

AN ORDINANCE OF THE MACON COUNTY BOARD OF COMMISSIONERS MAKING REVISIONS TO CHAPTER 90. ANIMALS, OF THE CODE OF ORDINANCES OF THE COUNTY OF MACON. NORTH CAROLINA

WHEREAS, the Macon County Board of Commissioners adopted a revised *Macon County Ordinance for the Regulation of Certain Animals* on October 13, 2008; and

WHEREAS, the Board of Commissioners did amend the same on January 10, 2010; and

WHEREAS, the Board of Commissioners did again amend the same on June 10, 2010; and

WHEREAS, the Board of Commissioners did again amend the same on October 15, 2015; and

WHEREAS, the Board of Commissioners wishes to make certain specific amendments to the Ordinance as recommended by the Director of the Macon County Health Department; and

WHEREAS, the Board of Commissioners wishes to revise the *Macon County Ordinance for the Regulation of Certain Animals* as set forth below; and

WHEREAS, the Macon County Board of Health have indicated that they approve of the revised Ordinance contained hereinafter and would recommend unto the Macon County Board of Commissioners the adoption and passage of this Ordinance; and

WHEREAS, the Board of Commissioners finds the same to be in the public interest and to promote the public health, safety and welfare pursuant to authority vested in it by North Carolina General Statutes Sections 153A-121, 153A-127, 153A-153, and 153A-442 and Chapter 67 of the General Statutes;

NOW, THEREFORE, BE IT ORDAINED by the Macon County Board of Commissioners that:

Section 1. Chapter 90, Animals, of the Code of Ordinances of the County of Macon, North Carolina, as heretofore amended, is hereby repealed in its entirety, and the following substituted in lieu thereof:

CHAPTER 90

ANIMAL CONTROL

Sec. 90-1. TITLE, PURPOSE AND AUTHORITY.

This Ordinance shall be known and may be cited as the *Macon County Animal Control Ordinance*. The purpose of this Ordinance is to promote the health, safety and welfare of the citizens of Macon County and to abate conditions detrimental to the peace and dignity of the County. This Ordinance is adopted pursuant to the authority contained in Sections 153A-121, 153A-123, 153A-127, 153A-131, 19A-45, 153A-153, and §153A-442 of the North Carolina General Statutes, Articles 1- 5 of Chapter 67 of the N.C.G.S.; and Article 6 of Chapter 130A of the North Carolina General Statutes, as applicable.

Sec. 90-2. APPLICABILITY TO VETERINARIANS.

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Chapter except for the provisions relating to cruelty to animals and rabies control.

Sec. 90-3. DEFINITIONS.

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

Abandon means to intentionally, knowingly, recklessly or negligently leave an animal at a location without providing for the animal's care.

Adequate food means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

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

Adequate water means a constant access to a supply of clean, fresh water provided in a sanitary manner.

Animal means any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish and reptiles.

Animal Control Officer means an individual designated to perform animal control duties described by this Ordinance. Animal control officers shall be Certified Rabies Vaccinators and Certified Euthanasia Technicians. Animal control officers shall not have the power to arrest.

Animal shelter means a place provided and operated by the county directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption and disposition of animals in accordance with this chapter.

Attack means to set upon in a forceful, violent, hostile, or aggressive way, with or without provocation. Attacks can involve animal to human or animal to animal interaction.

(1) ***Provoked Attack*** is considered normal behavior and occur when an animal responds in an aggressive, violent, terrorizing, or threatening manner to a perceived threat to its body (fear-induced), food, (possessive), territory, or offspring (protective).

(2) ***Non-provoked Attack*** occurs when an animal crosses neutral space and attacks for no reason (without being teased, molested, provoked, beaten, tortured or otherwise harmed).

At large means any animal off the property of its owner and not under the restraint of a competent person.

Bite means the act of an animal seizing the flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

Board of Commissioners means the Macon County Board of Commissioners.

Cats means any and all domesticated felines.

