratch or break the skin of a human being or animal, regardless of the location of the scratch or bite on the body.

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

**AT LARGE.** Any animal shall be deemed to be **AT LARGE** when it is not under the Restraint of a competent person when the animal is off the real property of the owner. "Real property", in this context, includes curtilage and does not include public rights-of-way or easements.

**ATTACK.** An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured or otherwise harmed.

**ATTACK TRAINING FACILITY.** Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in mode of attack.

**COMMUNITY CAT.** A cat that is abandoned, stray, lost, or feral and cared for by a community cat caregiver pursuant to this chapter.

**COMMUNITY CAT CAREGIVER.**

(1) A person who, in accordance with the Trap-Neuter-Return Program defined in this chapter:

(a) Provides care, including food, shelter, or medical care to a community cat; or

(b) Has temporary custody over a community cat.

(2) A **COMMUNITY CAT CAREGIVER** shall not be considered the owner or keeper of a community

cat.

**DANGEROUS DOG.** Any dog that has demonstrated a fierce or dangerous propensity or tendency to do any act, which may endanger persons or property and/or any non-domesticated animal indigenous to the state including hybrid animals that are part wild. This would include, but not be limited to, any dog which bites, attacks or inflicts **SEVERE INJURY** on a human being without provocation and/or which, while **AT LARGE** has killed or inflicted **SEVERE INJURY** on a pet or domestic animal. A **POTENTIALLY DANGEROUS DOG** may be reclassified as **DANGEROUS DOG** if it has two or more separate **POTENTIALLY DANGEROUS DOG** citations or violations (which fall under **POTENTIALLY DANGEROUS DOG**) within 24 consecutive months. Exceptions: No dog is **DANGEROUS**, pursuant to this definition, if, at the time, the threat, injury or damage was sustained, the person attacked was teasing, tormenting, abusing or assaulting the dog or has in the past teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. Nor shall a dog be considered **DANGEROUS**, pursuant to this definition, if it has attacked or injured a pet or domesticated animal in defense of an attack by another animal or if it is protecting or defending its young. A **DANGEROUS DOG** that has killed or inflicted severe injury on a pet or domestic animal can have the designation removed if a) the dog and the owner successfully pass an AKC Canine Good Citizen Test and b) have no reported incidents to Animal Control for the 36 consecutive months after designation of **DANGEROUS DOG**. It is the responsibility of the dog owner to submit a request for designation removal to Animal Control after 36 consecutive months and completion of AKC Canine Good Citizen Test. The Dangerous Dog designation remains in effect until the dog owner receives written notification from Animal Control that it has been removed.

**DEALER.** Any person who is licensed by the U.S. Department of Agriculture as a dealer.

**DOMESTIC ANIMAL.** Any of various animals such as horses, sheep, cattle, goats, hogs, poultry and the like, domesticated by humans so as to live and breed in a tame condition.

**EARTIPPING.** The removal of the 1/4-inch tip of a community cat's left ear, performed while the cat is under anesthesia, to identify the community cat as being sterilized and lawfully vaccinated for rabies.

**EXHIBITOR.** Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.

**EXPOSED TO RABIES.** An animal has been **EXPOSED TO RABIES** within the meaning of this chapter, if it has been bitten by, or been exposed to, any animal known or suspected to have been infected with rabies.

**FERAL CAT.** A cat that is not socialized.

**IMPOUNDMENT.** The placement of an animal in the custody of the County Animal Control Section or person or entity duly authorized by this chapter or the Board of County Commissioners or by state law for the purpose.

**INHERENTLY DANGEROUS MAMMAL.** Inherently dangerous mammal is any live member of the canidae, felidae, or ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

(1) **CANIDAE.** Any member of the dog (canid) family not customarily domesticated by humans, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including, domestic dogs (*Canis familiaris*);

(2) **FELIDAE.** Any member of the cat family weighing over 15 pounds not customarily domesticated by humans, or any hybrids thereof, but not including, domestic cats (*Felis catus*); and

(3) **URSIDAE.** Any member of the bear family or any hybrids thereof.

**KENNEL, DEALER or BREEDER.** Any person, group of persons, partnership or corporation engaged in buying, selling, breeding or boarding animals.

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

**OWNER.** Any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal for more than five days. The owner is responsible for the care, actions and behavior of his or her animals. In the event that the owner of an animal is a minor, the parent or guardian of the minor shall be held liable for noncompliance with the provisions of this chapter. A person, group of persons, firm, partnership or corporation caring for or having temporary custody of a community cat as a community cat caregiver shall not be considered the owner or keeper of the cat.

**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.

**PET.** A domesticated animal kept for pleasure rather than utility.

**POTENTIALLY DANGEROUS DOG.** Any dog which, when unprovoked and **AT LARGE**, on two separate occasions within the prior 24 month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury; or (b) any dog which, when unprovoked and **AT LARGE**, bites a person causing physical injury; or (c) any dog which, when unprovoked and **AT LARGE** within the prior 24 month period, has seriously bitten, inflicted injury or otherwise caused injury to a domestic animal. A **POTENTIALLY DANGEROUS DOG** may be reclassified as a **DANGEROUS DOG** if it has two or more separate **POTENTIALLY DANGEROUS DOG** violations within 24 consecutive months. A **POTENTIALLY DANGEROUS DOG** that does not have any reported violations for 36 consecutive months can have the label of **POTENTIALLY DANGEROUS DOG** removed. It is the responsibility of the dog owner to submit a request for designation removal to Animal Control after 36 consecutive months. The **POTENTIALLY DANGEROUS DOG** designation remains in effect until the dog owner receives written notification from Animal Control that it has been removed.

