

Chapter 3

ANIMALS AND FOWL\*

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ARTICLE I. IN GENERAL

Secs. 3-1—3-15. Reserved.

ARTICLE II. WILD ANIMALS†

Sec. 3-16. Definitions.

As used in this article:

*Cage* shall mean an enclosure containing at least the minimum square feet or floor space as required by the North Carolina Wildlife Resources Commission Regulations, which are adopted and incorporated herein by reference, which cage shall be constructed of bars or wire mesh of adequate strength, or equivalent material, which secures all sides, top and bottom from entry or egress. The bottom of said cage shall be constructed of at least three (3) inches of concrete or of solid steel at least three-eighths inch thick. Said cage shall be constructed so as to have a common roof and a common floor with the outer fence hereinafter required.

*Harboring* shall mean the keeping and maintaining of a wild and dangerous animal by and on the premises of a bailee, volunteer or other person not the owner of the animal.

*Possessing* shall mean the keeping and maintaining of a wild and dangerous animal by and on the premises of the owner of the animal.

*Running at large* shall mean the act or state of being outside of the enclosure system required by this article, except when removal from such enclosure is necessary to provide

\***Cross reference**—Parks and recreation, Ch. 10.

**State law references**—Authority of county to levy taxes to provide animal protection and control programs, G.S. § 153A-149(c)(6); animal license tax, G.S. § 153A-153; animal shelters, G.S. § 153A-442; dogs, G.S. Ch. 67.

†**State law references**—Power of county to regulate, restrict or prohibit the possession or harboring of dangerous animals, G.S. § 153A-131; wildlife resources commission, G.S. § 143-237 et seq.

veterinary care or to transport the animal to another place of permanent confinement and the animal is secured in a temporary cage or is securely bound and adequately sedated so that such removal provides no chance for the animal to escape and endanger the public.

*Wild and dangerous animals* shall include but not be limited to animals of the cat, bear and wolf families, including but not limited to mountain lion, cougar, puma, catamount, panther and lions and other members of the cat family, which normally are born and live in a wild habitat, even though such species may be raised and kept in captivity.

(Ord. of 9-7-82, § 1.3)

### **Sec. 3-17. Penalties.**

(a) *Criminal offense.* A violation of any provision of this article shall constitute a misdemeanor and shall be punishable as provided in North Carolina General Statutes, section 14-4. Each day's continuing violation shall constitute a separate offense.

(b) *Civil penalty.* Any person who violates any of the provisions of this article shall be subject to a civil penalty of not more than one hundred dollars (\$100.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation. Each day of a continuing violation shall constitute a separate violation. The board of commissioners shall determine the amount of the civil penalty or set a schedule of penalties to be assessed hereunder and shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty, the board of commissioners shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. If payment is not received or equitable settlement reached within sixty (60) days after demand for payment is made, the matter shall be referred to the county attorney for institution of a civil action in the name of the county in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this article.

(c) *Injunctive relief.*

- (1) Whenever the county animal control department, county dog warden or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this article, it may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the county for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county.
- (2) Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to



prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any person of any civil or criminal penalty prescribed for violations of this article.

(d) Nothing in this article shall restrict any right, which any person or class of persons may have under any statute or common law to seek injunctive or other relief.

(Ord. of 9-7-82, § 4.5)



**Sec. 3-18. Need for article.**

The board of county commissioners finds and determines that certain residents of the county have possessed and harbored wild and dangerous animals, as defined in this article, in and about their premises or on the premises of others; that such animals have not been properly secured by their owners or keepers; that such animals could cause personal injury and property damage while unsecured, and are dangerous to the general public; that such animals are inherently incapable of being domesticated; that such animals have not been properly cared for in accordance with accepted standards for such animals; and that possessing and harboring of such animals without regulation is dangerous to persons and property in the county and to the welfare of such animals.

(Ord. of 9-7-82, § 1.1)

**Sec. 3-19. Purpose.**

This article is adopted to regulate the possession and harboring of wild and dangerous animals, as defined in this article, and to abate the dangers described in section 3-18.

(Ord. of 9-7-82, § 1.1)

**Sec. 3-20. Conflict with general statutes.**

No provision of this article shall be construed or applied in conflict with the provisions of North Carolina General Statutes pertaining to the regulation of wildlife and wildlife resources.

(Ord. of 9-7-82, § 1.2)

**State law reference**—Conservation and development, G.S. Ch. 113.

**Sec. 3-21. Exceptions.**

Nothing in this article shall apply to prevent any circus or menagerie permitted in the county for a period of no longer than seven (7) days, by proper authority, from possessing animals and conducting its business.

(Ord. of 9-7-82, § 5.1)

**Sec. 3-22. Responsibility for enforcement.**

It shall be the responsibility of the county animal control department or the county dog warden or the North Carolina Wildlife Resources Commission to enforce the provisions of this article. Such assignment shall not preclude enforcement of this article by law enforcement agencies within the jurisdiction of the areas of Craven County to which this article applies, including the North Carolina Wildlife Resources Commission, provided said commission adopts a resolution accepting the duties of enforcement.

(Ord. of 9-7-82, § 4.1)

**Sec. 3-23. Inspections.**

The county animal control department, county dog warden or the North Carolina Wildlife Resources Commission shall make inspections of the enclosure specified in this article as follows:

- (1) *Initial inspection.* An initial inspection of the enclosure specified in this article shall be made to determine that the enclosure conforms to the design and location specified herein.
- (2) *Follow-up inspection.* The county animal control department, county dog warden or the North Carolina Wildlife Resources Commission shall inspect the enclosure specified in this article at least once during the period January 1 through June 30 and once during the period July 1 through December 31 of each year. No such follow-up inspections shall be required during any such six-month period in which the initial inspection was made.

(Ord. of 9-7-82, § 4.2)

**Sec. 3-24. Inspection fee.**

Every person possessing or harboring a wild and dangerous animal, whose premises are inspected by the county animal control department, county dog warden or the North Carolina Wildlife Resources Commission, if such charge is assessed, as provided in this article, shall pay the county a fee of ten dollars (\$10.00) per inspection, regardless of the number of wild and dangerous animals so possessed or harbored.

(Ord. of 9-7-82, § 4.3)

**Sec. 3-25. Investigations.**

The county animal control department, county dog warden or the North Carolina Wildlife Resources Commission shall investigate any complaints that a wild and dangerous animal is possessed or harbored in the county in violation of this article to determine whether or not a violation has occurred. Nothing in this section shall be construed to free the investigating officer from any requirement for a search warrant under state or federal law.

(Ord. of 9-7-82, § 4.4)

**Sec. 3-26. Keeping wild and dangerous animals.**

It shall be unlawful for any person to possess or harbor a wild and dangerous animal in the county unless the following conditions are met:

- (1) The owner has provided a double enclosure system for confining the animal, the inner enclosure being a cage as herein defined, and the outer enclosure being a fence which secures all sides, top and bottom from entry and egress, constructed out of metal no less than eleven and one-half (11½) gauge. Each enclosure shall have a separate individual entrance gate and be so constructed that the outer fence is no closer than one foot to the inner cage at any point. Both enclosures shall possess a

common roof and common floor. Said enclosures shall meet at least the minimum specifications and requirements of the North Carolina Wildlife Resources Commission except where the requirements provided herein are greater, in which case the greater requirements shall be met.

- (2) Adequate safeguards are provided to prevent any unauthorized access to such animal by members of the public, and said enclosures shall be kept securely locked.
- (3) The enclosure in which such animal is kept or confined is adequately lighted and ventilated and is so constructed that it may be kept in a clean and sanitary condition and that the health or well being of the animals is not otherwise endangered by the manner of confinement.
- (4) The manner of keeping the animal will not create or cause offensive odors or constitute a danger to the public health.
- (5) The possession or harboring of the animal is not in violation of any local, state or federal regulations other than this article.

(Ord. of 9-7-82, § 2.1)

#### **Sec. 3-27. Animals running at large—Prohibited.**

It shall be unlawful for any person possessing or harboring a wild and dangerous animal to allow, intentionally or negligently, such animal to run at large.