Citation means a written notice served by an animal control officer citing a person for a violation of this ordinance.

Civil penalty means a financial penalty imposed by an animal control officer for a violation of this ordinance.

Competent person means a person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal and to persons, other animals, including but not limited to domesticated livestock, or property.

County means Macon County, North Carolina.

Cruelty, cruel treatment, and abuse as used in this chapter mean every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully. Such acts or omissions shall include but not be limited to beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the wildlife resources commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport, or other lawful activities under state law.

Dangerous dog means any animal as defined in N.C.G.S.A. §67 - 4.1 (a) (b).

Direct control means an animal is under restraint (excludes control by voice commands) and in the custody of its owner, or other competent person having possession thereof.

Dogs means any and all domestic canines.

Domesticated animal (non-livestock) means any such animal that is accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses or swine, but not to include any Wild Animal, Farm Animal or Feral Animal as defined herein.

Domesticated livestock (Farm Animal) means livestock raised for the production of meat, milk, eggs or fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits and poultry.

Exotic animal means an animal that would ordinarily be confined to a zoo, or is a species of animal not indigenous to this State. The term specifically does not include animals of a species customarily held in this State as ordinary household pets, animals of species used in the State as a domestic livestock, fish, birds, non-venomous reptiles and species that are deemed inherently dangerous under this Chapter or regulated by the North Carolina Wildlife Resource Commission.

Feral animal means a wild animal – non-domesticated or one, such as a dog or cat that has escaped and returned to live in the wild, but has some contact and experience with humans and/or for which no one claims ownership.

Harbor means to feed or shelter an animal by the same person or household for 72 consecutive hours or more.

Health Director means the director of the Macon County Health Department.

Identified animal means an animal with an identification tag, tattoo, microchip, or other marking on which is described the animal owner's name, address and contact information.

Impoundment means the placement of an animal in the custody of a person or animal shelter duly authorized by an animal control officer and/or the Health Director.

Lead Animal Control Officer means that person designated to perform animal control duties described by this Ordinance. The Lead Animal Control Officer shall be an Animal Control Officer.

Microchip refers to a tiny permanent identification system, implanted under the animal's skin and read by a chip scanner which identifies the owners name and address and which is available on regional or national databases. Implantation is done with an injector that places the chip under the loose skin over the animal's shoulder.

Neutered male means any male which has been castrated.

Owner means any competent person or group of persons owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner of an animal is responsible for the care, actions and behavior of his or her animal(s). This definition shall also apply to the term "ownership" as used in this chapter.

Owner's property means that area described in a deed of conveyance or the area described in a lease. In a situation involving townhomes or condominiums, Animal Control will treat the common areas as being owned by the homeowners' association. In a situation involving leased apartments, Animal Control will treat the common areas as being owned by the lessor. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of townhomes, condominiums or leased apartments, or other public areas shall be treated as being off of the owner's property.

Person means any individual, family, group of individuals, corporation, partnership, organization, trade or professional association, firm limited liability company, joint venture, association, trust, estate, non-profit corporation or any other legal entity or institution recognized by law as a person.

Public nuisance means any animal off the owner's property which without provocation habitually or repeatedly chases, snaps at, attacks or otherwise behaves in an aggressive manner to pedestrians, bicyclists or vehicles or turns over garbage cans, damages gardens (vegetable or flower), damages plant beds, damages public or private property or damages livestock.

Scratch means the act of an animal with its claws which results in and/or causes a narrow or superficial wound, scrape or other type of break in the skin of a human or animal.

Section Administrator Animal Services means that person responsible for the planning, organizing, coordinating, and directing of all County Animal Services activities (including Animal Control, Animal Shelter, and Rabies Control Programs). The Section Administrator is responsible for the: Enforcement of state laws and this ordinances relating to Animal Services functions; the development of policies and procedures; impounding, care/treatment, and disposition of animals in the county shelter; development and implementation of programs and coordination with rescue groups and interested individuals to maximize the placement of abandoned and surrendered animals; and, minimize euthanasia of adoptable animals. The Section Administrator Animal Services shall be an Animal Control Officer.

