

Chapter 11

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ARTICLE 1
Disorderly ConductSection 11.1 General.

No occupant of any house whether residence or business shall permit same to be kept in an indecent and offensive or disorderly manner or permit loafers or idle persons to congregate therein or in front of same to the annoyance of persons passing by or living in the vicinity.

Section 11.2 Vagrants.

Any and all tramps, vagrants, persons under suspicion, who shall be found with no visible means of support, either male or female, shall not be allowed on the streets or other public places.

Section 11.2(A) Urban Camping and improper use of public lands and places. (Section Added 9/20/22)

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

- a) Camp means residing in or using a public street, sidewalk or park for private living accommodations, such as erecting tents or other temporary structures or objects providing shelter; sleeping in a single place for any substantial prolonged period of time; regularly cooking or preparing meals; or other similar activities. *Other public property* includes all public or municipal buildings, facilities, structures, properties upon which the buildings, facilities or structures are located, lots,

parcels, and any other public properties.

Public park includes all municipal parks, public playgrounds, public plazas, attractions and monuments.

Public street includes all public streets, highways, rights-of-way, public sidewalks, public benches, public parking lots and medians.

Storing personal property means leaving one's personal effects, such as, but not limited to, clothing, bedrolls, cookware, sleeping bags, luggage, knapsacks, or backpacks, unattended for any substantial prolonged length of time. The term "storing personal property" shall not include parking a bicycle or other mode of transportation.

- b) Public parks. It shall be unlawful to camp or to store personal property in any park, as defined above, owned by the town.
- c) Public streets. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public street as defined above.
- d) Other public property—Blocking ingress and egress; interfering with the normal course of business associated with the designated public property. It shall be unlawful to camp, to sleep, to store personal property, to sit or to lie down on any public property so as to interfere with ingress or egress from buildings or to interfere with the normal course of business or operations for which the buildings or properties are designated.
- e) Warning. No person may be arrested for violating this code section until he has received an oral or written warning to cease the unlawful conduct. If the violator fails to comply with the

warning issued, he is subject to arrest for urban camping.

- f) Exceptions. This section shall not be construed to prohibit the following behavior:

- (1) Persons sitting or lying down as a result of a medical emergency;
- (2) Persons in wheelchairs sitting on sidewalks;
- (3) Persons sitting down while attending parades;
- (4) Persons sitting down while patronizing sidewalk cafes;
- (5) Persons lying down or napping while attending performances, festivals, concerts, fireworks or other special events;
- (6) Persons sitting on chairs or benches supplied by a public agency or abutting private property owner;
- (7) Persons sitting on seats in bus shelters occupied by people waiting for the bus;
- (8) Persons sitting or lying down while waiting in an orderly line awaiting entry to any building, including shelters or awaiting social services, such as provision of meals;
- (9) Children sleeping while being carried by an accompanying person or while sitting or lying in a stroller or baby carriage; or
- (10) Camping by groups or persons with prior approval of the town council or their representative.
- (11) Persons camping on private property must have written permission in their possession at all times and must produce proof thereof upon law enforcement request.

Penalty. A violation of this section is a misdemeanor as set forth in G.S. 14-4. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

Section 11.2(B) Panhandlers (Section Added 9/20/22)

Definitions. The following words, terms and phrases, when used in this section, shall have the meanings

ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- a) *Automatic teller machine* means a device linked to a financial institution's account records, which is able to carry out transactions, including but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage, loan, and credit card payments.

Automatic teller machine facility means the area comprised of one or more automatic teller machines and any adjacent space which is made available to banking customers after regular banking hours.

Financial institution means any bank, industrial bank, credit union, savings and loan, check cashing business, or other financial business.

Panhandling means, without limitation, use of the spoken, written, or printed words, signs, bodily gestures, or other acts as are conducted in the furtherance of the purpose of obtaining alms or contributions of money, food, or clothing for the use of oneself or others.