(Ord. of 9-7-82, § 3.1)

#### **Sec. 3-28. Same—Apprehension.**

Any wild and dangerous animal running at large shall be apprehended by officers of the county animal control department, county dog warden or by the North Carolina Wildlife Resources Commission and be confined in a suitable place at the direction of such department.

(Ord. of 9-7-82, § 3.2)

#### **Sec. 3-29. Same—Destruction.**

Any wild and dangerous animal running at large may be destroyed by officers of the county animal control department, county dog warden, the North Carolina Wildlife Resources Commission or by any law enforcement officers, if in the opinion of such officers on the scene the animal presents a clear and immediate danger to human life, or if the animal cannot be apprehended and is fleeing the scene, or, if it appears that the animal cannot be apprehended without endangering human life or inhumanely causing animal to suffer.

(Ord. of 9-7-82, § 3.3)



**Secs. 3-30–3-39. Reserved.**

**ARTICLE III. STERILIZATION OF DOGS AND CATS\***

**Sec. 3-40. Purpose.**

The following article is adopted for the purpose of regulating and controlling the reproduction of dogs and cats that are offered for adoption by a releasing agency, to prevent cruelty to animals and to provide responsible management of dogs and cats in order to protect the health and welfare of the citizens of Craven County.

(Ord. of 8-6-90, § 3-30; Ord. of 9-2-91, § 3-30)

**Sec. 3-41. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

*Animal:* A dog or cat that is adopted from a releasing agency.

*Neuter:* To render a male dog or cat unable to reproduce by removal of the testes.

*New owner or adoptor:* A person legally competent to enter into a contract acquiring a dog or cat from a releasing agency.

*Releasing agency:* Any pound, shelter or humane society organization, whether public or private.

*Spay:* To remove the ovaries and uterus of a female dog or cat in order to render the animal unable to reproduce.

*Sterilization:* To spay or neuter a dog or cat.

(Ord. of 8-6-90, § 3-31; Ord. of 9-2-91, § 3-31)

**Sec. 3-42. Release of animal conditioned upon payment of standard fee; certificate for sterilization procedure; extension of certificate.**

(a) No dog or cat may be released for adoption from a releasing agency unless the adopting party pays a standard fee at the time of adoption to defray the cost to spay/neuter the animal, which fee shall be treated as a nonrefundable deposit after the first five (5) days of ownership. The standard fee charged by the releasing agency and paid by the adoptor shall be set by the county board of health. The releasing agency shall issue a certificate to the owner for the face amount of the deposit, which certificate may be presented to the veterinarian of his/her choice to be applied toward the cost to spay/neuter the animal. The county will be responsible for the

**\*Editor's note**—An ordinance passed Aug. 6, 1990, enacted provisions designated as Art. III, §§ 3-30–3-38, to Ch. 3. In order to conform to established code format and in order to provide for the expansion of Art. II of this chapter without the need of point-numbering, the editor has redesignated these provisions, §§ 3-40–3-48. The original numbering has been preserved in the history notes following each section and in the Code Comparative Table beginning on page 1713 in order to aid in tracking.

payment to the veterinarian of the face amount of the certificates for services rendered in performing the sterilizing procedure.

(b) If an animal has an obvious surgical scar in the area appropriate for a spay/neuter procedure, the veterinarian may issue a written statement of this finding which will extend the time period of the certificate issued by the releasing agency for one (1) year to allow for the possibility of the animal coming in heat within that one (1) year. At the time of surgery, if an animal is found to have been sterilized previously, the certificate will be used against the cost of pre-operative and/or exploratory surgery.

(Ord. of 8-6-90, § 3-32; Ord. of 9-2-91, § 3-32)

**Sec. 3-43. Time limit for sterilization.**

The sterilization procedure of an adult dog or cat must be completed within thirty (30) days from the date of adoption. In the case of a puppy or kitten, the procedure must be performed within thirty (30) days of the date a female animal attained the age of six (6) months, or a male attained the age of eight (8) months. The veterinarian shall use his discretion in determining whether the animal is mature at the stated age. If any adopted animal is not sterilized within the time stated herein, the adopter shall pay the entire sterilization fee as charged by the veterinarian.

(Ord. of 8-6-90, § 3-33; Ord. of 9-2-91, § 3-33)

**Sec. 3-44. Extensions of time limitation.**

Upon presentation of a written report from a licensed veterinarian stating that the life or health of an adopted animal may be jeopardized by surgery, the releasing agency shall grant a thirty-day extension of time to perform the sterilization surgery from the time that the surgery would otherwise be required. Further extension may be granted upon additional reports being submitted by a licensed veterinarian stating the necessity for the delay.

(Ord. of 8-6-90, § 3-34; Ord. of 9-2-91, § 3-34)

**Sec. 3-45. Procedure upon death of adopted animal.**

If the adopted animal dies before the expiration of the time allotted for the spay/neuter procedure to be performed, the owner of the adopted animal should report the death to the releasing agency within forty-eight (48) hours, at which time the owner will be requested to present the animal's body to the releasing agency in order to receive a death certificate. The death certificate shall permit a transfer certificate to be issued to the owner which will give the owner up to six (6) months to select another animal from the releasing agency at no extra charge to the owner. The cause of death must not be due to either owner's negligence or cruelty in order to receive a death certificate and transfer.

(Ord. of 8-6-90, § 3-35; Ord. of 9-2-91, § 3-35)

**Sec. 3-46. Adoption standards.**

Releasing agencies shall establish adoption standards and requirements for adoption of dogs and cats in their care and the standards must be reasonably related to the prevention of cruelty to animals, the responsible management of dogs and cats and shall be in the interest of preserving public health and welfare, and shall be applied in fair and equal manner to all potential adopters.

(Ord. of 8-6-90, § 3-36; Ord. of 9-2-91, § 3-36)

**Sec. 3-47. Construction of this article to animals which might be claimed by owners.**

The provisions of these sterilization provisions shall not be construed to require the sterilization of animals which are being held at the releasing agency which might be claimed by their rightful owners. However, after a five-day waiting period, the animal is deemed to belong to the releasing agency and shall become subject to be sterilized as other animals belonging to the releasing agency. If the same owned animal has been impounded for a second time, the releasing fee shall be determined by the releasing agency.

(Ord. of 8-6-90, § 3-37; Ord. of 9-2-91, § 3-37)

**Sec. 3-48. Penalty.**

A violation of any provision of this article shall constitute a misdemeanor and shall be punishable as by law provided.

(Ord. of 8-6-90, § 3-38; Ord. of 9-2-91, § 3-38)

**Secs. 3-49—3-60. Reserved.**

**ARTICLE IV. RABIES CONTROL**

**Sec. 3-61. Purpose.**

It is the purpose of this article 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 the state.

(Ord. of 9-16-96)

**Sec. 3-62. Enforcement authority.**

The animal control officer and the county health director are authorized to enforce the rabies control provisions required in cities and counties in Part VI of Chapter 130A of the North Carolina Statutes.

(Ord. of 9-16-96)



**Sec. 3-63. Procedure.**

The animal control officer and the county health director are authorized to jointly implement any reasonable administrative procedures necessary to enforce said law locally.  
(Ord. of 9-16-96)

**Sec. 3-64. Citations.**

Animal control officers are authorized to write/issue citations for any and all violations of this article.  
(Ord. of 9-16-96)

**Sec. 3-65. Compliance.**

It shall be unlawful for any animal owner or other person to fail to comply with the state law relating to the control of rabies.  
(Ord. of 9-16-96)

**Sec. 3-66. Vaccination.**

The owner of every dog and cat over four (4) months of age shall have the animal vaccinated against rabies. The time or times of vaccination shall be established by the commission. Rabies vaccine shall be administered only by a licensed veterinarian or by a certified rabies vaccinator. Only when rabies vaccine licensed by the United States Department of Agriculture and approved by the commission shall be used on animals in this state.  
(Ord. of 9-16-96)

**Sec. 3-67. Tag.**

Upon complying with the provisions of section 3-66 of this article, there shall be issued by the vaccinator to the owner or keeper of the dog or cat that has been vaccinated a rabies tag stamped with a number and the year for which issued and a rabies vaccination certificate.  
(Ord. of 9-16-96)

**Sec. 3-68. Collar or harness required.**

It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this article is securely attached. The collar or harness, with attached tag, must be worn at all times.  
(Ord. of 9-16-96)

**Sec. 3-69. Unlawful to use tag issued for another animal.**

It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one for which the original certification and tag has been issued.  
(Ord. of 9-16-96)

**Sec. 3-70. Procedure for animals bitten by rabid animals.**

Animals not vaccinated against rabies which are bitten by a known rabid or suspected rabid animal shall be immediately destroyed, unless the owner or keeper agrees to quarantine the animal at a veterinary hospital or certified boarding kennel for a period of six (6) months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated within three (3) days from the date of exposure at the expense of the owner or keeper.