Security dog means any dog used, kept or maintained on the premises of its owner for the purpose of protecting any person or property. Any such dog shall be further classified as follows:

(1) **Patrol dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

(2) **Sentry dog** means a dog that is trained or conditioned to attack or otherwise respond aggressively without command.

(3) **Watchdog** means a dog that barks and threatens to bite any intruder, but has not been specially trained or conditioned for that purpose.

Secure enclosure means a place in which an animal is securely confined in order to provide for a safe, healthy, and humane environment for the animal; prevent escape by the animal; and protect and enhances the public's health and safety. A secure enclosure consists of a locked pen or structure suitable to prevent unauthorized entry and designed to prevent the animal from escaping. Such enclosure shall be: Constructed on a concrete pad; have a double entry which protects the person entering and prevents the animal from escaping; have secure sides including the top; provides protection for the animal from the elements; and be of suitable size for the type of animal.

Spayed female means any female sterilized by removing the ovaries.

Stray means any domestic animal that is wandering at large or is lost and (1) is not an identified animal, (2) the animal control officer does not otherwise know who the owner is, or (3) does not have an owner.

Under restraint means that an animal is under sufficient physical restraint such as (1) a leash, cage, bridle, or similar effective and humane device that restrains and controls the animal; (2) sufficiently near the owner to be under his or her control and is obedient to that person's commands (exception: no animal is permitted to run at large within or upon any lands owned by or under the control of Macon County used for recreational purposes with the exception of dogs running within the designated, fenced dog park(s)); (3) on or within a vehicle being driven or parked and secured in such a manner as to prevent the animal from escaping or causing injury to persons approaching or passing by the vehicle; (4) adequately contained by a fence or other secure enclosure; or (5) within the property limits of its owner. If any unattended animal is

restrained by a chain, leash or similar restraint, it shall be designed and placed to prevent choking or strangulation.

Veterinary clinic and/or hospital means any place or establishment maintained and operated under the supervision of a licensed veterinarian as a clinic and/or hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

Vicious animal means any animal as defined in N.C.G.S. §130A-200.

Wild animal means an animal living in a state of nature; not tamed or domesticated

Sec. 90-4. JURISDICTION.

This chapter shall be effective in all areas of Macon County, North Carolina.

Sec. 90-5. ANIMAL SHELTER.

The county shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under authority of state law, this chapter, or any other county ordinance. The county may contract for the operation of the Animal Shelter as it deems appropriate. The same shall be the responsibility of the Animal Services Section of the Macon County Health Department.

Sec. 90-6 CREATION OF AN ANIMAL SERVICES SECTION OF THE MACON COUNTY HEALTH DEPARTMENT.

There is created an Animal Services section of the Macon County Health Department which shall be responsible for the Macon County Animal Shelter and Animal Control Programs hereinafter specified.

Sec. 90-7. ANIMAL CONTROL OFFICERS.

The Health Director may appoint one or more animal control officers. Any such officers shall be Macon County Health Department employees in the Animal Services Section of the Macon County Health Department. The Animal Services Section of the Macon County Health Department shall be supervised by the Section Administrator Animal Services, who shall also be an employee of the Macon County Health Department, who shall be the supervisor of that Section of the Macon County Health Department. The Section Administrator Animal Services shall report to and be under the authority of the Health Director. County animal control officers and Lead Animal Control Officer shall not have the power to arrest.

Sec. 90-8. ANIMAL CONTROL PROGRAM.

The county animal control program, as described in this chapter and as otherwise described in other county ordinances related to animals and as otherwise described in state laws, shall be administered by the Section Administrator Animal Services. Specifically:

(1) The Health Director shall designate employees or agents enforcing this Chapter as animal control officers and Lead Animal Control Officer. Animal cruelty investigators may be appointed by the Board of Commissioners as provided by law. In the performance of their duties, animal control officers shall have all the power, authority and immunity granted under this chapter and by the general laws of this state to enforce the provisions of this chapter, and the laws of this state as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of the animal control officers of the county.