Public place means a place where a governmental entity has title and/or to which the public or a substantial group of persons has access, including, but not limited to, any street, highway, parking lot, plaza, restaurant, theater, transportation facility, vendor location, school, place of amusement, park or playground.

b) *Aggressive panhandling includes:*

- (1) Accosting a person by approaching or speaking to the individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession;

- (2) Touching someone without his/her consent;
- (3) Using obscene or abusive language toward someone while attempting to panhandle or solicit him;
- (4) Forcing oneself upon the company of another by continuing to solicit in close proximity to an individual who has made a negative response by verbal or physical signs or by attempting to leave the presence of the person soliciting, or by other negative indication;
- (5) Blocking the path of the individual being solicited; otherwise engaging in conduct that could reasonably be construed as intending to force a person to accede to a solicitation;
- (6) Other conduct that a reasonable person being solicited would regard as intended to compel or force the person to accede to the solicitation.

c) *Prohibited conduct while soliciting, peddling, or panhandling.* It shall be unlawful for any person to solicit, peddle, or panhandle, as defined in subsection (a) of this section:

- (1) By engaging in any acts of aggressive soliciting, peddling, or panhandling as defined in subsection (a) of this section;
- (2) Within 50 feet of the entrance to any financial institution, any automatic teller machine or any automatic teller facility;
- (3) At any permitted outdoor dining area or outdoor merchandise area, provided such areas are in active use at the time.
- (4) At any transit stop or taxi stand, or in a public transit vehicle;
- (5) While the person being solicited

is standing in line waiting to be admitted to a commercial establishment;

- (6) On private property, unless the person has written permission from the owner of the property to beg or solicit alms on the property;
- (7) After dark, which shall mean one-half hour after sunset until one-half hour before sunrise;
- (8) While under the influence of alcohol or after having illegally used any controlled substance as defined in the North Carolina Controlled Substance Act;
- (9) Within 20 feet of any crosswalk;
- (10) In or on city streets to include the right-of-way, median or shoulder thereof;
- (11) By standing, sitting or loitering in any street or highway, including shoulders or medians, but excluding sidewalks, and/or to stop or attempt to stop any vehicle for the purpose of obtaining employment, business or contribution from the driver or any occupants of the motor vehicle in accordance with G.S. 20-175. This provision shall not apply to licensees, employees or contractors of the department of transportation or city employees engaged in construction, maintenance or in making traffic engineering surveys;
- (12) In a school zone during the time of arrival of students at the beginning of the school day and/or during the time of the departure of students at the end of the school day;
- (13) Within 20 feet of the entrance or exit of any parking deck, garage, or surface parking lot;
- (14) Within 50 feet of any city-owned or -operated

building or facility.

- (15) Persons panhandling on private property must have written permission in their possession at all times and must produce proof thereof upon law enforcement request.

Penalty. A violation of this section is a misdemeanor as set forth in G.S. 14-4. Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

Section 11.3 House of ill fame.

No person shall keep a house or other place of ill fame in the Town and no person shall knowingly rent any house to be used as a house of ill fame. All adult persons living in such house shall be considered keepers thereof and be subject to the penalties of this Code.

Section 11.4 Profanity and boisterous conduct.

It shall be unlawful for any person to use loud and boisterous language so as to become a nuisance or use any form of profanity or indecent language on the street or in a gathering or audience or assembly, or in any public place whatsoever, or to indecently expose themselves within the corporate limits.

Section 11.5 Public drunkenness.

It shall be unlawful for any intoxicated person to be on or upon any public street or other public place.

Section 11.6 Consumption or possession of alcohol on the public streets and sidewalks of the Town or in public buildings or Town maintained and operated parks and recreation facilities.

- a) It shall be unlawful for a person to consume a malt beverage or unfortified wine on the public

streets or sidewalks, owned, occupied or controlled by the Town.

- b) It shall be unlawful for a person to possess an open container of malt beverage or unfortified wine on the public streets or sidewalks owned, occupied or controlled by the Town.
- c) It shall be unlawful for any person to possess or consume malt beverages or unfortified wine on public streets, sidewalks, alleys or parking lots which are closed to regular traffic for special events.
- d) For the purpose of this section, the term "open container" means a container with a seal that has been broken or a container other than the manufacturer's unopened original container. The terms "malt beverages" and "unfortified wine" are defined in G. S. 18B-101.
- e) For the purpose of this section, alcohol consumption is allowed at the Hudson Uptown Building (HUB) so long as property ABC permits are obtained.
- f) The Board of Commissioners may adopt a resolution making other provisions for the possession and consumption of malt beverages and/or unfortified wine at special events of the Town or at special community festivals. Any resolutions that may be adopted shall provide for the specific times, dates and geographic limitations of the special event or festival.
- g) Violations of subsections (a), (b) and (c) of this section shall be misdemeanors punishable upon conviction in accordance with Section 1.5. *(Amended 7/18/2017)*

Section 11.7 Dance halls.

