

**LENOIR COUNTY
ANIMAL AND RABIES CONTROL ORDINANCE**

ARTICLE I	Need for Ordinance
ARTICLE II	Authority
ARTICLE III	Definitions
ARTICLE IV	Violations
ARTICLE V	Exemption for Hunting Dogs
ARTICLE VI	Impoundment of Animals
ARTICLE VII	Disposition of Animals
ARTICLE VIII	Procedure of Enforcement
ARTICLE IX	Penalties
ARTICLE X	Interference
ARTICLE XI	Jurisdiction
ARTICLE XII	Severability and Conflict Clause
ARTICLE XIII	Effective Date

**LENOIR COUNTY
ANIMAL AND RABIES CONTROL ORDINANCE**

ARTICLE I - Need for Ordinance

The Lenoir County Board of Commissioners finds and determines that there are animals within Lenoir County running at large causing injury to persons and property, creating a nuisance by interfering with citizens' legal activities, and preventing the full enjoyment of citizens of their property. The Board finds and determines that there exist conditions that are detrimental to the health, safety, and welfare of the County's citizens and enacts this ordinance to define, regulate, prohibit, and abate such conditions.

ARTICLE II - Authority

This ordinance is adopted pursuant to the power granted Lenoir County in North Carolina General Statutes, 130A, Article 6, Part 6; 153A-104; 153A-121; 153A-122; 153A-123; 153A-127; 153A-131; 153A-152; and 153A-442.

ARTICLE III - Definitions

As used in this ordinance the following terms mean:

1. Animal - Any live, vertebrate creature including, but not limited to dogs, cats, farm animals, fowl, reptiles, excluding humans.
2. Animal Control Officer - An individual employed by the County in the position classified as Animal Control Officer, whose primary responsibility is to enforce this ordinance, and the laws of the State that pertain to rabies control, animal cruelty, investigations, and vicious animals.
3. Animal Shelter - A facility operated by a humane society, or governmental agency, or its authorized agents for the purpose of impounding or caring for animals held under the authority of this ordinance or state law.

4. At Large - Any animal shall be deemed to be “at large” when it is off the property of its owner or its keeper and not under the control or restraint of a person competent of controlling and restraining that animal.
5. Board of Health - Lenoir County Board of Health.
6. Competent Person - A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, another person, other animals, including but not limited to domesticated livestock, and property.
7. County - Lenoir County.
8. Cruel - Describes every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; such acts, omissions, or neglect shall include, but are not limited to beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, depriving of food, water, shelter, and or medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such times shall no apply to the lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission.
9. Exposed to Rabies - An animal has been exposed to rabies if it has been bitten by and animal known or suspected to have been infected with rabies.
10. Health Department - Lenoir County Health Department.
11. Health Director - Health Director of Lenoir County.
12. Impoundment - Any animal in custody of the Animal Control Officer, or a person or animal shelter authorized by the County, Health Director, Sheriff, or SPCA.
13. Keeper - A person having custody of a domestic animal or who keeps or harbors a domestic animal or who knowingly permits a domestic animal to remain on or about any premises occupied or controlled by such person.
14. Owner - A person having the right of property of an animal.
15. Person - Any individual, family, groups of individuals, corporation, partnership, organization, or institution recognized by law as a person.
16. Restraint - Any animal shall be considered under restraint if it is within the real property limits of its owner or keeper, or secured by physical means or under the control of a competent person or within a vehicle but not at risk of succumbing to the effects of high interior temperature, or adequately contained by a fence or enclosure that can be locked and is of sufficient height to prevent the animal from escaping by climbing or jumping, or confined in a building. In the case of a vicious animal, a

fence or enclosure of sufficient size and height will be approved by the Animal Control Officer.

17. SPCA - The local chapter of the Society for the Prevention of Cruelty to Animals.
18. State - The State of North Carolina.
19. Stray - Any domestic animal not wearing either a rabies or identification tag and has no known owner or keeper.
20. Suspected of Having Rabies - An animal which is not properly vaccinated against rabies as required by state law or an animal including but not limited to dogs and cats, which has bitten a person.
21. Vicious Animal - Any animal that meets the N.C. G.S. 67-4.1 definition of a “dangerous dog” or “potentially dangerous dog”; any animal on or off the premises of its owner or keeper, and the animal has without provocation bitten a person or has without provocation attacked another animal; and any dog that is owned, kept, or harbored for the purpose of dog fighting or training for dog fighting.