**PREMISES.** A definite portion of real estate, including land with its appurtenances, a building or part of a building curtilage.

**RESTRAINT.** An animal is under **RESTRAINT** within the meaning of this chapter if (a) it is within the real property limits of its owner; (b) it is secured by means of a leash or lead no more than 6 feet in length being held by an adult capable of controlling the animal; (c) it is in a vehicle in a manner that would prevent escape or contact with other persons or animals; or (d) it is within the dwelling house. This definition DOES NOT apply to dogs that have been deemed a **DANGEROUS DOG** or **POTENTIALLY DANGEROUS DOG**.

**RESTRAINT OF A DANGEROUS DOG.** A dog that has been deemed a **DANGEROUS DOG** is under **RESTRAINT** within the meaning of this Ordinance if (a) it is within the real property limits of its owner and securely confined thereon by a solid, physical fence at least 6 feet in height and in the presence of an adult or securely confined within the home or a Secure Enclosure or (b) when the **DANGEROUS DOG** is off of the owner's real property, it is secured by means of a leash or lead no more than 6 feet in length being held by a competent person capable of controlling the dog AND the dog is wearing an appropriately sized and secure basket muzzle. If a **DANGEROUS DOG** does escape the above requirements for **RESTRAINT OF A DANGEROUS DOG**, the owner may be required to install additional security measures, which may include but are not limited to (a) a 45 degree angled top to the fence to prevent the dog from climbing / jumping over the fence, (b) building a secure enclosure in which to contain the dog within the secure, solid fenced yard, (c) install preventative measures to prevent digging under the fence.

**RESTRAINT OF A POTENTIALLY DANGEROUS DOG.** A dog that has been designated a **POTENTIALLY DANGEROUS DOG** is under **RESTRAINT** within the meaning of this chapter if it is within the real property limits of its owner and securely confined within a Secure Enclosure. While off the owner's real property, the definition of **RESTRAINT** applies.

**SECURE ENCLOSURE.** A fence or structure of adequate height, forming or causing a humane enclosure suitable to prevent the animal from escaping and to prevent the entry of children. Underground fence is not a secure enclosure.

**SEVERE INJURY** – Any physical injury that results in broken bones, severe lacerations, severe punctures, severe internal injuries or surgery

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

**STERILIZATION.** Any surgical or chemical procedure performed by a licensed veterinarian that renders any male or female animal permanently incapable of reproducing.

**STRAY.** Any animal, which is running at large or appears to be lost, unwanted or abandoned, or whose owner is unknown or not readily available.

**TRAP-NEUTER-RETURN.** The process of humanely trapping, sterilizing, vaccinating for rabies, ear-tipping, and returning community cats to their original location.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012; Am Ord. passed 11-20-2017)

## **§ 91.02 ESTABLISHMENT AND COMPOSITION OF THE ANIMAL CONTROL SECTION.**

(A) There is hereby created the Animal Control Section of the county, which shall be composed of the employees and/or officials, as shall be determined by the Board of Commissioners.

(B) Employees or agents enforcing this chapter shall be designated as animal control officers. In the performance of their duties, animal control officers shall have all the powers, authority and immunity granted under this chapter and by the general laws and statutes of the state to enforce the provisions of this chapter,

relating to the care, treatment, control or impounding of animals.

(C) Except as may be otherwise provided by statutes, laws or chapters, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of the duties.

(Ord. passed 5-3-2004)

### **§ 91.03 GENERAL DUTIES OF ANIMAL CONTROL SECTION.**

(A) The Animal Control Section shall be charged with the responsibility of:

(1) Enforcing, in the county, all state and county laws, chapters and resolutions relating to the care, custody and control of animals;

(2) Assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or controlling of dangerous dogs;

(3) Investigating cruelty or abuse with regard to animals;

(4) Making the canvasses of the county, including the homes in the county, as it deems necessary or as requested by law enforcement of the county municipalities for the purpose of ascertaining that all animals are vaccinated against rabies as required by local chapters or state statute; and

(5) Operating, pursuant to policies of the Board of County Commissioners, the county animal shelter(s).

(B) It shall be the duty of the Animal Control Section to keep, or cause to be kept, accurate and detailed records of:

(1) Impoundment and disposition of all animals coming into the animal shelter or shelters;

(2) Bite cases, violations and complaints, and investigation of same;

(3) All monies belonging to the county derived from impoundment fees, penalties and sales of animals;

and

(4) All other records deemed necessary by the County Environmental Services Director or designee.

(Ord. passed 5-3-2004)

### **§ 91.04 GENERAL DUTIES OF KEEPERS OF ANIMALS.**

(A) It shall be unlawful for any person to abuse an animal.

(B) It shall be unlawful for any person owning or having possession, charge, custody or control of an animal to leave that animal on a street, road, highway, public place or private property without having made adequate provision for the animal's care.