Any person, or persons, operating a hall for the purpose of holding public dances and charging admission for personal gain, or profit, in the Town shall secure a permit from the Town Clerk at a cost of seventy-five dollars (\$75.00), which shall expire

after twenty-four hours from the time of purchase. When such person or persons are known to allow or condone the use of alcoholic beverages, littering of the streets or premises adjacent to the hall, boisterous or disorderly conduct on the premises or otherwise disturbing the peace and well-being of the citizens of Hudson, shall be refused renewal of such permit at the discretion of the Town Clerk. Any person or persons conducting dances and charging admission for the benefit of clubs, civic organizations, schools or other groups interested in the public welfare, will not be required to pay the seventy-five dollars (\$75.00) fee as set out above, but will be subject to all restrictions as outlined. (Ord. of 11/16/67).

Section 11.8 Street Lights.

It shall be unlawful for any person to break or damage street lights. Any person violating this Section shall be fined not to exceed twenty-five dollars (\$25.00) or imprisoned for not exceeding thirty days.

ARTICLE 2 General Nuisances

Section 11.9 Unnecessary noises prohibited.

It shall be unlawful for any person, firm or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the Town. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

Furthermore, the Town of Hudson recognizes that its citizens need a time of respite and repose. The Town of Hudson shall recognize this period of respite and repose as being from the hours of 10:00 pm to 6:00 am daily. Such noise that unreasonably disrupts this period of respite and repose shall be considered unlawful. Any person creating, permitting to create or allowing to continue unlawful noise as described in this section shall be guilty of a misdemeanor, punishable upon conviction by a fine or imprisonment as provided by G.S. 14-4. *(Adopted 4/21/2020)*

Section 11.10 Noises expressly prohibited.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely;

- a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- b) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle.
- c) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance; however, upon application to the Town Clerk permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment.
- d) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.
- e) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.
- f) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
- g) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- h) The use of any mechanical device operated by compression air unless the noise created thereby is effectively muffled and reduced.
- i) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Clerk, which permit may be renewed for a period of three days or less while the emergency continues.
- j) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session or within one hundred and fifty (150) feet of any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, court or hospital street.
- k) The creation of any excessive noise on Sundays on any street adjacent to any church, provided conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street.
- l) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates and containers.
- m) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.
- n) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.
- o) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- p) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Town Clerk.
- q) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.
- r) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of

making noise or disturbance, except by permit from the Board.

Section 11.11 Firearms regulated.

It shall be unlawful for any person to discharge any firearm of any type within corporate limits except a peace officer in the performance of his duties.

Section 11.11-1 Carrying concealed handguns prohibited on Town Property.

- a) Except as provided in subsection (b) below, all persons are prohibited from carrying concealed handguns as defined in G. S. 14-269 in Town owned buildings, their appurtenant premises and parks.
- b) This prohibition shall not apply to the following persons:
 - (1) Officers and enlisted personnel of the forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;
 - (2) Civil officers of the United States while in the discharge of their official duties.
 - (3) Officers and soldiers of the militia and the national guard when called into actual service.
 - (4) Sworn law enforcement officers;
 - (5) Animal Control Officers;
- c) A conspicuous notice shall be posted at each entrance to any property set forth in (a) above stating; "Possession of weapons or carrying a concealed handgun is prohibited.
- d) Any person in violation of this section shall be guilty of a misdemeanor and upon conviction shall be fined \$500 or imprisoned for six months or both.
- e) Weapons possessed in violation of this ordinance are hereby declared to be contraband. The Chief of Police or his designee shall hold such weapon for disposal pursuant to court order. In the absence of any court order, the weapon shall be destroyed. (Order. Of 9/12/95)

Section 11.12 Posting bills – other advertising.

No person shall stick, paint, brand, stamp, write or put upon any house, fence, wall, pavement, post or upon any property, owned by any person, firm or

cooperation, or owned by the Town of Hudson, any printed, written, painted, or other advertisement, bill, notice, sign or poster, without first having obtained the written permission of the owner of such property and having received a permit from the Town Clerk.