(Ord. of 9-16-96)

**Sec. 3-71. Failure to vaccinate.**

It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary by the health director or the board of county commissioners that other animals be vaccinated in order to prevent a threatened rabies epidemic or control an existing rabies epidemic, it shall be unlawful for an owner or keeper to fail to provide vaccination for those animals.

(Ord. of 9-16-96)

**Sec. 3-72. Impoundment.**

At the discretion of the health director in addition to all other penalties prescribed by law, a dog or cat is subject to immediate impoundment in accordance with the provision of this article if the dog or cat is found not to be wearing a currently valid rabies tag.

(Ord. of 9-16-96)

**Sec. 3-73. Impoundment term.**

The minimum impoundment period for animals held pursuant to this section shall be seventy-two (72) hours.

(Ord. of 9-16-96)

**Sec. 3-74. Vaccination or proof of required for animal entering the county.**

At the discretion of the health director, all dogs or cats shipped or otherwise brought into this county, (except for exhibition purposes where the dogs or cats are confined and not permitted to run at large), shall be securely confined and vaccinated within one (1) week after entry, and shall remain confined for two (2) additional weeks after vaccination, unless accompanied by a certificate issued by a licensed veterinarian or certified rabies vaccinator showing the said dog or cat is apparently free from rabies and has not been exposed to rabies and that said dog or cat has received a proper dose of rabies vaccine not more than six (6) months prior to the date of issuing the certificates.

(Ord. of 9-16-96)



**Sec. 3-75. Violation.**

Failure of owner/keeper of an animal to abide by any or all portions, of this article periods will result in a twenty-five dollars (\$25.00) fine per animal/per day affected for each violation. (Ord. of 9-16-96)

**Sec. 3-76. Positive rabies report.**

(a) When reports indicate a positive diagnosis of rabies, the health director, environmental health supervisor, and animal control officer will meet and consult with the state veterinarian. During such quarantine, the health director, the animal control officer, law enforcement officers, or persons duly authorized by the health director or animal control officer may seize and impound any dog or cat running at large in the county and issue a citation to present proof of rabies vaccination.

(b) In the event they agree the lives of persons are endangered, the health director may declare a partial and/or county wide quarantine for such period of time as deemed necessary. In evoking such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the health director.

(Ord. of 9-16-96)

**Sec. 3-77. Quarantine.**

During the quarantine period the health director shall be empowered to provide a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county. 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 health director.

(Ord. of 9-16-96)

**Sec. 3-78. Exhibition/trial (during quarantine).**

(a) Any dog or cat over four (4) months of age brought into the county for sanctioned exhibition purposes, field, herding, tracking or other sport (hobby) related trials or contests shall have proof of current rabies vaccination having been administered by a licensed veterinarian or by a certified rabies vaccinator. proof of such vaccination must be presented at time of entry or upon request the day of the event.

(b) Notification of required proof of rabies vaccination shall be provided in writing to potential exhibitors/contestants prior to onset of the event, this notification being the sole responsibility of the event organizer(s).

(Ord. of 9-16-96)

**Sec. 3-79. Permitted hunting certificates.**

(a) During quarantine, permitted hunting certificates must be obtained at no cost to the applicant by appearing in person or applying in writing to the Craven-Pamlico Animal Services Center, 620 Lagoon Road or mail applications to: PO Drawer 12610, New Bern, North Carolina

28561. Certificates will be issued only upon satisfactory completion of certificate application and verification of current rabies vaccination for each dog. Certificates will be valid for one (1) calendar year from date issued and may be used for active hunting or for training/running dogs out of season whether on public or private lands.

(b) A photocopy of the rabies vaccination certification(s) issued by the licensed veterinarian (or certified vaccinator) for each dog shall accompany the application for permitted hunting certificate and said photocopies shall become the property of Craven County Rabies Control.

(c) There will be no fees or charges for said permitted hunting certificates or application for same.

(d) Persons hunting/dogs in the county without a permitted hunting certificate may be issued a citation for failure to comply with this article.

(Ord. of 9-16-96)

**Sec. 3-80. Violation of article.**

Failure of owner/keeper of an animal to abide by any or all portions of this article during quarantine periods will result in a one hundred dollar (\$100.00) fine per animal/per day affected for each violation.

(Ord. of 9-16-96)

**Sec. 3-81. Employee vaccinations.**

The health department will continue to administer pre-exposure vaccines to high risk employees of Craven County.

(Ord. of 9-16-96)

**Sec. 3-82. State form.**

The state form "Request for free Post-Exposure Rabies Vaccine" will be used for post-exposure vaccines for those individuals that meet all the criteria stated on the form (not included herein).

(Ord. of 9-16-96)

**Sec. 3-83. Definitions.**

*Commission* means the commission for health services.

*Owner/keeper* means a person who allows or encourages a dog(s) and/or cat(s) and any offspring of that (those) animal(s) to remain on property owned/leased/rented or inhabited by the person for a period of seventy-two (72) hours, by: (1) providing a food source, whether by the placement of food scraps in an accessible location to said animal(s) or by provision of food stuffs specifically manufactured for the feeding of dogs and/or cats, and/or (2) providing a source of shelter for said animal (2) either by accident or intent, and/or (3) failure to notify

animal control of the presence of said animal(s) within three (3) days of the appearance of said animals and/or (4) person who at the request of another person, consents to allow animal(s) to stay at said property for any period or time.

*The time or times of vaccination for 199\_\_\_ are:*

- (1) First vaccination—effective for one (1) year
- (2) Subsequent vaccination—effective for three (3) years  
(Ord. of 9-16-96)

**Secs. 3-84—3-90. Reserved.**

#### **ARTICLE V. INTENSIVE LIVESTOCK OPERATIONS\***

**Sec. 3-91. Title.**

This article may be cited as the "Craven County Ordinance Governing Intensive Livestock Operations."  
(Ord. of 4-20-98, § 1)

**Sec. 3-92. Scope and purpose.**

This article applies to "Intensive Livestock Operations" as that term is defined herein. This article is enacted by the Board of Commissioners for Craven County ("board") pursuant to North Carolina General Statute section 153A-121, which provision authorizes the board to define and regulate conditions "detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the county." This article is enacted for the purpose of regulating and controlling intensive livestock operations, including:

- (a) The risk of surface and/or groundwater and well water contamination by the run-off, spill or leaching of animal wastes or other pollutants generated in the ordinary course of operations of intensive livestock operations;
- (b) Communicable disease transmission;
- (c) Odor;
- (d) Nutrient deposition by way of the release of gases such as ammonia, hydrogen sulfide and methane;
- (e) The spread of disease vectors such as mosquitoes, flies and rodents;
- (f) The improper disposal of dead livestock;
- (g) The proliferation of harmful microorganisms in the county's waterways, and the resulting death of aquatic flora and fauna; and

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\***Editor's note**—Former article V, consisting of §§ 3-91—3-93 and derived from an Ordinance of 2-25-97, were superseded by provisions as herein set out.



(h) The loss of value to and loss of enjoyment of homes, businesses and property.  
(Ord. of 4-20-98, § 2)

**Sec. 3-93. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

*Animal waste* shall mean livestock or poultry excreta or a mixture of excreta with animal feed, bedding, litter, carcasses or other materials, and livestock and poultry carcasses.

*Animal waste management system* shall mean a combination of structural and nonstructural practices which are designed to collect, treat, store or apply animal waste to the land such that no discharge of pollutants occurs to surface waters of the state by any means except as a result of a storm event more severe than the 25-year, 24-hour storm.