(C) Breeding and reproduction of diseased animals are prohibited. A person owning or having possession, charge, custody or control of an animal shall not breed, sell, give away or allow to reproduce any animal with a disease contagious to animals or human beings.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.05 CRUELTY TO ANIMALS.**

(A) It shall be unlawful for any person to abuse, molest, torture, torment, deprive of necessary sustenance, beat, 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 the action. The words "torture" and "torment" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but the terms shall not be construed to prohibit lawful shooting of birds, deer and other game for human food; nor to prohibit an animal's owner, a veterinarian, the Director of Environmental Services or Animal Control Section agents from destroying dangerous, unwanted or injured animals in a humane manner, nor to prohibit the lawful use of animals in scientific research.

(B) Animal cruelty investigator(s) may be appointed by the County Board of Commissioners as provided under G.S. § 19A-45. An animal cruelty investigator has the responsibility for carrying out the defined duties of an animal cruelty investigator as mandated by G.S. § 19A, Article 4. An animal control officer may be requested to accompany the investigator on animal seizures.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.06 ADEQUATE FEED, WATER, AND SHELTER.**

(A) All dogs and cats shall be given adequate feed, adequate water and adequate shelter. Adequate shelter is an enclosure of at least three sides, a roof and a floor. The enclosure shall be ventilated and must have sufficient room for the animal(s) to move about freely and to lie comfortably.

(B) Animals housed under the following conditions shall not constitute adequate shelter:

(1) Underneath outside steps, decks and stoops;

- (2) Inside of vehicles;
- (3) Underneath vehicles;
- (4) Inside metal or plastic barrels or cardboard boxes; and
- (5) Rooms, sheds or other buildings without windows or proper ventilation.

(Ord. passed 5-3-2004) Penalty, see § 91.99

#### **§ 91.07 ANIMALS AT LARGE.**

(A) (1) It shall be unlawful for any owner to permit an animal to be at large. This section shall not apply to a community cat caregiver.

(2) The Animal Control Section may confiscate any animal found to be at large and impound it at the county animal shelter in accordance with §§ 91.50 through 91.58.

(B) (1) An owner may lawfully permit an animal which has not been deemed a Dangerous Dog or a Potentially Dangerous Dog to be at large in the course of a show, obedience school, tracking tests, field training or other events sanctioned or supervised by a recognized organization. Hunting dogs may be at large in the course of hunting if under the control of the owner.

(2) However, this provision does not exempt an owner from otherwise complying with § 91.08 or any other provision of this chapter.

(C) It shall be unlawful for any person owning or having possession, charge, custody or control of any dog to take the dog into or allow the dog to enter any public park without being at all times under the restraint of a leash unless the park is designated as a dog park.

(D) It shall be unlawful for any person owning or having possession, charge, custody or control charge, custody or control of a female dog or female cat to allow that animal to be at large during its estrus period. During this period, the owner or person having possession of the animal must restrain the animal in an enclosure in the manner that will prevent the animal from coming in contact with a male of its species. This section shall not be construed to prohibit the intentional breeding of animals on the premises of the owners or keepers of the animals involved.

(E) Any owner reclaiming a cat or dog that has been running At Large shall be required to have his or her animal microchipped by a licensed veterinarian within 10 business days. (Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012; Am. Ord passed 11-20-2017) Penalty, see § 91.99

#### **§ 91.08 ANIMALS CREATING NUISANCE.**

(A) It shall be unlawful for any person to own, keep, possess or maintain an animal in the manner so as to constitute a nuisance.

(B) The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of or damages a member of the general public or interferes with the ordinary use and enjoyment of private or public property:

(1) Maintaining an animal that habitually or repeatedly disturbs, interferes with or annoys human beings;

(2) Maintaining an animal that tips over garbage pails or damages gardens, flowers or vegetables;

(3) Failing to confine in a building or secure enclosure a female dog while in estrus;

(4) Allowing or permitting an animal to bark, whine, howl or yowl in an excessive, continuous or untimely fashion, or to make other noise in the manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises. Any person lodging the complaint shall be responsible for pursuing available judicial remedies by filing the action with the appropriate judicial authority;

(5) Maintaining an animal that chases, snaps at, attacks or otherwise molests pedestrians, bicyclists, motor vehicle passengers or farm stock or domestic animals;

(6) Maintaining an animal that habitually or continuously loiters on public places; and

(7) Maintaining an animal that is diseased and dangerous to the health of the public unless under the care of a licensed veterinarian.

(Ord. passed 5-3-2004) Penalty, see § 91.99

#### **§ 91.09 DESTRUCTION OF ANIMALS THAT CANNOT BE SEIZED BY REASONABLE MEANS.**

Notwithstanding any other provision of this chapter, an animal that cannot be seized by reasonable and normal means, retrieved by an animal control officer, trapped in a humane, live-capture animal trap provided by the Animal Control Section, or tranquilized by animal control personnel, may be humanely destroyed in the field upon the authorization of the Animal Control director or the director's designee. Provided, a vicious

animal, a dangerous animal so designated by the Animal Control Section, or an animal attacking a human being, another pet or livestock may be immediately destroyed if, in the opinion of the Animal Control Section Field Supervisor or designee or animal control officer, the destruction is necessary for the protection of the public health and safety of the public or livestock.