Section 11.13 Fire bombs prohibited.

- a) For the purposes of this section, the following terms shall have the meanings herein ascribed:
 - (1) "Molotov Cocktail" is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents which is filled with any inflammable fluid or substance, and which is fitted with a fuse or wick.
 - (2) "Firebomb" is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.
- b) It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.
- c) It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or their premises. The provisions of this Section shall be cumulative and in addition to any other ordinance or General Statutes of North Carolina on this subject.

Section 11.14 Same; enforcement.

The Chief of Police of the town is hereby authorized to enforce the preceding section for such periods of time as he shall deem necessary.

ARTICLE 3 Animals

Section 11.15 Animals at large.

No horse, goat, cattle or other animals, except a domestic house cat with a current rabies inoculation tag, shall be permitted to run at large within the Town Limits. Running at large means to be off the premises of the owner and not under the reasonable control of the owner or an authorized person, either by leash or otherwise, but an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises. All animals caught running at large shall be reported to the Caldwell County Animal

Control Department by the Hudson Police

Department. (Amended by Ord. of 8/4/81 and Ord. of 3/17/97)

(Adopted 9/2008)

Section 11.15-1 Dog owners to clean up after dogs.

Any person owning, harboring, walking, in possession of or in charge of a dog which defecates on public property, public park property, public right-of-way or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes, and shall be disposed of in a lawful manner. Violation of this provision of this Article may be punishable by a civil citation of \$50.00 per occurrence.

Section 11.16 Nuisance

It shall be unlawful for any animal owner or keeper to harbor, maintain, or permit on any lot, parcel of land, or premises under his control, any dog or other animal which by any sound or cry shall disturb the peace and comfort of the inhabitants of the neighborhood or interfere with any person in the reasonable and comfortable enjoyment of life or property. (Ord. of 8/4/81)

Section 11.16-1 Running on owner's premises.

The provisions of this Article do not prohibit animals from running at large on the premises of the owner or person having charge of the animal. (Ord. of 8/4/81)

Section 11.16-2 Control and penalty.

- a) It shall be unlawful for any person owning or having charge of any animal to permit the animal to run at large, unless the animal is under reasonable control as set forth in Section 11.15 of this Article.

For the purpose of this Article, an animal shall be deemed not under control when:

- (1) The animal inflicts damage or injury (by biting, jumping upon, pollution of vegetation, or by any other means whatsoever) to the person or property of anyone other than the owner, except in the defense of the owner, his family, or property.
- (2) In the case of any unsprayed female animal, when the animal is not securely confined in the owner's yard, pen or other enclosure.

- b) Any animal found running at large in the Town of Hudson shall be impounded. It shall be the duty of the Hudson Police Department, in cooperation with the Caldwell County Animal Control Department, to capture and impound said animal(s) in the Caldwell County Animal Shelter.

Any person owning, keeping, or having charge or control of any animal and allowing the animal to run at large in violation of the provisions of this Article shall pay a civil penalty in accordance with the Town of Hudson Schedule of Fees. Any subsequent violations may be punished as a misdemeanor in accordance with Section 14-4 of the General Statutes (Ord. of 8/4/81; amended by Ord. of 3/17/97)

Section 11.17 Bird Sanctuary.

The entire area embraced within the corporate limits of the Town of Hudson is hereby designated as a bird sanctuary.

It shall be unlawful to trap, hunt, shoot or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests. Provided, however, if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the proper health authorities of the Town of Hudson, then in such event said health authorities shall meet with representatives of the Audubon Society, Bird Club, Garden Club or Humane Society, or as many of said clubs as are found to exist in the Town of Hudson, after having given said clubs at least three days actual notice of the time and place of said meeting to the representatives of said clubs.

If, as a result of said meeting, no satisfactory alternative is found to abate such nuisance, then said birds may be destroyed in such numbers and in such manner as is deemed advisable by said health authorities under supervision of the Chief of Police of the Town of Hudson.

Anyone violating the provisions of this Section shall be punished by a fine of not more than two hundred dollars (\$200) or imprisoned for a period not to exceed thirty days. (Ord. of 2/6/73, as amended by ord. of 8/4/81 and Ord. of 3/17/97).