*Approved animal waste management plan* means a plan to properly collect, store, treat and/or apply animal waste to the land in an environmentally-safe manner and approved according to the procedures established in 15A North Carolina Administrative Code ("NCAC") 2H.0217(a)(1)(H).

*CCHD* means Craven County Health Department.

*DEM* means the Division of Environmental Management within the North Carolina Department of Environment and Natural Resources.

*Director* means the Director of the CCHD or his/her designee.

*Expanded animal waste treatment works and disposal/utilization system* means facilities which propose an increase over the existing system design capacity.

*Expansion* of an intensive livestock operation shall mean an enlargement, in either lagoon capacity or number of animals, equal to or greater than ten (10) percent above the permitted specifications.

*Groundwaters* shall mean those waters as defined in 15A NCAC 2L.

*Intensive livestock operations* or *ILO* means any enclosure; pen; feedlot; building or group of buildings intended for the confined feeding, breeding, raising or hold of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained, and contains, or is designed to contain, sufficient number of animals on site to equal or exceed the following threshold levels:

- (1) One hundred (100) head of cattle;
- (2) Seventy-five (75) horses;
- (3) Two hundred fifty (250) swine;
- (4) One thousand (1000) sheep or goats;

- (5) Thirty thousand (30,000) birds.

*New animal waste treatment works and disposal/utilization system* means facilities which are constructed and operated at the site where no ILO existed previously or where an ILO has been abandoned or inoperative for a period of six (6) months or more.

*Off-site drinking water source* means any privately or publically-owned well from which drinking water is obtained lying outside the boundaries of the property on which there is an existing ILO, or on which an ILO is proposed.

*Operation* is defined to mean from the date on which the threshold level of a particular type of animal is on-site, regardless of whether that number may fall below the threshold level on any later date.

*Operator or owner* shall mean any person, firm, corporation, limited liability company or any other entity which owns or operates an ILO located within Craven County. Operators shall include those entities which manage, or contract for the management of, an ILO.

*Permanent waste storage facility* means the location used to store animal waste and/or animal waste by-products for at least six (6) months out of any twelve-month period.

*Surface waters* means all waters of the state as defined in North Carolina General Statute section 143-212, except underground waters.

*Under construction* shall mean that a proposed ILO must possess the following attributes:

1. Having acquired fee simple title in the real property for the proposed ILO by deed recorded at or before 5:00 p.m. of the effective date of this article [April 20, 1998] in the Craven County Registry of Deeds; and
2. Having obtained all necessary permits from applicable federal, state and local agencies, including, but not limited to:
  - a. Any permit required from the North Carolina Division of Water Quality, Department of Environmental and Natural Resources; and
  - b. Any building permit, electrical permit, and/or certificate of occupancy, as the same are required by the Code of Craven County, North Carolina; and
3. Having incurred substantial expenditures or contractual obligations in good faith reliance on any permit lawfully issued by Craven County or the State of North Carolina.

(Ord. of 4-20-98, § 3)

### **Sec. 3-94. Administration and interpretation.**

(a) *Administration of rules.* The director shall administer the regulations established by this article. The director shall, as needed, obtain technical advice and assistance from any county, state, including state university, or federal agencies, or any other individuals or organizations with applicable expertise.



(b) *Ordinance imposes minimum requirements; exception.* In their interpretation and application, the provisions of this article shall be held to be minimum requirements, except where they are stated to be maximum requirements.

(c) *Conflicts between ordinance and other laws.* Wherever any provision of this article and any other statute or requirement of law shall impose overlapping or contradictory regulations; the provision which is more restrictive or imposes higher standards or requirements shall govern, unless it is the clear intent of a law of superior authority that it shall limit the restrictiveness of regulation in a particular area, in which case that limitation shall control.

(d) *Rules do not affect civil remedies.* It is not the intent of this article that it shall restrict or impair the right of any private or public individual or entity to bring any legal or equitable action for redress against nuisances, hazards or injuries to persons or property.

(Ord. of 4-20-98, § 4)

**Sec. 3-95. General requirements; permits.**

(a) *Compliance with Existing State Laws and Regulations.*

- (1) No person or entity shall construct, operate or expand any ILO except in conformity with this article and 15A NCAC 2H .0200, as may be amended from time to time.
- (2) To facilitate the administration of this article in conjunction with state and federal specifications, the director is authorized and directed to work and communicate with North Carolina DEM and representatives of the Natural Resources Conservation Service of the United States Department of Agriculture ("NRCS"). The director shall undertake any actions necessary to coordinate local involvement in all procedures of the DEM and the NRCS relative to ILOs and animal waste management systems in Craven County.
- (3) Operating facilities as of the date of adoption of this article [April 20, 1998] and non-operating facilities that are under construction as that phrase is defined herein, are exempt from CCHD setback and closure rules contained herein provided that no expansion, as that term is defined above, has occurred.
- (4) Except as recited herein, an expansion of an existing ILO must be accomplished in accordance with the requirements set forth herein.

(b) *ILO construction or enlargement permit.*

- (1) All new and expanded ILOs shall obtain an ILO construction or enlargement permit ("permit") from the CCHD. The permit shall be required prior to the construction or expansion of the facilities, as applicable. A permit may be issued by the CCHD only after certification by the NRCS that the proposed construction or expansion meets all NRCS and state requirements for design and siting. In the case of expansions of ILOs, a permit shall be issued after certification by the CCHD that the amended waste management plan, siting and design criteria meet all state requirements and there are no current violations of federal, state or local regulations.

- (2) On or immediately after adoption hereof, in addition to the requirements of subsection (1) above, no new or expanded ILO shall begin construction without first meeting the requirements in Appendix A. Two copies of the supporting documents and information described in Appendix A shall be supplied to the CCHD.
- (3) Upon receipt of the information required in Appendix A, and in consultation with DEM, and the Craven Soil and Water Conservation District ("CSWCD"), the CCHD shall review the information. The CCHD shall review the proposed construction or expansion relative to the siting and design requirements contained herein, and verify that the proposed ILO meets standards and specifications as certified by NRCS. Action shall be taken by the CCHD on the information required by subsection (2) above within thirty (30) days from receipt. All denials of permits shall be in writing and be supported by written findings of fact.
- (4) An approved groundwater monitoring system will be required for all new and expanded ILO to prevent contamination or to insure the quality of a drinking water source.
- (5) Failure to comply with all applicable sections of this article may result in revocation of a permit. Prior to any revocation action, the permit holder shall receive written notification from the director of the violation and be allowed thirty (30) days from receipt of the written notice to correct the violation. If the problem is not timely corrected and the director intends to revoke a permit, the director shall notify the permit holder in writing of the intention to revoke and the permit holder's appeal rights under NCGS section 130A-24(b). If no timely appeal is taken by the permit holder, the director may revoke the permit. If an appeal is timely taken, the procedure on appeal shall be governed by NCGS section 130A-24, and the director shall bear the burden of proof by a preponderance of the evidence in support of the revocation action.

(Ord. of 4-20-98, § 5)

#### **Sec. 3-96. Appeals.**

An appeal from any permitting decision of the director shall be in writing to the CCHD. Appealing parties have thirty (30) days from the date of notification of the permitting decision within which to appeal. An appeal shall be perfected by filing written notice, with reasons therefore, with the county board of health, and the matter shall be placed on the agenda for the next meeting of the board of health following notice of the appeal. If no meeting is scheduled within forty-five (45) days following the notice of appeal, then a special meeting of the board of health shall be held within that forty-five (45) day period. Except as amended herein, the appeals process shall be in accordance with North Carolina General Statute section 130A-24.

(Ord. of 4-20-98, § 6)

#### **Sec. 3-97. Facility closure.**

(a) In addition to the information required by section 3-95 above, an owner of a new or expanded ILO shall submit to CCHD a closure plan for the waste and waste system storage/treatment facilities. This plan shall be prepared by the USDA Natural Resources



Conservation Service, a North Carolina Soil and Water Conservation District water quality technician, or a professional engineer registered in the State of North Carolina. Lagoon closure shall include the removal of the sludge in the lagoon and its disposal by proper land application at agronomic rates or by some other legally-permissible method. Lagoon closure shall also include the grading and sloping of the walls of the lagoon and the seeding of the same area. Lagoons shall not be filled or otherwise closed until an inspection by the CCHD determines sludge has been removed and properly disposed of. Alternative methods of closure, such as retaining use of the lagoon for a pond or for wildlife use, shall be considered by CCHD on a case-by-case basis provided such other requirements set forth in this section are satisfied. Closure may be postponed with approval of the CCHD for a period of twenty-four (24) months if the property is posted for sale.