(2) Except as may be otherwise provided by law, 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 such duty unless he or she acts with actual malice.

(3) It shall be unlawful for any person to interfere with, hinder or molest any animal control officer, lead Animal Control Officer, Section Administrator Animal Services, Health Director, Animal Cruelty Investigator, or law enforcement officer while in the performance of any duty authorized by this chapter or the animal control program, or the laws of the state of North Carolina, or to seek to release any animal in the custody of any of those agents, except in the manner as provided in this section.

(4) Animal control officers are not authorized to carry on their person firearms of any kind except as provided in this section. The animal control program may store at the Animal Services Section of the Macon County Health Department and use firearms (as allowed by state law) when necessary to enforce sections of this chapter or under applicable law for the control of wild, vicious or diseased animals.

(5) The Animal Control Program shall:

- a. Have the authority, along with the Health Director and law enforcement agencies to enforce all state and local laws, including ordinances, regulations and proclamations of the county pertaining to the ownership and control of dogs, cats, and other animals, and cooperate with the Health Director and all law enforcement officers in fulfilling this duty.
- b. Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control in cooperation with the Health Director and local law enforcement officers.
- c. Be responsible, in consultation with the Health Director or the health directors' designee, for the investigation of all reported animal bites.
- d. Be responsible, in consultation with the Health Director or the health directors' designee, to issue a quarantine/confinement order to the animal owner that would require the owner to confine a biting animal for ten days pursuant to N.C.G.S. §130A-200, and for reporting to the Health Director as soon as practicable the issuance of said order.
- e. Be responsible, in consultation with the Health Director or the health directors' designee, for the quarantine/confinement of any dog, or other domestic animal exposed to or suspected of having been exposed to another rabid animal and for reporting to the Health Director as soon as practicable the occurrence of any such exposure and the condition of any confined animal pursuant to N.C.G.S. §130A-200.

- f. Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by dogs or other animals.
- g. Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in the county involved in a violation of this chapter or any other county ordinance or state law.
- h. Investigate reported or observed animal cruelty or abuse independently or with a duly appointed Animal Cruelty Investigators.
- i. Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this chapter or applicable state statute.
- j. Keep, or cause to be kept, accurate and detailed records of:
 - 1. Seizure, impoundment and disposition of all animals coming into and/or leaving the custody of the animal control program.
 - 2. Any animal complaints made to Animal Services, and their investigation and disposition.
 - 3. Any animal bite cases, violations and complaints, and their investigation and disposition.
 - 4. Any animal cruelty cases, violations and complaints, and their investigation and disposition.
 - 5. Any violations of county ordinance and any investigation(s) thereof conducted and the disposition of the investigation.
 - 6. Any other matters deemed necessary by the Health Director or Section Administrator Animal Services or that may be required by county policy or state law.
- k. Be empowered to issue notices of violation, assess civil penalties for violations of this chapter, and issue citations when authorized by this ordinance or state law.
- l. Have employees who are trained to standards to be established by the Section Administrator Animal Services, which training shall include but not be limited to training as a Certified Rabies Vaccinator, Certified Euthanasia Technician, and in Animal First Aid taught by a licensed veterinarian.
- m. Be responsible for monitoring the county animal shelter to ensure compliance with all Health Department policies and procedures, state laws, rules/regulations, and any and all contracts entered into by the Health Department for the operation of the Animal Shelter.
- n. Administer in consultation with the Section Administrator Animal Services, rabies vaccines to impounded, non-vaccinated animals pursuant to N.C.G.S. §130A-186, and assist the Section Administrator Animal Services in all scheduled rabies control clinics as required by state law.
- o. Give every person a proof (certificate and metal rabies tag) of rabies vaccination at the time of adoption of a dog or cat if it is four (4) months of age or older. The Certificate will be signed by a licensed veterinarian or Certified Rabies Vaccinator as provided in this chapter.