ARTICLE IV - Violations

- A. Any Person, owner, possessor, or keeper maintaining an animal and permits that animal to commit any of the following actions shall be in violation of this ordinance.
 1. Damages the property of anyone other than its owner or keeper including, but not limited to turning over garbage containers, soiling or defiling private or public property, or damaging gardens, flowers, or vegetables.
 2. Interferes with, molests, or attacks someone or another animal;
 3. Chases, snaps at, harasses, or impedes pedestrians, cyclists, or vehicles;
 4. Is repeatedly at large;
 5. Fails to wear valid rabies tags.
- B. An owner or keeper of an animal or any other person is in violation of this ordinance whenever he or she:
 1. Fails to comply with the rabies vaccination requirements after notice has been given;

2. Fails to restrain or confine a female dog or female cat while in heat in a building or secure enclosure in such a manner that the animal will not be in contact with a male dog or male cat. This section shall not be construed to prohibit the intentional breeding of animals within an enclosure on the premises of the owner or keeper of an animal involved in the breeding process;
3. Fails to maintain animals in a sanitary habitat;
4. Owns, maintains, or keeps any vicious animal unless animal is under restraint whether on the owner's or keeper's property or not;
5. Is cruel to an animal, abandons an animal, neglects an animal, or restrains an unattended animal on a chain or rope that is less than ten feet in length and that is not on either a swiveled or a chained run where the animal has unobstructed access to water and shelter and will not become entangled;
6. Entices or lures any animal out of an enclosure or off the property of its owner or keeper or seizes, molests, or teases any animal;
7. Possesses any paraphernalia related to dog, cock, or other animal fighting;
8. Violates any provision of the North Carolina General Statutes relating to animals;
9. Harbors, feeds, keeps in possession by confinement any stray animal which does not belong to him/her;
10. Fails to comply with a confinement order or abatement order.

ARTICLE V - Exemptions for Hunting Dogs

This ordinance is not to restrain a hunting dog from a lawful hunt during hunting season or from a lawful training on the dog owner's property or on property upon which the dog's owner has permission of the landowner to hunt or train. The owner of said animal will be responsible for complying with all portions of this ordinance.

ARTICLE VI - Impoundment of Animals

- A. The Animal Control Officer may impound an animal when there is a violation of this ordinance. An animal impounded under this ordinance may be reclaimed by its owner or its keeper in accordance with the procedures of the SPCA and upon full payment of all fines for violations of this ordinance and expenses and boarding costs associated with impoundment.
- B. In lieu of impoundment, the Animal Control Officer is authorized to issue a confinement order to the animal owner or keeper requiring the owner or keeper to restrain a vicious animal, an animal that has bitten someone, or an animal involved in an action that is a violation of this ordinance. Failure to comply with the confinement order will constitute a further violation of this ordinance.
- C. Impoundment of an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this ordinance or State Law.
- D. An owner or keeper of an impounded animal may not use adoption to reclaim the animal from the animal shelter.

ARTICLE VII - Disposition of Animals

Animals that are impounded may be reclaimed by the owner, adopted, or euthanized in accord with the policies and procedures of the SPCA. When the owner is not known, cannot be notified, or does not reclaim that animal, the animal shall be held at least 3 business days up to a maximum of 10 business days, but in no case shall an animal be impounded at the animal shelter longer than 30 calendar days. Any animal seized and/or impounded that is badly wounded, diseased, or unweaned and has no identification may be humanely destroyed pursuant to procedures of the SPCA. If the animal has

Rabies or is suspected of having Rabies, the head shall be removed and forwarded to the State's public health laboratory for testing. If a wounded, diseased, or unweaned animal has a collar or identification, the Animal Control Officer and SPCA staff shall make reasonable efforts to notify the owner or keeper before euthanizing the animal. The owner, keeper, or other person shall not have a claim against the county, the county's elected and appointed officials, county employees, and the SPCA and staff when wounded, diseased, or unweaned animals are euthanized in accord with the provisions of this ordinance. The Animal Control Officer may use a firearm when it is necessary to enforce articles of this ordinance to control wild, stray, vicious, or diseased animals.