(b) All wastes from the feeding operation and its waste control system must be removed and disposed of on land or in some other manner which is legally permissible as soon as practicable and in accordance with the approved plan in order to promote and protect public health.

(Ord. of 4-20-98, § 7)

**Sec. 3-98. Financial responsibility.**

(a) In order to guarantee proper closure of an ILO's lagoons and facilities, to ensure proper clean-up of spills or releases of animal waste beyond land application as permitted, to remedy or abate violations of this article, and to protect the public health, safety and welfare of the citizens of Craven County, the owner of the ILO shall execute an agreement with Craven County providing for adequate funds for the proper closure of lagoons, proper clean-up of spills, and prompt abatement of any violations of this article. To secure this agreement, the owner shall provide a surety bond in an amount of sixteen thousand dollars (\$16,000.00) per acre of waste lagoon surface area or two thousand dollars (\$2,000.00) per building for dry waste systems. Said surety bond shall be from a surety bonding company authorized to do business in the State of North Carolina, payable to Craven County, the duration of which shall be until such time as the director certifies in writing that closure is properly completed.

(b) If the director reasonably determines that closure in accord with this article has not occurred, or that the owner has failed to promptly clean-up any spill or abate any violation of this article; the director shall notify the owner in writing of the determination. Within thirty (30) days of the receipt of this notice, the owner shall deliver to the director (for the benefit of the county) sufficient funds to complete closure, clean-up spills or remedy or abate violations of this article; provided that if the owner disputes the director's determination, it shall deposit the funds necessary to complete closure in an escrow account where they shall remain until the dispute is resolved in accordance with North Carolina General Statute section 130A-24. Any excess funds available following execution of this provision shall be returned to the owner as appropriate.

(c) Compliance with this section shall not limit the financial liability of all owners or operators of an ILO for the costs of lagoon/facility closure or any action necessary to avert a threat to the public health, for clean-up of spills or releases, for abatement of violations of this article, or for damages to property, persons or resources of the State of North Carolina.

(Ord. of 4-20-98, § 8)

**Sec. 3-99. Registration and transfer of ownership.**

(a) Upon request of the director, the owners or operators of new and existing ILOs shall submit to the director the names and telephone numbers (business and home) of the following individuals:

- (1) All owners or operators, including all shareholders, partners or members of the ILO, as applicable;
- (2) An authorized agent or individual, whether or not an owner or operator, who possesses management authority and resides within Craven County.

(b) Each time the ownership of title to the land on which the treatment works and disposal/utilization system for animal waste from the ILO is transferred, the new owner must notify the CCHD in writing within sixty (60) days of the transfer of ownership that the approved plan for closure has been read and understood and that all provisions of the plan will be implemented.

(Ord. of 4-20-98, § 9)

**Sec. 3-100. Violations; penalties.**

(a) A violation of this article subjects the offender to a civil penalty of two hundred fifty dollars (\$250.00) for each day a violation exists. Those sums may be recovered by the county in a civil action in the nature of debt if the offender does not pay within twenty (20) days of notification of a violation. Following receipt of notification of a violation pursuant to this section, an offender commits an additional and separate offense for each day the offender continues operation of the subject ILO in violation of this article.

(b) This article may also be enforced by application for appropriate injunction, order of abatement or such other equitable relief as may be appropriate under North Carolina General Statute section 153A-123 or similar provision.

(Ord. of 4-20-98, § 10)

**Sec. 3-101. Inspections.**

The CCHD shall make inspections as necessary prior to the issuance of a permit as described in this article. After permits are issued, operating facilities may be inspected by representatives of CCHD provided that CCHD provide forty-eight (48) hours notification, for the purpose of determining continued compliance with this article. In conducting inspections, the director is fully authorized to exercise the right of entry and administrative search provided in North Carolina General Statute sections 130A-17 and 15-27.2. The CCHD shall take all reasonable precautions to comply with disease prevention efforts when inspecting an ILO pursuant to this section.

(Ord. of 4-20-98, § 11)

APPENDIX A TO THE CRAVEN COUNTY ORDINANCE GOVERNING INTENSIVE LIVESTOCK OPERATIONS

*Supporting documents and information required of ILO's located within Craven County.*

I. For new and expanded ILOs, the following documents and design plans shall be submitted by the owner/operator to the CCHD:

A. *Size.* Documents confirming that the ILO shall not exceed the following limitations with respect to a single operation:

1. Swine:

<i>Production Phase</i>	<i>UNIT</i>	<i>Avg. Animal Live Wt. (LBS)</i>	<i>Animal Capacity Limit</i>
Wean to Feeder	per head capacity	30	20,000 head
Feeder to Finish (light)	per head capacity	135	4,444 head
Feeder to Finish	per head capacity	150	4,000 head
Farrow to wean	per active sow*	433	1,386 sows
Farrow to Feeder	per active sow*	522	1,149 sows
Farrow to Finish	per active sow*	1417	423 sows

\*includes sow, boar, and all other pigs

2. Poultry:

a. Thirty thousand (30,000) birds (represents four (4) standard sized houses).

B. *Design plan and site plan.* Documents shall demonstrate compliance with the following setback/separation distances:

1. Animal housing facilities and lagoons shall be located a minimum distance of one thousand five hundred (1500) feet from any off-site drinking water source.
2. The outer perimeter of a land area onto which waste is applied from a lagoon that is a component of an ILO shall be located a minimum distance of one thousand five hundred (1500) feet from any off-site drinking water source.
3. The outer perimeter of a land area onto which waste is applied from a lagoon that is a component of an ILO shall be located a minimum distance of one hundred (100) feet with a seventy-five-foot forested buffer, or three hundred (300) feet without a forested buffer, from any boundary of property on which an occupied residence is located.
4. For new and expanded ILOs, the owner shall establish at least a twenty-five (25) foot forested buffer within a one hundred-foot buffer between the outer perimeter of a land area onto which waste is applied from a lagoon that is a component of an ILO and any surface waters other than an irrigation ditch or canal.
5. For new and expanded ILOs, the owner shall provide for water control structures in main drainage channels. All ditches and canals shall have a minimum of five (5) feet of vegetation for ditch bank stabilization.



- C. *Consents for lesser setbacks and separation distances.* Lesser setback and separation distances than those set forth herein will be allowed by written consent of the owners of the property within said setback or separation distance from an animal housing facility or lagoon, but in no event shall the setback be less than one thousand (1000) feet. Said written consent shall be submitted to the CCHD by the owner/operator of the ILO and must be recorded and affixed to the deed of the consenting adjacent property owner.

NOTE: Setback and separation distances from boundary lines shall apply when the ILO owner is also the owner of the adjacent property.

- D. *Certifications.* Copies of the following documents on file with the state shall be submitted to the CCHD:
1. The individual nondischarge permit for the animal waste management system or Certificate of Coverage for the general permit for the animal waste management system; and
  2. The waste management facility site evaluation report or a comparable report certified by a professional engineer or technical specialist approved by the N.C. Soil and Water Conservation Commission; and
  3. The animal waste management plan certification and technical specialist certification (certification of design) showing that the design of the animal waste management system complies with all federal and state requirements.
- E. *Animal waste management plan:* A copy of a completed animal waste management plan must be submitted to the CCHD.
- (Ord. of 4-20-98)

**Secs. 3-102—3-115. Reserved.**

## ARTICLE VI. DANGEROUS DOGS

### Sec. 3-116. Definitions.

*Attack trained* means any dog that has been specifically trained by a person to take a command to attack or injure a person or animal, or any dog that has been specially trained or disciplined or conditioned to protect persons or property.

Attack trained does not include dogs possessed and used by law enforcement or military in performance of official duties.