Section 11.18 Caldwell County Animal Control Ordinance

The Caldwell County Animal Control Ordinance, adopted by the Caldwell County Board of Commissioners on March 17, 1997, was adopted in its entirety by the Town of Hudson Board of Commissioners. The Ordinance was adopted as follows:

**CALDWELL COUNTY
ANIMAL CARE ENFORCEMENT
ORDINANCE**

Adopted this the 17th day of March, 1997.
This document replaces the original Animal Control Ordinance and amendments, beginning with Book 887, Page 419. A copy of this ordinance is on file in the Town Clerk's Office.

A copy of Caldwell County Animal Care Enforcement Ordinance begins on the following page. (Note: The copy of the Caldwell County Animal Care Enforcement Ordinance included was amended by Caldwell County on October 10, 2022.)

Section 11.19 reserved.

CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

ADEQUATE ENVIRONMENT. The provisions of a safe and sanitary environment for an animal, free of debris, hazards, waste, and filth.

ADEQUATE FOOD. Provisions at suitable intervals, not to exceed 24hrs, of a sufficient quantity of wholesome foodstuff suitable for the species and age to maintain a reasonable level of nutrition for the animal.

ADEQUATE SHELTER. Any suitable weatherproof structure intended to be inhabited by an animal, built in such a way as to have 4 sides, 1 side having ample opening to allow for an entrance for the animal. The structure will have a top and bottom being large enough for the animal to turn around while inside.

ADEQUATE WATER. Constant access to a supply of clean, fresh, unfrozen, and potable water is provided in a sanitary manner.

ANIMAL SERVICE OFFICER. Animal Service Officers constitute Animal Control Officers as defined by N.C.G.S. 67-30.

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

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

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

BREEDER. Any person or establishment that breeds animals for the purpose of resale to the general public or dealers.

CAT. A domestic feline of either sex, including stray.

COLD WEATHER SHELTER- A shelter where the temperature is below 32 degrees Fahrenheit will provide a secondary source of heat including but not limited to cedar shavings or straw.

DANGEROUS ANIMAL. Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act that may endanger persons or property; and/or any non-domesticated animal indigenous to the state, including hybrid animals that are part wild.

(1) This would include, but not be limited to, any dog that either assaults, bites, attacks or inflicts serious injury on a human being without provocation on public or private property, and/or that has killed or injured a pet or domestic animal without provocation.

(2) Exceptions: No dog is DANGEROUS pursuant to this definition:

(a) If, at the time the threat, injury or damage was sustained, the person attacked was teasing, tormenting, abusing or assaulting the dog; or has in the past teased, tormented, abused or assaulted the dog; or was committing or attempting to commit a crime; or

(b) If it has attacked or injured a pet or domesticated animal in defense of an attack by another animal, or if it is protecting or defending its young.

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

DOG. A domestic canine of either sex, including stray.

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

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

EXPOSED TO RABIES. Any person or animal that has bitten, been bitten by, or otherwise come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

HOT WEATHER SHELTER- A shelter that shall be located in a shaded area provided for the animal when the temperature exceeds 80 degrees Fahrenheit.

INHERENTLY DANGEROUS

MAMMAL. Any live member of the Canidae, Felidae or Ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

- (1) Canidae, including any member of the dog (canid) family not customarily domesticated by humans, or any hybrids thereof, including wolf hybrids that are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);
- (2) Felidae, including any member of the cat family weighing over 15 pounds not customarily domesticated by man, or any

hybrids thereof, but not including domestic cats (*Felis catus*); and

- (3) Ursidae, including any member of the bear family, or any hybrids thereof.

KENNEL. Any person, group of persons, partnership or corporation engaged in boarding animals.

NEUTERED. Any male animal that has been operated upon to prevent reproduction.

NUISANCE. The acts or actions by a cat or dog shall be considered a NUISANCE if any of the following occurs:

- (1) Turns over garbage containers or removes garbage from them;
- (2) Damages gardens, foliage or other real or personal property;
- (3) Defecates or urinates on property other than the owners;
- (4) Is maintained in an unsanitary condition that results in offensive odors or is dangerous to public health;
- (5) Chases, harasses or otherwise molests other animals, pedestrians, bicyclists or vehicles.

OWNER. Any person, group of persons, firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring, or allowing an animal to remain on or about their property for more than 14 consecutive days. In the event that the OWNER of an animal is a minor, for purposes of this chapter, the parent or guardian of such minor shall be considered the OWNER of that animal. The OWNER of an animal is responsible for the care, actions and behavior of his or her animals.