ARTICLE VIII - Procedure of Enforcement

- A. When an Animal Control Officer observes a violation of this ordinance, the Animal Control Officer may impound the animal in question. The Animal Control Officer shall notify the owner or keeper, if known, of the violation, issue an order to abate the violation within 48 hours, and issue a citation for payment of penalty.
- B. After receiving a detailed complaint describing an alleged violation of this ordinance, the Animal Control Officer shall investigate the complaint. If in the judgement of the Animal Control Officer, the complaint is justified, the Animal Control Officer shall notify the owner or keeper of the animal or animals in question in writing, and may order abatement of such violation within 48 hours, and issue a citation for payment of penalty.
- C. If the abatement time elapses and the violation is not abated, the animal involved in the violation is subject to being impounded.

- D. When a civil penalty is levied, the person may pay the penalty at the Lenoir County Health Department, 201 N. McLewean St., Kinston, N.C., or may pay the penalty by mailing the citation notice and the required amount of the penalty to the Lenoir County Health Department, PO Box 3385, Kinston, NC 28502.
- E. In the Event that the person violating this ordinance cannot be located during normal working hours, a warning notice or citation may be mailed to said person at his last known address with a return receipt requested. The return of the signed receipt to the Animal Control Program will constitute legal delivery of the notice of citation.

ARTICLE IX - Penalties

- A. The violation of any provision of this ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in N.C. General Statute, Section 14-4, or other applicable State Law. Each days violation of this ordinance may be considered a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this sub-section does not relieve a person of his liability for taxes, fees, or civil penalties imposed under this ordinance.
- B. Enforcement of this ordinance may include any appropriate equitable remedy, injunction or order of abatement issued from a court of competent jurisdiction pursuant to N.C. General Statute 153A-123 (d) and (e).
- C. In addition to, and independent of any criminal penalties and other sanctions provided in this ordinance, a violation of this ordinance may also subject the offender to the civil penalties hereinafter set forth.
 - 1. The Animal Control Officer may issue to the known owner or keeper of the animal or to any other violator of the provisions of this ordinance a citation

giving notice of the alleged violation. Pursuant to the authority provided in N.C. General Statutes 153A-123 (a), (c), (d), and (e), any person maintaining an animal who permits such animal to be in violation of this ordinance or anyone who is in violation of this ordinance shall be subject to a civil penalty in the amount of fifty dollars (\$50.00).

2. In the event that the owner or keeper of an animal or other alleged violator does not appear in response to the above described citation, or the civil penalty is not paid within the time period prescribed (30 days), a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this ordinance, and upon conviction the owner shall be punished as provided by State Law.

ARTICLE X - Interference

It shall be a violation of this ordinance for any person to obstruct or interfere with the impoundment of any animal which is being impounded in accord with this ordinance, the N.C. Rabies Law, or other N.C. General Statutes. It shall be unlawful for any person to release or attempt to release any animal which has been impounded. It shall be unlawful for any person to tamper with or remove an animal from an Animal Control Program humane trap. It shall be unlawful for any person to interfere with, hinder, or molest any animal control officer, veterinarian, or other agent while in the performance of any duty authorized by this ordinance.

ARTICLE XI - Jurisdiction

This ordinance shall apply to unincorporated areas of Lenoir County and to municipalities with populations of less than 5,000 people upon the adoption of a resolution by the municipality providing that this ordinance shall be enforced within the

limits of the municipality. Enforcement of this ordinance within the confines of a municipality shall be subject to the availability of funds.

ARTICLE XII - Severability and Conflict Clause

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

ARTICLE XIII - Repeal of Prior Ordinance

The ordinance entitled “An Ordinance for the Humane Control and Regulation of Animals” adopted on December 1, 1975 is hereby repealed.

ARTICLE XIV - Effective Date

This ordinance shall be effective October 1, 1992.

Adopted this the 6th day of July, 1992.