*Behavior.* Three categories of behavior are defined as follows:

- (1) *Vicious dog* means one which, when unprovoked, inflicts severe injury on a human being.

- (2) *Dangerous dog* means one which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper.

Is one which, when unprovoked, bites a person causing less severe injury than that defined as "severe" or,

Is one which has been trained in attack methods or,

Is one which has been trained or is kept primarily or in part for the purpose of fighting, or any dog trained for fighting.

- (3) *Potentially dangerous dog* means one which causes any person being chased or approached by the dog to reasonably believe that the animal will cause physical harm to the person when off the property of the owner or keeper or,

Is one which when off the property of its owner or keeper of the animal has killed, seriously bitten, inflicted injury or otherwise caused injury by attacking a domestic animal when the dog was unprovoked by the actions of the other animal.

*Direct control* means that a dog is within sight or hearing of the owner and will respond instantly to the commands or signals to "come," "sit," or "stay".

1. *Come* means that the dog shall immediately leave the position where it is located and return to its owner;
2. *Sit* means that the dog shall immediately cease movement in any direction and assume a sitting position;
3. *Stay* means that the dog shall immediately cease movement in any direction and remain at the spot in which the command was heeded until released by its owner.

*Dog* means any member of the Canidae family, or any hybrids of such Canidae, thereof, including but not limited to wolf hybrids, which are a cross between a wolf or a wolf hybrid and a domestic dog (*Canis familiaris*).

*Owner* means any person or entity that has possessory rights of the dog. Owner means any person handling, keeping, possessing, harboring, maintaining or having the care, custody or control of the dog except licensed veterinarian clinics, animal control shelters, or licensed boarding kennels. Minor children are not to be considered owners. The parent(s), legal guardian or person(s) acting in *loco parentis* will be considered owner, and as such will be considered the individual responsible for the dog.

*Provocation or location of attack irrelevant:* Any dog that causes a person's death by attacking, biting or mauling the person, regardless of whether the dog was provoked and regardless of where the incident resulting in the person's death occurred.

*Severe injury* means any physical injury to a human being that results in muscle tears, disfiguring lacerations, multiple sutures, corrective surgery, cosmetic surgery, broken bones or hospitalization; either individually or in any combination thereof.

*Without provocation* means that the dog was not teased, tormented, abused, threatened, chased, or in any other way set upon or antagonized.

This also means that the animal was not coming to the aid or defense of a person not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity.

*Wolf* means any canine classified as *Canis lupis* or *Canis rufus*.

*Wolf hybrid* means any canine which has a wolf ancestor within the previous four (4) generations. This definition shall include a wolf or wolf hybrid as either a sire or dam, grandsire or dam, great-grandsire/dam or great-great grandsire/dam. An animal shall also be considered a wolf hybrid if it has been represented by its owner as having wolf ancestry. (Ord. of 11-16-98)

### **Sec. 3-117. Dogs declared vicious.**

No dog declared "vicious" may be offered for sale, given away, traded or placed for adoption. The owner of a dog so designated shall notify the county authority, in writing, within two (2) working days of any change in residence of the owner and dog, giving the correct new address and physical location of same. Owner of a dog so declared will retain possession of the dog until the dog dies, is destroyed or surrendered to county authority for disposal. When the dog dies or is destroyed, the owner will immediately notify the county authority of the death of the animal so that proper identification can be made by reading of the tattoo or electronic implant.

The declaration of vicious will carry with it certain and specific conditions not necessarily the same as those restrictions of dogs declared dangerous or potentially dangerous.

A dog determined to be a vicious dog may be destroyed by the county authority when it is found, after proceedings conducted to determine same, that the release of the dog would create a significant threat to the public health, safety and welfare. If it is determined by the appellate board that a dog found to be vicious shall not be destroyed, the judicial authority shall impose conditions upon the ownership of the dog that protect the health, safety and welfare of the public.

The owner of a dog declared vicious may be prohibited from owning, possessing, controlling, or having custody of any dog for a period of up to three (3) years if found, after proceedings that ownership or possessing of a dog by that person would create a significant threat to the public health, safety and welfare.

If it is determined that a dog so declared as vicious shall not be destroyed, the judicial authority may impose additional conditions to protect the public health, safety and welfare; such as, but not limited to:

Mandated housing in a secure enclosure.



A secure enclosure is:

- (1) *Outdoors:* The primary enclosure for said dog will be set inside a protective fence, at least four (4) feet, but no more than six (6) feet from the primary enclosure, the fence and gate will be constructed of nine gauge chain link, at least six (6) feet in height, with a padlocked gate. The gate must be securely closed, even when the owner is inside the primary enclosure to effect care/cleaning.

The primary enclosure will be constructed of nine gauge chain link, at least six (6) feet in height and a minimum of ten (10) feet by ten (10) feet square, with a concrete floor anchored to the fencing. Anchoring may be accomplished either by burying the fence or by installing anchors to the bottom rail of the fence so as to preclude the escape of the dog. The top area of the pen will be totally enclosed, including the protective fence, with chain link of a minimum gauge of 11.5, so anchored to the side walls of the pen/protective fence to preclude the escape of the animal by climbing. All support uprights, top and bottom rails and all hardware needed to erect pen and perimeter fence to be of such grade as to properly support weight of said fencing. The gate to the primary enclosure will be padlocked and must be securely closed, even when the owner is inside the pen to effect cleaning of the pen and care of the dog.

A dog house, sufficiently sized to accommodate the dog will be available at all times to the dog to protect it from the elements of nature. Said shelter will be kept in good repair and kept in a clean manner.

- (2) *Indoors:* If the dog is housed in a residence all or part of the time, the residence windows and doors will be secured so as to prevent the dog's escape.
- (3) *Inside other building / structure:* If the dog is housed in an outbuilding, garage, storage shed, or other structure the building will be so secured as to prevent the dog's escape. Ventilation will be provided by manner of windows or other openings to provide adequate air exchange to prevent the overheating of said outbuilding, said openings to be secured so as to prevent the dog's escape.

The vicious dog is not permitted to be unconfined on the owner's property without a muzzle, regardless of whether in the presence of the owner or others. The muzzle will be property fitted so as not to restrict the breathing or vision of the dog and not to cause harm by abrading or cutting into the skin.

When off the property, in the accompaniment of the owner or other responsible adult, the dog will be secured by a leash no longer than four (4) feet. The leash will be attached to a collar or harness. Both leash and collar or harness must be manufactured specifically for the control of dogs. Said dog will be muzzled at all times.

Adequate food will be provided at least one time in every twenty-four (24) hours, at all times fresh potable water will be available in a container so placed as to prevent spillage or being soiled by excrement/urine or debris in a location available to the dog.

A surety bond or a policy of liability insurance issued by a surety company or insurance company authorized to conduct business in this state in a form acceptable to the county

in the sum of five hundred thousand dollars (\$500,000.00), payable to any persons injured by said dog, insuring the owner for any personal injuries inflicted by the dog will be carried by the owner of the dog and will remain in effect until cancellation of said bond or insurance is authorized by county authority upon satisfactory proof being offered as to the death of the dog.

Posting of the property and perimeter fencing will be in such a manner as to warn any and all persons, including children, of the presence of a vicious dog. Said signs will be placed in such a manner as to be visible from the common entrance(s) to the property, specifically the driveway, but not limited to that point. Said signs must be visible from all property lines on the property, and must be specifically placed on all sides of the perimeter fence.

Surgical spaying or neutering will be required on any dog declared vicious. Such altering will be performed by any veterinarian licensed to practice in the State of North Carolina. Said surgery will be performed within seven (7) days of declaration and before the owner is permitted to reclaim the animal. All fees will be paid in full by the owner to the satisfaction of the veterinarian prior to release.

Permanent identification of the dog will be by tattoo inside the thigh, or by electronic implant; cost of said tattoo/implant will be paid by the owner of the dog. The owner is required to allow and assist county authority in viewing the tattoo or reading the implant at such times as deemed reasonable, or at such time the identification of the dog is in question, either by county authority or by a complaint filed by any third party and upon declaration by the owner of the death of said animal.