(Ord. passed 5-3-2004)

#### **§ 91.10 SETTING HUMANE ANIMAL TRAPS AND AUTHORITY TO RECEIVE TRAPPED ANIMALS.**

The Animal Control Section is authorized to place, upon request of the property owner or lessee, live-capture animal traps on private or public property to trap and remove stray, at large, abandoned or nuisance animals. It is unlawful for any person other than an animal control officer or the officer's designee to remove any animal from the trap or to damage, destroy, move or tamper with the trap. The Animal Control Section is authorized to receive and impound animals that are trapped by other agencies or persons. The Animal Control Section shall offer to a property owner, lessee, or other resident who calls about stray or community cats information about Trap-Neuter-Return, and shall offer to refer the individual to a Trap-Neuter-Return Program.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012) Penalty, see § 91.99

#### **§ 91.11 CONFINEMENT AND CONTROL OF INHERENTLY DANGEROUS MAMMALS.**

(A) *Generally.* It shall be unlawful for any owner to keep an inherently dangerous mammal within the county.

(B) *Exemptions.* The following shall be exempt from this chapter:

(1) Any nonprofit institution or exhibitor or dealer, which owns or harbors inherently dangerous mammals for research; provided that, the institution/facility/premises are licensed by the U.S. Department of Agriculture or Interior;

(2) Traveling fairs, circuses and carnivals shall also be exempt from this section; and

(3) Any inherently dangerous mammal registered with the Animal Control Section prior to 6-3-1990.

(C) *Recapturing.* The owner of any inherently dangerous mammal shall reimburse the county for all costs incurred while attempting to recapture any mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall also pay these costs.

(Ord. passed 5-3-2004) Penalty, see § 91.99

#### **§ 91.12 CONFINEMENT AND CONTROL OF DANGEROUS DOGS OR POTENTIALLY DANGEROUS DOGS.**

(A) It is unlawful for any owner to maintain or harbor unrestrained any Dangerous Dog or Potentially Dangerous Dog.

(B) For a Dangerous Dog, the owner shall post a plainly visible sign upon the premises warning that a Dangerous Dog is on the premises. The sign shall be deemed an incidental sign for the purposes of the County Zoning Ordinance. The sign's placement will be determined and approved by the Wake County Animal Control Section.

(C) A dog deemed a "Dangerous Dog" shall be under constant restraint, under the definition for Restraint of a Dangerous Dog, from the date that the dog is deemed dangerous and during any appeal process. If the appeal process is exhausted and the Dangerous Dog designation upheld, the dog will be kept under "Restraint of a Dangerous Dog" from that point on until any such time that said designation may be removed under the provisions of this ordinance.

(D) A dog deemed "Potentially Dangerous" shall be under constant restraint, under the definition for Restraint of a Potentially Dangerous Dog, from the date that the dog is deemed a Potentially Dangerous Dog and during any appeal process. If the appeal process is exhausted and the Potentially Dangerous Dog designation upheld, the dog will be kept under "Restraint of Potentially Dangerous Dog" from that point on until any such time that said designation may be removed under the provisions of this ordinance.

(E) Dogs trained or being trained in mode of attack are subject to this section.

(Ord. passed 5-3-2004; Am. Ord. passed 11-20-2017) Penalty, see § 91.99

#### **§ 91.13 REQUIREMENTS FOR DANGEROUS DOGS OR POTENTIALLY DANGEROUS DOGS**

(a) If a dog is declared to be a "Dangerous Dog" by the Animal Control Section, the dog's owner shall have the dog sterilized within 30 days of a final determination of being "Dangerous" and exhaustion of any appeal(s) thereof, and shall provide proof that the dog has been sterilized to the Wake County Animal Control Section.

- (b) If a dog is declared to be a “Dangerous Dog” by the Wake County Animal Control Section, the dog’s owner shall have the dog microchipped within 10 business days of final determination of Dangerous Dog and shall provide proof that the dog has been microchipped to the Wake County Animal Control Section.
- (c) If a dog is declared to be a “Potentially Dangerous Dog” by the Wake County Animal Control Section, the dog’s owner shall have the dog microchipped within 10 business days of being declared a “Potentially Dangerous Dog” and shall provide proof that the dog has been microchipped to the Wake County Animal Control Section.

(Ord. passed 5-3-2004; Am. Ord. passed 11-20-2017) Penalty, see § 91.99

#### **§ 91.14 REQUIREMENTS FOR ATTACK TRAINING FACILITY.**

(A) It shall be unlawful for any person, group of persons, partnership or corporation to conduct training in mode of attack for dogs or other animals at any location unless the training is conducted within a secure enclosure.

(B) The training within a secure enclosure is within the meaning of this chapter if it is performed within a fence or structure of adequate height to prevent the dog or animal from jumping, climbing or otherwise escaping from the enclosure, and the training is conducted in the presence of the owner(s) or trainer(s) at all times.

(C) Any dog or animal trained or being trained in mode of attack is deemed to be dangerous and is subject to all the provisions of this chapter relative to dangerous dogs or dangerous animals.