John J. Langston
Chairman
Lenoir County Board of
Commissisoners23`

RESOLUTION: Approving the Amendment of the Lenoir County Animal and Rabies Control Ordinance adopted July 6, 1992.

SUBJECT AREA: Administrative

ACTION REQUESTED: The Lenoir County Board of Commissioners is being asked to amend the Lenoir County Animal and Rabies Control Ordinance adopted July 6, 1992 by adding a definition for “Adequate Shelter” in Article III-Definitions of the ordinance and adding “failure to provide adequate shelter” as a violation in Article IV-Violations, subpart B. Specifically, the term “Adequate Shelter” shall be incorporated in the Definitions section and mean the following: An enclosure/structure constructed with at least four (4) sides, a roof, and a solid floor that provides adequate protection from the elements; heat, cold, wind, rain, and frozen precipitation. The shelter shall have a water-resistant roof. If the shelter is made of wood, the floor shall be at least two (2) inches above the ground. One (1) of the four sides of the shelter must have an opening large enough to allow the dog to enter and exit easily. The interior space of the shelter shall be large enough to allow the dog to assume normal sitting and sleeping positions and the ability to freely and comfortably stand up and turn around. Dry bedding such as hay, straw, wood shavings, or cloth material shall be provided and periodically replaced. Additionally, the dog must have access to shade from May through September for protection from the heat if the shelter is not located in a shaded area. Shade may be provided by a tree or tarp. A barrel may be considered adequate shelter if the previous conditions are met in addition to the following requirements: it must not sit directly on the ground; the open side (entrance) must be tilted at least two (2) inches lower than the back to prevent puddling of rain in the interior; and it must be secured to prevent rolling or instability. The following methods of housing/sheltering a dog are considered inadequate, but they may be used by the animal for temporary shade: underneath outside steps, decks, or stoops; underneath vehicles including trailers and campers; and underneath sheds, barns, and houses. Entanglement of a tethered animal’s restraint when the animal is using any of these methods of temporary shade shall be prevented. Uninsulated plastic airline or transport kennels/carriers shall not be considered as an adequate method or type of shelter for outside use. Article IV-Violations, subpart B of the ordinance shall be amended by adding the following: 11. Fails to provide each dog in his/her possession or care proper shelter as described in Article III-Definitions, Adequate Shelter, except that a mother and her un-weaned offspring may occupy the same shelter unless doing so compromises their health or creates an unhygienic environment.

HISTORY/BACKGROUND: The current Lenoir County Animal and Rabies Control Ordinance was adopted July 6, 1992. As adopted, Article III-Definitions does not include a definition that establishes a minimum standard for housing or sheltering a dog outside. Reports of inadequate shelter for dogs is a frequent complaint of ‘animal neglect’ received by the health department’s animal control program, particularly during extreme weather related events; heat waves, cold spells, and freezing/frozen precipitation. The enforcement option available to the Animal Control Officer is citing the dog owner if the only shelter available for the dog meets the ordinance’s cruelty requirement as an act, omission, or neglect on the part of the owner that deprives the animal of shelter or otherwise subjects the animal to conditions detrimental to its health or general welfare or seek voluntary compliance through education and persuasion if no there is no cruelty violation.

EVALUATION: With an effective date of May 1, 2017, dog owners or people in possession of a dog determined by a Lenoir County Animal Control Officer to be in violation of this amendment will be allowed up to thirty (30) calendar days to comply with the amendment upon issuance of a dated notice of the violation.

MANAGER'S RECOMMENDATION:

Respectfully Request Approval.



RESOLUTION: NOW THEREFORE BE IT RESOLVED by the Lenoir County Board of Commissioners that the Lenoir County Animal and Rabies Control Ordinance adopted July 6, 1992 shall be amended by adding a definition for "Adequate Shelter" in Article III-Definitions and adding "failure to provide adequate shelter" as a violation in Article IV-Violations, subpart B, effective May 1, 2017.

AMENDMENTS:

MOVED _____ SECOND _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Hill _____ Brown _____ Best _____ Daughety _____
Davis _____ Rouse _____ Sutton _____

Craig Hill, Chairman

Date

ATTEST

Date