Behavioral evaluation of said dog may be required by the Appellate Board to be performed by a person recognized in the field of animal behavior and the findings of said evaluation will be made a permanent record in the owner/dogs file. Cost of such evaluation will be borne by the owner of the dog and paid to the satisfaction of the individual performing the evaluation regardless of the outcome of any hearing or appeal.

All restrictions regarding the containment, identification and behavioral evaluation of a dog declared as vicious must be completed to the satisfaction of the county authority before the dog will be released to the custody of the owner.

Any fees incurred for boarding or maintaining said dog while in the custody of the animal shelter, veterinarian clinic or other boarding facility will be paid by the owner prior to the dog's release regardless of the findings of the appellate board or appellate review.

A prorated permit fee of five hundred dollars (\$500.00) will be paid yearly to the designated county authority by the owner of the dog so declared vicious. Fee will then be paid at the beginning of each fiscal year and will be retained by the county authority and not forfeited at the end of any fiscal year. Fees are for maintenance of records,

inspections and any other such duties as may be required to oversee the specific dog in question. This fee is in addition to any surety bond or insurance required to be carried by the owner.

(Ord. of 11-16-98)

**Sec. 3-118. Dangerous or potentially dangerous dog.**

A dangerous or potentially dangerous dog will be housed in a secure enclosure. A secure enclosure is one which is:

- (1) Outdoors, padlocked, with a concrete bottom, so constructed as to prevent the dog from escaping under the fence and with a secure wire top, so as to preclude the animal from escaping over the top of the fence. The fencing will be kept in good repair at all times to prevent the escape of the dog.

All outdoor pens will be at least six (6) feet in height, and at least ten (10) feet in width and ten (10) feet in length. Any other structure so used to confine the animal will be of similar size to prevent inhumane containment. All pens, structures and confinement areas will be inspected as necessary by the designated county authority.

Adequate food will be provided at least one time in every twenty-four (24) hours, at all times fresh potable water will be available in a container so placed as to prevent spillage or being soiled by excrement/urine or debris in a location available to the dog.

A dog house, sufficiently sized to accommodate the dog will be available at all times to the dog to protect it from the elements of nature. Said shelter will be kept in good repair and kept in a clean manner.

The property will be posted with clearly visible warning signs adequate to inform the public, including children, of the presence of a dangerous or potentially dangerous dog and placed on the property as designated by the appropriate county authority including, but not limited to, the pen and curtilage.

- (2) *Indoors*: If the dog is housed in a residence all or part of the time, the residence windows and doors will be secured so as to prevent the dog's escape.
- (3) *Inside other building / structure*: If the dog is housed in an outbuilding, garage, storage shed, or other structure the building will be so secured as to prevent the dog's escape. Ventilation will be provided by manner of windows or other openings to provide adequate air exchange to prevent the overheating of said outbuilding, said openings to be secured so as to prevent the dog's escape.

The dangerous or potentially dangerous dog is not permitted to be unconfined on the owner's property without a muzzle, regardless of whether in the presence of its owner or others. The muzzle will be properly fitted so as not to restrict the breathing or vision of the dog and not to cause harm by abrading or cutting into the skin.



When off the property, in the accompaniment of the owner or other responsible adult, the dog will be secured by a leash no longer than four (4) feet. The leash will be attached to a collar or harness. Both leash and collar or harness must be manufactured specifically for the control of dogs. The dog will be muzzled at all times.

(Ord. of 11-16-98)

**Sec. 3-119. Permanent identification of declared dogs required.**

Any dog declared dangerous or potentially dangerous will be permanently identified by means of a tattoo located on the inside thigh or by an electronic implant. The cost of said tattoo/implant will be paid by the owner of the dog. The owner is hereby required to allow and assist the county authority responsible for overseeing the dangerous dog ordinance in viewing the tattoo or reading the electronic implant at such times as deemed reasonable or at such time the identification of the animal is in question, either by county authority or by complaint filed by any third party.

(Ord. of 11-16-98)

**Sec. 3-120. Obedience training/behavior modification may be required.**

As a condition of registration and findings of the board responsible for declaration of dangerousness or potential dangerousness of said dog certain obedience classes/training may be required at the discretion of said board.

*Obedience classes or training:* If so required by the appellate board as a condition or release from the designation "dangerous or potentially dangerous," obedience classes or training shall be obtained from a certified/licensed dog trainer specializing in behavior modification and standardized training procedures recognized by The American Kennel Club or other recognized dog club. Successful completion of the training by both the owner and the dog will be required as a condition of release from said designation. All costs of said training will be borne by the owner of the dog and will be paid in full to the satisfaction of the trainer.

(Ord. of 11-16-98)

**Sec. 3-121. Release from status of declaration of dangerous or potentially dangerous.**

If after thirty-six (36) months there are no additional instances of the declared behavior, the dog shall be removed from the list of dangerous or potentially dangerous dogs. The dog may, but is not required to be, removed from the list of dangerous or potentially dangerous dogs prior to the expiration of the thirty-six-month period if the owner or keeper demonstrates to the county authority's satisfaction that changes in circumstances or measures taken by the owner or keeper, such as training of the dog, have mitigated the risk to public safety.

If, however, within six (6) months following removal from the list of dangerous or potentially dangerous, the dog exhibits any of the behaviors that resulted in the original declaration, or any other behavior that would result in the declaration of dangerous or potentially dangerous the dog automatically, with no right of appeal will be declared dangerous and will be subject

to all the restrictions and constraints as defined for the remainder of the dog's life. Any applicable fees, permit registrations, surety bond or insurance would be reinstated for the continued inspections by the designated county authority.

(Ord. of 11-16-98)

**Sec. 3-122. Exceptions to declaration.**

No dog may be declared vicious, dangerous or potentially dangerous when being used by certified law enforcement officer(s) in carrying out the official duties of that office.

No dog may be declared dangerous or potentially dangerous if any injury or damage is sustained by a person who, at the time of sustaining the injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime.

No dog may be declared dangerous or potentially if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

No dog may be declared potentially dangerous if an injury or damage was sustained by a domestic animal which at the time of the injury or damage was teasing, tormenting, baiting, abusing or assaulting the dog.

No dog may be declared potentially dangerous if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of its owner or keeper, and the damage or injury was to a species or type of animal appropriate to the work of the dog.

(Ord. of 11-16-98)

**Sec. 3-123. Permit fees and registration of dogs declared potentially dangerous, dangerous or vicious.**

*Permit fees:* Owners of dangerous or potentially dangerous dogs will be assessed a prorated annual fee of one hundred dollars (\$100.00) payable at the beginning of the fiscal year to be retained by the county authority responsible for the oversight of the dangerous dog ordinance. These fees are in addition to any surety bond or liability insurance so required for dangerous dogs.

Fees are to be paid at the time the owner or keeper has agreed to the designation or the court or hearing entity has determined the designation applies to the dog.

The fees are renewable each year thereafter at the onset of the fiscal year for the county.

Owners of vicious dogs are required to pay a yearly permit fee of five hundred dollars (\$500.00) payable at the beginning of each fiscal year. The first year or any part thereof will be in the amount of five hundred dollars (\$500.00), renewable each year thereafter at the onset of the fiscal year for the county. This fee is in addition to any surety bond or liability insurance so required.

Fees are in addition to any other licensing, registration, taxing or other costs assessed by any local government agency in regulating or permitting dogs.

No dog declared vicious will be released from that designation. Only dog declared dangerous or potentially dangerous may be released upon satisfactory evidence presented as stated in RELEASE FROM STATUS OF DECLARATION.

No dog declared dangerous or potentially dangerous may be given away, sold, traded or placed for adoption. Owner of a dog so declared will retain possession of the dog until the dog dies, is destroyed or surrendered to county authority for disposal.

*Registration:* No person may own a dangerous or potentially dangerous dog unless the dog is registered as provided by this article.

The county will charge the owner an annual fee to obtain and maintain a certificate of registration for a dog under this section. Said fees will be retained by county authority responsible for inspection of premises and confinement quarters of said dangerous or potentially dangerous dog.