(Ord. passed 5-3-2004) Penalty, see § 91.99

#### **§ 91.15 CONFISCATION OF DANGEROUS DOG.**

Any dangerous dogs not kept in accordance with the requirements of this chapter may be confiscated by the animal control officer and harbored at the owner’s expense until the owner complies with the requirements of this chapter, or disposed of as provided in § 91.12.

(Ord. passed 5-3-2004)

#### **§ 91.16 REQUIRED NOTIFICATION TO ANIMAL CONTROL SECTION BY OWNERS OF DANGEROUS DOG OR POTENTIALLY DANGEROUS DOG.**

The owner of a Dangerous Dog or Potentially Dangerous Dog shall inform the Animal Control Section as soon as practicable, but not later than 24 hours, after the occurrence of any of the following:

(A) An assault, attack or biting upon a human committed by any such animal in the owner’s care or control;

(B) An attack or biting upon any domesticated animal or pet while the dog is At Large;

(C) The roaming or escape of any dog required to be Restrained.

(Ord. passed 5-3-2004; Am. Ord. passed 11-20-2017) Penalty, see § 91.99

#### **§ 91.17 APPEAL PROCESS FOR POTENTIALLY DANGEROUS DOG OR DANGEROUS DOG**

(A) Owners of dogs that have been deemed a Potentially Dangerous Dog or a Dangerous Dog have the right to appeal the designation to the Wake County Human Services Board. A request to appeal shall be addressed to the Animal Services Director.

(B) Any such appeal shall be governed by the process set forth in the Wake County Human Services Board Rules of Appeal. A copy of these rules will be presented to the dog owner at the time of designation by Animal Control. The rules can also be found on the Wake County Government website.

(Ord. passed 5-3-2004; Am. Ord. passed 11-20-2017) Penalty, see § 91.99

#### **§ 91.18 TEASING AND MOLESTING.**

It shall be unlawful for any person to tease or molest any animal.

(Ord. passed 5-3-2004) Penalty, see § 91.99

#### **§ 91.19 LAW ENFORCEMENT DOGS EXCLUDED.**

Any dog used by a law enforcement agency in the investigation of crimes or as otherwise necessary in the enforcement of the law is excluded from requirements of this chapter.

(Ord. passed 5-3-2004)

#### **§ 91.20 INTERFERENCE WITH ENFORCEMENT OF CHAPTER.**

It shall be unlawful for any person to interfere with, hinder or molest Animal Control Section agents or officers or veterinarians in the performance of any duty authorized by this chapter, or to seek to release any animal in the custody of the agents or officers.



(Ord. passed 5-3-2004) Penalty, see § 91.99

## **RABIES CONTROL**

### **§ 91.30 COMPLIANCE WITH STATE LAW, SUBCHAPTER AS SUPPLEMENT TO STATE LAW.**

(A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(B) It is the purpose of this subchapter to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.31 INOCULATION OF DOGS, CATS AND OTHER PETS.**

(A) It shall be unlawful for an owner to fail to provide current inoculation against rabies (hydrophobia) for any dog or cat four months of age or older. Should it be deemed necessary by the County Environmental Services Director, the County Human Services Director, the County Manager or the state's Public Health Veterinarian that other pets be inoculated 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.

(B) When a licensed veterinarian administers rabies vaccine to a dog or cat, the dog or cat shall be re-vaccinated one year later and every three years thereafter, if a rabies vaccine licensed by the U.S. Department of Agriculture as a three-year vaccine is used. Annual re-vaccination shall be required for all rabies vaccine used other than the U.S. Department of Agriculture three-year vaccine. When a certified rabies vaccinator administers rabies vaccine to a dog or cat, the dog or cat shall be re-vaccinated annually.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.32 INOCULATION TAG AND PROOF OF VACCINATION FOR DOGS AND CATS.**

(A) Upon complying with the provisions of §§ 91.30 through 91.39, there shall be issued to the owner of the animal inoculated a numbered metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.

(B) It shall be unlawful for any dog owner to fail to provide the dog with a collar to which a current tag issued under this section is securely attached. The collar with attached tag, must be worn at all times, except during the time the dog is hunting or is performing at shows, obedience trials, tracking tests, field trials, schools or other events sanctioned and supervised by a recognized organization.

(C) It shall be unlawful to use for an animal a rabies inoculation tag issued for another animal.

(D) It shall be unlawful for the owner or custodian of a dog or cat to fail to provide written proof that the animal has a current rabies inoculation when the Animal Control Section demands written proof.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.33 EVIDENCE OF INOCULATION OF CATS.**

Cats shall not be required to wear the metallic tag referred to in § 91.32 of this chapter, but the owner of a cat shall maintain the rabies vaccination certificates as written evidence to prove that the cat has a current rabies inoculation. A cat that has been eartipped is presumed to have been vaccinated at least once.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012)

### **§ 91.34 REPORT AND CONFINEMENT OF ANIMALS BITING PERSONS OR SHOWING SYMPTOMS OF RABIES.**

(A) Every dog, cat or ferret which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Control Section and, thereupon, shall be securely quarantined, at the direction of the Animal Control Section, for a period of ten days, and shall not be released from the quarantine except by written permission from the Animal Control Section.