(6) The premises for all animal shelters operated by or for the County shall meet the standards prescribed by N.C.G.S. §153A-442.

Sec. 90-9. RELATION TO HUNTING LAWS.

It shall be unlawful and a violation of this chapter for any person to fail to comply with the requirements of N.C.G.S. §113, Article 22 *et seq.* and other laws of the state relating to the use of dogs for hunting.

Sec. 90-10. NOTICE IN CASE OF INJURY.

It shall be unlawful for any person who causes injury to an animal, including but not limited to running over or hitting the domesticated animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner of the animal (if known or ascertainable with reasonable efforts made to locate the owner);
- (2) An animal control officer; or
- (3) The sheriff's department.

Sec. 90-11. MISTREATMENT OF ANIMALS UNLAWFUL.

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

- (1) It shall be unlawful for any person to subject or cause to be subjected any animal to cruel or abusive treatment or to deprive or cause to be deprived any animal of adequate food and water. With respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- (2) It shall be unlawful to restrain any animal except in a humane fashion.
- (3) It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner, or to seize, molest or tease any animal while the animal is held or controlled by its owner or while the animal is on or off the property of its owner.
- (4) It shall be unlawful for any person to abandon or forsake any animal within the County.
- (5) It shall be unlawful for any person to leave an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer, Lead Animal Control Officer or Animal Cruelty Investigators deems harmful or potentially harmful to the animal.

Sec. 90-12. CONTROL OF VICIOUS ANIMALS.

- (1) The purpose of this Section is to supplement the state laws governing vicious animals, and more specifically, N.C.G.S. §130A-200.

(2) It shall be unlawful for any person to keep any vicious animal within the county, unless under restraint and on the premises of the owner.

(3) Upon an animal control officer's observation of a vicious animal at large or off the premises of its owner and not restrained by a competent person, such officer shall immediately impound the animal and inform the Health Director or the health directors' designee.

(4) Upon an animal control officer's receipt of a complaint that an animal is behaving or has behaved viciously and is at large or off the premises of its owner and not restrained by a competent person, the animal control officer or Lead Animal Control Officer, in cooperation with the Health Director or the health directors designee, shall investigate the complaint and, upon a finding that there is probable cause to believe a violation of this chapter or other applicable law or regulation has occurred, shall take any action allowed by this chapter or state law as the circumstances may require.

(5) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when the Health Director, in consultation with the Section Administrator Animal Services, is reasonably assured that the animal is not vicious or that the vicious animal will be properly restrained on the premises of its owner.

Sec. 90-13. SECURITY DOGS.

(1) All persons owning security dogs shall register such animals with the Section Administrator Animal Services; the owner of any dog that is classed as a patrol dog or sentry dog under this chapter shall place prominently a sign or placard on his premises noting "Beware of Dog" or other information noting the presence of security dogs.

(2) It shall be unlawful for any person to keep any security dog within the county, unless under restraint and in the control of a competent person or under restraint and on the premises of the owner.

(3) Security dogs are subject to all other provisions of this chapter while off the premises of their owner.

(4) This Section shall not include dogs when exempted pursuant to N.C.G.S. §67-4.1(b) (1) – (b) (4).

Sec. 90-14. IMPOUNDMENT OF ANIMALS.

(1) All animals required by NCGS 130A-185 to be vaccinated against rabies that do not have a rabies tag at time of impoundment will be administered a rabies vaccination along with other necessary vaccinations as per Macon County Animal Shelter policy.

(2) An animal Control officer, in consultation with the Health Director or the health directors' designee, is authorized to issue a confinement order to the animal owner that would require the owner to confine a dog or other animal pursuant to N.C.G.S. §130A-198 or §130A-200. Failure to thus confine the animal would constitute a further violation subjecting the owner to appropriate criminal or civil penalties pursuant to N.C.G.S §67-4.2 and §130A-196.