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

RESTRAINT. That portion of land owned or occupied by an owner, not including any portion of such land that is accessible to the public as a right-of-way.

RESTRAINT. An animal is under RESTRAINT within the meaning of this chapter if it is:

- (1) Controlled by means of a chain, leash or other like device;
- (2) On or within a vehicle being driven or parked;
- (3) Within a secure enclosure; or
- (4) Within the dwelling house of the owner.

SECURE ENCLOSURE. A fence or structure with 4 sides of adequate height, made from metal or chain link fencing or equivalent fencing material, forming or causing a humane secure enclosure. The door or gate shall have a latch capable of being securely locked to prevent the animal from escaping or the entry of young children. The secure enclosure shall have a securely fitting top made from metal or any chain link fencing or equivalent fencing to prevent the dog from climbing out, and a floor made of concrete, concrete pavers or equivalent to prevent the dog from digging out of the secure enclosure. For purposes of this definition, a home, mobile home or separate garage does not qualify.

SPAYED. Any female animal that has been operated upon to prevent reproduction.

STRAY. Any dog or cat that appears STRAY, homeless or unwanted,

and any dog or cat that is not displaying a valid rabies tag.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 4-7-2014)

§ 90.02 ESTABLISHMENT AND COMPOSITION OF THE OFFICE OF ANIMAL CONTROL.

- (A) There is hereby created the Office of Animal Care Enforcement within the County, which shall be composed of such employees and/or officials as shall be determined by the Board of Health and Board of Commissioners.
- (B) Employees or agents enforcing this chapter shall be designated as animal enforcement officers. In the performance of their duties, animal enforcement officers shall have all the powers, authority and immunity granted under this chapter and by the general laws of this state to enforce the provisions of this chapter, and the General Statutes of North Carolina as they are related to the care, treatment, control or impounding of animals.
- (C) Except as may be otherwise provided by statutes, local laws or ordinances, 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 those duties, unless he or she acts with actual malice.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.03 GENERAL DUTIES OF THE
OFFICE OF ANIMAL CARE
ENFORCEMENT

(A) The Office of Animal Care Enforcement shall be charged with the responsibility of:

- (1) Enforcing in this county all state laws, rules and regulations and all county ordinances relating to the care, custody and control of domesticated dogs and cats;
- (2) Assisting in the enforcement of the laws of the state with regard to animals, and especially with regard to vaccination of animals against rabies, and the confinement or controlling of dangerous animals and dangerous dogs;
- (3) Investigating cruelty or abuse with regard to all animals;
- (4) Making canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or state statute; and
- (5) Operating, pursuant to policies of the Board of County Commissioners, and the county animal shelter.

(B) It shall be the duty of the Office of Animal Care Enforcement Staff to keep, or cause to be kept, accurate and detailed records of:

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

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

(3) All funds belonging to the county which were derived from the operation of the animal control program;

(4) All rabies vaccinations given in the county by veterinarians, Animal Care Enforcement staff and any certified rabies vaccinator appointed by the local Health Director; and

(5) All other records deemed necessary.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 4-7-2014)

§ 90.04 ESTABLISHMENT OF A
DANGEROUS DOG APPEAL BOARD.

There is hereby created a Dangerous Dog Appeal Board to serve as the official appellate body that hears all dangerous dog appeals (per G.S. § 67-4.1). The Appeal Board will convene at the direction of the Caldwell Animal Care Enforcement Director or his/her designee. The Appeal Board is to be composed of 5 members and 1 alternate appointed by the Caldwell County Board of Health and shall serve 3-year staggered terms. The Appeal Board shall be composed of members of the general public. The following will be considered when being appointed to the Dangerous Dog Board:

(A) a person that is familiar with animals and works with them on a regular basis;

(B) a person who is active in animal welfare issues;

(C) a law enforcement officer and;

(D) two citizens at large.

All members of the board shall be citizens of Caldwell County.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009; Am. Ord. passed 7-16-2012; Am. Ord. passed 4-7-2014)

Statutory reference:

Dangerous dogs, see G.S. § 67-4.1

§ 90.05 ENFORCEMENT IN MUNICIPALITIES; RESTRICTED.