(B) It shall be unlawful for any person to fail to report as soon as possible that an animal has bitten a person. It shall be unlawful for any person to fail to inform the Animal Control Section of the whereabouts of an animal that has bitten a person, if the owner or keeper has given the animal away or in any way caused the animal to be taken from the owner's or keeper's premises.

(C) If there is any evidence that an animal bite may have occurred, it shall be assumed by law that a bite did occur and quarantine procedures shall apply if required.

(D) Every dog, cat or ferret quarantined under this section shall be confined at the expense of its owner or keeper in a veterinary hospital or at the county animal shelter, if space is available; provided, however, that, if an animal control officer determines that the owner or keeper of a dog, cat or ferret which must be

quarantined has adequate confinement facilities upon his or her own premises, the animal control officer may authorize the dog, cat or ferret to be confined on the premises upon proof of current vaccination against rabies. If the dog, cat or ferret is confined on its owner's or keeper's premises, an animal control officer shall revisit the premises for inspection purposes on the fifth and tenth day of the confinement period. If the owner or keeper fails to provide continuous quarantine of the dog, cat or ferret on his or her premises as instructed, the animal shall be removed by an animal control officer and quarantined at a veterinary hospital or at the county animal shelter at the owner's cost. The owner or keeper shall agree in writing to the above conditions prior to the animal control officer authorizing confinement on the owner or keeper's property.

(E) In case of stray animals of unknown ownership, the supervised quarantine required shall be at the county animal shelter or at a licensed veterinary hospital.

(F) In case of stray dogs, cats or ferrets whose ownership is not known, the dogs, cats or ferrets may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the county animal shelter or at a licensed veterinary hospital.

(G) If rabies does not develop within ten days after a dog, cat or ferret is quarantined under this section, the dog, cat or ferret may be released from quarantine with the written permission of the Animal Control Section. If the dog, cat or ferret has been confined in the county animal shelter, the owner shall pay any necessary veterinarian fees and a boarding fee approved by the Board of County Commissioners.

(H) In the case of a carnivore or bat, the animal may be euthanized and the head examined for rabies.

(I) Stray, owner-surrendered or abandoned animals that have bitten a person shall not be considered adoptable and shall be disposed of as otherwise provided in this chapter.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.35 DESTRUCTION OF INFECTED DOGS OR CATS; PROTECTION OF VACCINATED DOGS AND CATS.**

When the Director of Environmental Services or designee reasonably suspects that a dog or cat has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis, the dog or cat shall be considered to have been exposed to rabies. If the dog or cat has a current rabies vaccination and the first vaccination was administered not less than three weeks prior to the exposure, it must be given a booster dose of rabies vaccine within three days (72 hours) of the exposure and may be returned to the owner. If the dog or cat does not have a current rabies vaccination or does not get a booster dose within three days (72 hours) of exposure, it shall be destroyed immediately. As an alternative to destruction, the dog or cat may be quarantined at a licensed veterinary hospital or approved boarding kennel for a period of six months. Neither the county animal shelter nor the owner's premises may be used for the purpose of this quarantine.

(Ord. passed 5-3-2004)

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

(A) When reports indicate a positive diagnosis of rabies, the Director of Environmental Services may order an area-wide quarantine for the period as he or she deems necessary. Upon invoking of the emergency quarantine, no dog, cat or other carnivores shall be taken into the streets or permitted to be in the streets during the period. During the quarantine, no dog or cat or other carnivore may be taken or shipped from the county without written permission of the Animal Control Section, and the Police and Sheriff's Departments are hereby directed during the emergency, to impound any dog, cat or other carnivore found running at large in the county. During the quarantine period, the Animal Control Section or local health authorities shall provide for a section of mass immunization by the establishment of temporary emergency rabies vaccination facilities located throughout the county.

(B) In the event there are additional positive cases of rabies occurring during the period of quarantine, the period of quarantine may be extended at the discretion of the Director of Environmental Services.

(Ord. passed 5-3-2004)

### **§ 91.37 POSTMORTEM DIAGNOSIS.**

(A) If an animal dies while under observation for rabies, the head of the animal shall be submitted to the Department of Environmental Services for shipment to the State Laboratory of Public Health for rabies diagnosis.

(B) The carcass of any animal suspected of dying of rabies shall be surrendered to the Animal Control Section. The head of the animal shall be submitted to the Department of Environmental Services for shipment to the State Laboratory of Public Health for rabies diagnosis.

(Ord. passed 5-3-2004)

### **§ 91.38 UNLAWFUL KILLING, RELEASING AND THE LIKE OF CERTAIN ANIMALS.**

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 Animal Control Section and the Director of Environmental Services.

(Ord. passed 5-3-2004) Penalty, see § 91.99

### **§ 91.39 FAILURE TO SURRENDER ANIMAL FOR QUARANTINE OR DESTRUCTION.**

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this subchapter or when the Animal Control Section makes demand.

(Ord. passed 5-3-2004) Penalty, see § 91.99

## **COMMUNITY CAT INITIATIVE**

### **§ 91.40 COMMUNITY CATS.**

The County of Wake adopts this community cat initiative subchapter.