(3) A domesticated animal impounded under this chapter may be reclaimed by its owner according to the procedures of the animal shelter. The owner of an impounded domesticated animal shall be responsible

for and shall pay all vaccination expenses, boarding costs, redemption or adoption fee(s) and costs associated with such impoundment prior to reclaiming the animal. If an impounded domesticated animal is not reclaimed the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to N.C.G.S §19A-32.1 and animal shelter procedures; provided, however, that domesticated animals impounded pursuant to this Section shall be held by the animal shelter for a period of ten (10) days prior to adoption or euthanasia, as applicable. Exception to the ten day holding period: If a domesticated animal impounded under this chapter has been found by the Section Administrator of Animal Services or a veterinarian to be unadoptable due to injury or defects of health or temperament may be humanely euthanized in accordance with N.C.G.S §19A-32.1 (b) (1) and animal shelter procedures. The owner of an impounded domesticated animal shall also comply with any vaccination and identification directives and be responsible for the payment to the county of all civil penalties and costs imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Section Administrator Animal Services or their designee . Bite quarantined animals not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the county animal shelter and disposed of according to standard animal shelter procedures.

(4) A feral animal impounded under this chapter that has been found by the Section Administrator of Animal Services or a veterinarian to be unadoptable due to injury or defects of health or temperament may be humanely euthanized in accordance with N.C.G.S. §19A-32.1 (b) (1) and animal shelter procedures.

Sec. 90-15. HANDLING OF STRAY ANIMALS.

(1) It shall be unlawful for any person, without the consent of the owner, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified an animal control officer, Lead Animal Control Officer or the animal shelter.

(2) Any animal at large may in a humane manner be seized, impounded and confined in the animal shelter and thereafter adopted out or disposed of pursuant to procedures of the animal shelter and applicable state law.

(3) An owner may lawfully permit an animal which is not dangerous 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. Dogs may be at large in the course of hunting if under the control of the owner as otherwise provided in this chapter. However, this provision does not exempt an owner from otherwise complying with the provisions of this chapter, including identification of animals.

(4) Upon impounding an animal, the Animal Services Section of the Macon County Health Department shall make reasonable effort to identify the animal, notify the owner, and inform such owner of the conditions whereby the identified animal may be redeemed.

(5) Impoundment of such an animal shall not relieve its owner from any penalty that may be imposed for violation of this chapter.

(6) Any animal seized and impounded that is badly wounded or diseased and has no identification may be euthanized pursuant to procedures of the animal shelter and applicable state law. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, Section Administrator Animal Services, animal control officers or animal shelter staff shall attempt expeditiously to notify the owner before euthanizing such

animal; in any event, and except as may be otherwise provided by law, the animal shelter, animal control program, Health Director and county law enforcement officers shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.

Sec. 90-16. PUBLIC NUISANCE.

It shall be unlawful for an owner to permit an animal to create or maintain a public nuisance as defined in this chapter by an animal. Compliance shall be required as follows:

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

Sec. 90-17. RABIES CONTROL.

It shall be unlawful and a violation of this chapter for any animal owner or other person to fail to comply with the requirements of N.C.G.S. §130A, Article 6, Sections 184 -199 and other laws of the state relating to the control of rabies.

Sec. 90-18. BITES.

- (1) It shall be unlawful and a violation of this chapter for any person to fail to comply with the requirements of N.C.G.S. §130A-196 and N.C.G.S. §130A-198.
- (2) Animal control officers and Lead Animal Control Officer shall notify the Health Director or the health directors' designee as soon as practicable or within 24 hours of report of an animal bite.
- (3) An animal that is confined to the animal shelter pursuant to the provisions of N.C.G.S. §130A-196, §130A-197 or §130A-198 shall become the property of the county if the owner does not redeem the animal within 72 hours following the last day of the imposed confinement period required by statute.
- (4) If Animal Control impounds an animal during the course of their investigation the animal control officer shall leave with the owner or affix to the owner's residence a notice of confinement or an order of confinement from the Health Director, as applicable. The notice of order shall contain the beginning and

ending dates of confinement and stating that the owner must redeem the animal within 72 hours of the ending date of confinement stated in the notice.