The county shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog if the owner presents sufficient evidence that:

- (1) A secure enclosure exists for a potentially dangerous or dangerous dog and a posting of the premises has been effected.
- (2) The owner of a dangerous dog will, in addition to the secure enclosure and signage, be required to provide a surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the county in the sum of at least fifty thousand dollars (\$50,000.00), payable to any person injured by the dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least fifty thousand dollars (\$50,000.00), insuring the owner for any personal injuries inflicted by a dog declared dangerous.

(Ord. of 11-16-98)

### **Sec. 3-124. Liability for dog bites.**

(a) The owner of a dog which bites a person when the person is in or on a public place is liable for damages suffered by the person bitten, regardless of the prior behavior of the dog or the owner's knowledge of its behavior.

(b) Nothing in this section shall permit the bringing of an action for damages against any governmental agency using a dog in military or police work if the bite occurred while the dog was defending itself from a harassing or provoking act, or assisting an employee of the agency in any of the following:

- (1) In the apprehension or holding of a suspect where the employee has a reasonable suspicion of the suspect's involvement in criminal activity.
- (2) In the investigation of a crime or a possible crime.



- (3) In the execution of a warrant.
- (4) In the defense of a peace officer or another person.

Subsection (b) of this section will not apply in any case where the victim of the bite was not a party to, nor a participant in, nor suspected to be a party to or a participant in, the act that prompted the use of the dog in military or police work.

Subsection (b) of this section will apply only where a governmental agency using a dog in military or police work has adopted a written policy on the necessary and appropriate use of a dog for the police or military work enumerated in subsection (b) of this section.

(Ord. of 11-16-98)

**Sec. 3-125. Certain dogs may be killed.**

Subject to provisions of containment, a dog that has been declared vicious, dangerous or potentially dangerous that is chasing or approaching in a menacing fashion or in an apparent attitude of attack, that attempts to bite or otherwise endanger, or that kills or injures a person or an animal that is the property of another person can be killed at the time of that chasing, approaching, attempt, killing or injury.

If, in attempting to kill such a dog, a person wounds it, that person shall not be liable to prosecution under the penal laws which govern cruelty to animals nor is that person civilly liable for the death of that dog.

The owner of said dog is liable in damages for any injury, death of another animal or loss to a person or property that is caused by the dog unless the injury, death or loss was caused to the person or property of an individual who, at the time, was committing or attempting to commit a criminal offense against any person or was teasing, tormenting or abusing the dog on the owner's property.

Any dog, regardless of declaration of dangerousness or potential dangerousness or viciousness, that has killed a human being, regardless of the location or provocation will be immediately seized by county authority and humanely destroyed. If humane capture of the dog cannot be effected, the dog may be destroyed on site by any person or persons without prosecution for cruelty to animals or civil liability for such action. The owner of the dog shall be held fully responsible for its actions.

(Ord. of 11-16-98)

**Sec. 3-126. Disposition of dangerous or potentially dangerous dogs.**

All potentially dangerous and dangerous dogs so declared shall be properly licensed if applicable and vaccinated. The permitting authority shall include the dangerous or potentially dangerous designation in the registration records of the dog, either after the owner or keeper of the dog has agreed to the designation or the court or hearing entity has determined the

designation applies to the dog. Fees may be levied in addition to any applicable licensing fees to provide for the costs of maintaining the records of the dog and for inspections of the premises where the dog is housed, and for periodic inspection of the dog.

A dangerous or potentially dangerous dog shall at all times be maintained, housed, kept or otherwise restrained as outlined in this article.

The owner of a dog so designated shall notify the county authority, in writing, within two (2) working days of any change in residence of the owner and dog, giving the correct new address and physical location of same. If the dog dies, or is humanely destroyed by persons authorized to do same, the owner will immediately notify the county authority of the death of the animal so that proper identification can be made by reading of the tattoo or the electronic implant. (Ord. of 11-16-98)

#### **Sec. 3-127. Notification of determination.**

Upon receiving a report of a vicious, dangerous or potentially dangerous dog, the officer assigned to that report shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article.

When an assigned officer classifies a dog as vicious, dangerous or potentially dangerous that person shall notify the dog's owner in writing of that determination, by certified mail to the owner's last known address. Such notice shall be complete upon its mailing.

Such notice shall include the findings of the investigation, the reason for the determination, a description of the type of dog(s) involved and the procedures for filing an appeal if such an appeal is granted.

Appellate filing fees will be fifty dollars (\$50.00) per appeal/per dog, payable to the county authority responsible for hearing the appeal. (Ord. of 11-16-98)

#### **Sec. 3-128. Procedure for declaration.**

The county authority responsible for animal control will designate a person or persons to determine a dog's status. It also will designate a separate group of persons to hear any appeal.

If the dog falls under the definition of dangerous or potentially dangerous, the owner has the right of appeal.

Once either decision has been made the owner must follow all state laws and county ordinances dealing with dangerous, or potentially dangerous dogs until all appeals have been exhausted and a final decision rendered. If no appeal is requested or the owner fails to appeal, then the decision is final.

The appellate board shall consist of a veterinarian licensed to practice in the State of North Carolina, a professional dog obedience trainer with accredited animal behavior training and another person selected by the Board of Health. Such persons will serve as an "appointee" on a yearly basis. No financial remuneration will be paid for their service.

Notice of appeal shall be completed by filing a written objection with the appellate board within three (3) business days after receiving written notice. The appellant's filing fees will be included with the notice of appeal. The appellate board shall schedule a hearing within ten (10) business days of the filing of the appeal. Until the appeal is final, the dog must be controlled and confined pursuant to the ordinance requirements for the specific designation of that dog. Any appeal from the final decision of such appellate board will be submitted to the superior court by filing notice of appeal and a petition for review within ten (10) days of the final decision of the appellate board.

Appeals from rulings of the appellate board will be heard in superior court. The appeal shall be heard de novo before a superior court judge sitting in Craven County in accordance with NCGS 67-4.1, Subsection C.

In the case of a vicious dog, the animal must be housed at an animal shelter, veterinarian clinic or licensed boarding kennel in Craven County until all decisions are final. Fees or charges for such boarding will be paid by the owner prior to the release of the dog. In cases when the determination of the board is that the animal will be humanely euthanized, the owner will still be charged the daily board fee for housing the animal in addition to euthanasia fees and disposal fees, if applicable.

Within seven (7) days after a vicious, dangerous or potentially dangerous dog determination becomes final, the owner must have the animal tattooed with an identification number and have that number registered with a nationally recognized registry body or have the animal implanted with an electronic identification micro-chip and have that micro-chip duly registered. All containment areas and the placement of mandated signs will be inspected by the authorized county authority. Approval or disapproval is the county authority's responsibility.

An owner who violates any part of this article in a willful or grossly negligent manner shall forfeit all rights of ownership of the dog and upon a final determination of such violation the dog may be humanely euthanized by a licensed veterinarian or other person so trained. The person or board responsible for determining that the dog is vicious, dangerous or potentially dangerous shall determine whether the owner's violation was willful or grossly negligent. The person or board must notify the owner in writing, giving the reason for the determination, before they may euthanize the dog. The owner may appeal the determination by filing written objections and paying the appellate filing fee to the appellate board within three (3) business days of receipt of the notice. The appellate board shall schedule a hearing within ten (10) days of filing of objections. Any appeal from the final decision of such appellate board shall be taken to the superior court by filing notice of appeal and a petition for review within ten (10) days of the final decision of the appellate board.

Appeals from rulings of the appellate board shall be heard in superior court. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate board whose ruling is being appealed is located in accordance with NCGS 67-4.1, Subsection C.

(Ord. of 11-16-98)



**Sec. 3-129. Maximum penalty per day for violation of this article.\***

(a) A violation of this article subjects the offender to civil penalty of five hundred dollars (\$500.00) for each day a violation exists. Those sums may be recovered by the county in a civil action in the nature of debt if the offender does not pay within twenty (20) days of notification of a violation. Following receipt of notification of a violation pursuant to this section, an offender commits an additional and separate offense for each day the offender fails remedy of said violation in accordance with this article.

(b) This article may also be enforced by application for appropriate injunction, order of abatement or such other equitable relief as may be appropriate under North Carolina General Statute § 153A-123 or similar provision.

(Ord. of 11-16-98)

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\***Editor's note**—(Additional charges may be forthcoming under NCGS 67-4.)