(Ord. passed 6-4-2012)

### **§ 91.41 TRAP-NEUTER-RETURN PROGRAMS.**

(A) Organizations or individuals that engage in Trap-Neuter-Return are encouraged to register through a sponsoring organization. Organizations performing or supporting Trap-Neuter-Return in Wake County shall identify and nominate a community cat sponsoring organization, which shall be recognized by the Wake County Environmental Services Director or his designee.

(B) The community cat sponsoring organization shall make available to the public information about Trap-Neuter-Return and feral cats, shall attempt to notify the appropriate community cat caregiver when notified by the Animal Services Division about an impounded eartipped cat, and shall provide a single point of contact to the Animal Services Division for the coordination of Trap-Neuter-Return, calls about at large cats, and calls about complaints related to community cats.

(C) Responsibilities of the community cat caregiver:

- (1) Cats must be trapped using humane trapping techniques;
- (2) Cats must be assessed by a veterinarian and deemed healthy at the time of spay/neuter surgery;
- (3) Cats must be spayed or neutered;
- (4) Cats must be vaccinated for rabies and FVRCP (Feline Viral Rhinotracheitis, Calicivirus, and

Panleukopenia);

(5) Cats must be eartipped;

(6) Cat bites must be reported to Wake County Animal Control.

(D) Responsibilities of Wake County Animal Services Division.

(1) Persons that contact Wake County Animal Services about stray or community cats shall be provided information about Trap-Neuter-Return and referred to the community cat sponsoring organization.

(2) When a person contacts Wake County Animal Services with a complaint about an eartipped community cat, county staff will contact the community cat sponsoring organization for assistance in resolving the complaint.

(Ord. passed 6-4-2012)

## **IMPOUNDMENT**

### **§ 91.50 GENERALLY.**

Any animal which appears to be lost, stray or unwanted, or which is not wearing a valid rabies vaccination tag, as required by state law or this chapter, and found at large, may be impounded by the Animal Control Section and confined in an animal shelter. Impoundment of the animal shall not relieve the owner thereof from any penalty, which may be imposed for violation of this chapter. An eartipped cat shall not be impounded under this section unless a complaint has been lodged against the cat pursuant to other applicable sections of this chapter.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012)

### **§ 91.51 NOTICE TO OWNER OR COMMUNITY CAT SPONSORING ORGANIZATION.**

Immediately upon impounding an animal, the Animal Control Section shall make reasonable effort to notify the owner or community cat sponsoring organization and inform the owner or community cat sponsoring organization of the conditions whereby the animal may be redeemed. If the owner or community

cat sponsoring organization is unknown or cannot be located, the animal shall be assigned an impoundment identification number and release date. The impoundment identification number and release date shall be posted on the animal's cage or kennel at the animal control shelter for a minimum of three business days and any information about the animal, including the time and place of the taking of the animal and the time and date of posting the notice of impoundment, shall be available at the animal control shelter by reference to the impoundment identification number.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012)

#### **§ 91.52 REDEMPTION BY OWNER OR COMMUNITY CAT CAREGIVER GENERALLY.**

(A) The owner or community cat caregiver of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 hours or three business days after notice of impoundment is given or posted, as required by § 91.51 by complying with all applicable provisions of this chapter and paying any necessary veterinarian's fee, boarding fee and cost incurred in capture approved by the Board of County Commissioners.

(B) No animal owner or community cat caregiver may be permitted to adopt his or her own animal under the provisions of § 91.53 in order to reclaim an animal that has been impounded pursuant to state law or this chapter.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012)

#### **§ 91.53 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMALS GENERALLY.**

(A) If an impounded animal is not redeemed by the owner within the period prescribed in § 91.52, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption. A new adult owner or community cat caregiver who agrees to comply with this chapter may acquire an impounded animal; however, any prospective new owner or community cat caregiver shall not be an animal dealer who acquires animals for resale. The prospective new owner or community cat caregiver must pay any required fees. The county will not purposefully release for adoption any animal that has previously bitten a person, is aggressive or is potentially dangerous. Fees may be waived at the discretion of the Environmental Services Director or designee for rescue groups and other animal welfare groups that apply in writing to the section. The placement of animals with these organizations will be determined on a case-by-case basis.

(B) All unsterilized dogs and cats five months of age or older adopted from the county animal shelter shall be either spayed or neutered within 30 days of their adoption. All animals adopted under five months of age shall be spayed or neutered at six months of age. The adopter shall promptly provide written proof of the sterilization to the Animal Control Section. The adoption of any animal not sterilized pursuant to this section shall be deemed to violate the provision of this section and must be returned by the applicant for re-adoption to the county animal shelter. The Animal Control Section is authorized to obtain an adoption agreement from an applicant to implement the provisions of this section.

(C) (1) The animal shelter shall require from the adopter a sterilization deposit fee established by the Board of Commissioners to ensure that sterilization is obtained in addition to the established adoption fee if the animal has not been sterilized prior to its being adopted.

(2) When written proof that a licensed veterinarian has performed the required sterilization is returned to the Animal Control Section, a fee equal to the sterilization portion of the deposit will be reimbursed to the adopter. A person who fails within the specified time to arrange for the sterilization of an unsterilized cat or dog adopted from the animal shelter forfeits the sterilization deposit fee and shall surrender the cat or dog to the animal shelter.