(5) The owner of an animal confined at the animal shelter pursuant to this section shall be responsible for the costs of caring for the animal while at the shelter and all fees shall be paid at the time of redemption.

(6) Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding medical costs, penalties, and fees that have accrued as a result of the animal being confined at the animal shelter.

Sec. 90-19. RABIES TAG; IDENTIFICATION REQUIRED.

It shall be unlawful and a violation of this chapter for any person to fail to comply with the requirements of N.C.G.S. §130A-192.

Sec. 90-20. PENALTIES.

The following penalties shall pertain to violations of this chapter:

(1) Violation of any provision of this chapter by any person shall be a misdemeanor under N.C.G.S. §14-4.

(2) Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to N.C.G.S. §153A-123(d), (e).

(3) In addition to and independent of any criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to civil penalties, costs and fees as follows:

a. Unless otherwise provided for in a particular section, Animal Services is authorized to assess civil penalties in the following manner:

1. A civil penalty of \$25.00 shall be assessed for the first violation of any provision of this Chapter.

2. A civil penalty of \$50.00 shall be assessed for the second or subsequent violation of this Chapter.

b. Civil penalties may be assessed for each violation of this chapter. The Section Administrator Animal Services or their designee shall issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a citation giving notice of the violation and of the civil penalty imposed. Citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. This civil penalty shall be paid to the Section Administrator Animal Services or their designee within 14 days of receipt of the citation. This civil penalty is in addition to any other fees, costs or fines imposed that are authorized by this chapter.

c. Failure on the part of the owner of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of this chapter. If an assessed civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty.

Sec. 90-21. REGULATION OF ANIMALS ON COUNTY RECREATIONAL PROPERTY.

Running at large forbidden. It shall be unlawful for any person to allow a domestic animal, including a dog or cat, within his or her possession, ownership, or direct control, to run at large within or upon any lands owned by or under the control of Macon County used for recreational purposes with the exception of dogs running within the designated, fenced dog park(s). Any domestic animal brought to or allowed to enter upon any county property used for recreational purposes shall, at all times, be kept within the direct control and/or under restraint by the owner or other competent person having the possession thereof.

Sec. 90-22. DANGEROUS DOG.

It shall be unlawful and a violation of this chapter for any person to fail to comply with the requirements of N.C.G.S. §67, Article 1A, Sections 4.1 - 4.4.

Sec. 90-23. ANIMAL CONTROL ADVISORY COMMITTEE.

The Board of Commissioners shall have authority to create and appoint an Advisory Committee of such number and composition as they shall determine. The members shall serve terms as established by the Board of Commissioners.

Sec. 90-24. FALSE REPORTS OR FRIVOLOUS COMPLAINTS.

(1) It shall be unlawful for any person to file a false report with the Animal Services Section or to knowingly provide false information to an animal control officer or Lead Animal Control Officer involving investigation of any reported violation of this Chapter.

(2) It shall be unlawful for any person to repeatedly file frivolous or unfounded complaints with the Animal Services Section of the Macon County Health Department in order to intimidate or harass any member of the Animal Services Section of the Macon County Health Department or any animal owner, or to otherwise hinder or interfere with the animal control program.

Sec 90-25. EFFECTIVE DATE OF THIS ORDINANCE

The Ordinance shall become effective on the ____ day of _____, 2018.

Upon motion made by Commissioner _____, seconded by Commissioner _____; this Ordinance was passed, adopted and ordained by the unanimous vote of the Macon County Board of Commissioners on this the ____ day of _____, 2018, at the regular meeting of the Macon County Board of Commissioners.

James P. Tate, Chairman

Attest:

Clerk of the Board of Macon County Commissioners