(D) No animal which has been impounded by reason of its being a stray and unclaimed shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to § 91.36 except by special authorization of the Director of Environmental Services.

(E) Any animal that exhibits fierce, dangerous or aggressive behavior will not be offered for adoption.

(Ord. passed 5-3-2004; Am. Ord. passed 6-4-2012)

#### **§ 91.54 PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.**

(A) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter shall have his or her animal vaccinated for rabies. A one-year vaccination may be obtained at the time of reclaim or adoption at the county animal shelter. Each redeemed community cat shall be vaccinated at the animal shelter. If the owner or adopter wishes to receive the vaccine for his or her animal at a veterinary practice of their choice, they will be given a "proof of rabies vaccination

card” at the time of the redemption or adoption. This card will be stamped with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of the person’s choice for rabies vaccination. The time limit for dogs and cats four months and older will be 72 hours, with Sundays and holidays excluded. For puppies and kittens under four months, the Environmental Services Director or his or her designee will determine the time limit according to their age within 72 hours of the designated date.

(B) The “proof of rabies vaccination card” will be completed and returned to the animal shelter by the veterinarian. If this card is not returned to the animal shelter within the time limit specified on the card, an animal control officer will be dispatched to retrieve the dog or cat.

(C) Payment for the rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal.

(D) The adoption agreement will be completed at the time of adoption. If the adopter fails to comply with the agreement, an animal control officer may be dispatched to retrieve the dog or cat if corrective action has not been taken by the animal’s owner.

(Ord. passed 5-3-2004)

#### **§ 91.55 SUSPECTED RABID ANIMALS NOT TO BE REDEEMED OR ADOPTED.**

Notwithstanding any other provision of this chapter, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with §§ 91.30 through 91.39 of this chapter.

(Ord. passed 5-3-2004)

#### **§ 91.56 DESTRUCTION OF WOUNDED OR DISEASED ANIMALS.**

(A) Notwithstanding any other provision of this subchapter, any animal impounded, which is seriously wounded or diseased (not a rabies suspect) and has no identification shall be destroyed immediately. If the animal has identification, the Animal Control Section shall attempt to notify the owner before disposing of such, but if the owner cannot be reached readily, and the animal is suffering, the Animal Control Section may destroy the animal, at its discretion, in a humane manner.

(B) The Animal Control Section has the authority to humanely destroy severely injured livestock upon the owner’s request or when the owner is unknown.

(Ord. passed 5-3-2004)

#### **§ 91.57 IMMEDIATE PLACEMENT FOR ADOPTION OR DESTRUCTION OF ANIMAL SURRENDERED BY OWNER.**

An animal surrendered by its owner to the Animal Control Section may be immediately placed for adoption or humanely destroyed at the discretion of the Environmental Services Director or the Director’s designee without compliance with § 91.51 when the owner:

(A) Affirmatively represents in writing that he or she is the legal owner of the animal;

(B) Agrees to hold the county and its officials and employees harmless from any liability, claims or damages that may be sustained by reason of the adoption or destruction of the animal; and

(C) Transfers ownership of the animal to the Animal Control Section.

(Ord. passed 5-3-2004)

#### **§ 91.58 EFFECTIVE DATE.**

This chapter supercedes the County Animal Control Ordinance passed 6-3-1990. This chapter is adopted on 5-3-2004.

(Ord. passed 5-3-2004)

#### **§ 91.99 PENALTY.**

(A) (1) Except as otherwise provided, any person who violates any provision of this chapter shall be fined a civil penalty of \$200. If the violation is continued, each day’s violation shall constitute a separate offense. Payment of the penalties shall be made within ten days. Civil penalties may be assessed by citation and recovered by the county in a civil action in the nature of a debt.

(2) If any dangerous dog or potentially dangerous dog shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human, the owner shall pay a \$500 civil penalty and, after a ten- day waiting period exclusive of Sundays and holidays, the dog shall be destroyed by the Animal Control Section. For each owner’s subsequent violation, the owner shall pay a \$1,500 civil penalty for owning or keeping a dangerous dog which attacks, assaults, wounds, bites or otherwise injures or kills a human.

(3) If any dangerous dog or potentially dangerous dog shall, when unprovoked, kill, wound or assist in killing or wounding any domestic animal or pet, the owner of the dog shall pay a \$250 civil penalty. The

Animal Control Section shall confiscate and, after the expiration of a ten-day waiting period exclusive of Sundays and holidays, destroy the dangerous dog. For each subsequent violation, the owner shall pay a civil penalty of \$500.

(4) Violation of this chapter may subject the violator to criminal as well as civil action. In addition to the civil penalties or fees imposed under this chapter, violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Each day's violation of this section is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this division does not relieve a person of his or her liability for taxes, civil penalties or fees imposed under this chapter.

(5) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

(B) (1) Any owner permitting an animal to be at large, under § 91.07, shall pay a civil penalty of:

(a) First violation: \$100, plus shelter reclaim fee and any boarding fee;

(b) Second violation: \$150, plus shelter reclaim fee and any boarding fee; and

(c) Succeeding violation: \$200, plus shelter reclaim fee and any boarding fee.

(2) The penalty shall be paid within 72 hours of the issuance of a citation for violation of § 91.07.

(Ord. passed 5-3-2004)