Animal Care Enforcement officers shall have no authority to enforce this chapter within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that the county is empowered to enforce the provisions of this chapter within that municipality, and repeals any inconsistent ordinance.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.06 DECEASED ANIMALS.

(A) It shall be the duty of the owner or person in charge of any animals that die from any cause, and the owner, lessee or person in charge of any land upon which any animals die, to bury the dead animals to a depth of at least 3 feet beneath the surface of the ground within 24 hours after the death of the animals is known, or to otherwise dispose of the animals in a manner approved by the state veterinarian.

(B) It shall be unlawful for any person to remove the carcasses of dead animals from his or her premises to the premises of any other person, without the written permission of the person having charge of

the premises and without burying the carcasses as provided in this section.

(C) The Animal Care Enforcement Officers ~~does~~ do not pick up any deceased animal from properties or roadways.

(D) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

PROHIBITED ACTIVITIES

§ 90.15 ANIMAL CRUELTY.

(A) Prohibition. It shall be unlawful for any person to molest, tease, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, wound, injure, poison, abandon, kill or subject to conditions detrimental to the health or general welfare of any animal, or to cause or procure that action. The words TORTURE and TORMENT shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. However, this section shall not apply to the following activities:

(1) The lawful taking of animals under the jurisdiction and

- regulations of the North Carolina Wildlife Resources Commission;
- (2) Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry or aquatic species;
 - (3) Activities conducted for lawful veterinary purposes; and
 - (4) The lawful destruction of any animal by its owner, veterinarian, Health Director Animal Care Enforcement Officer, for the purposes of protecting the public, other animals, property or the public health.
- (B) General care; prohibited acts. All animals shall be kept and treated in an adequate environment and it shall be unlawful for any person to engage in 1 or more of the following acts:
- (1) Failure to provide adequate food, adequate water and cold and hot weather shelter:
 - (a) All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in proper containers suitable for the age and species of the animal, and sufficient to maintain a healthful level of nutrition;
 - (b) All animals shall have access to a constant supply of clean, fresh water; and
 - (c) All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include, but are not limited to, the following:
 - 1. Underneath outside steps, decks and stoops;
 - 2. Underneath houses;
 - 3. Inside or underneath motor vehicles;
 - 4. Inside metal barrels;
 - 5. Inside cardboard boxes;
 - 6. Inside temporary animal carriers or crates;
 - 7. Shelters located in flood-prone areas; and
 - 8. Shelters surrounded by debris, obstructions or impediments that may endanger an animal.
 - (2) Failure by any owner to keep his or her animal or animals in good health and comfort, and veterinary care when needed to prevent suffering and humane care and treatment;
 - (3) Animal cruelty. Examples of cruel treatment include, but are not limited to, the following:
 - (a) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck;
 - (b) Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised;
 - (c) Allowing a dog or cat to be tethered or contained in such a way as to prevent it from having adequate shelter at all times;
 - (d) Intentionally allowing animals to engage in a fight;
 - (e) Allowing animals to live in crowded or unsanitary conditions; and
 - (f) Failure or refusal to obtain medical treatment for an animal when that treatment is obvious.
 - (4) Chaining or tethering an animal to a stationary object for a period of time or under conditions that are harmful or potentially harmful to

the animal. Examples of improper chaining or tethering include, but are not limited to, the following:

- (a) Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal;
 - (b) Using a chain or tether made of rope, twine, cord or similar material;
 - (c) Using a chain or tether that is less than 12 feet in length and/or does not have swivels on 1 end. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar;
 - (d) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property, or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter; and
 - (e) Using a chain as a primary collar. All collars used for the purpose of chaining or tethering animal must be made of nylon or leather.
- (5) Selling or offering for sale, bartering or giving away within the county baby chicks, ducklings or other fowl under 6 weeks of age, or rabbits under 8 weeks of age, as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of baby chicks, ducklings or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for

purposes other than for pets or novelties; and

- (6) Coloring, dyeing, staining or otherwise changing the natural color of baby chickens or other fowl or rabbits.
- (7) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.16 FEMALE IN ESTRUS (HEAT).

It shall be unlawful for any owner or keeper of a female dog in estrus (heat) not to confine the dog in a secured enclosure.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.17 KEEPING OF INHERENTLY DANGEROUS MAMMALS

- (A) Prohibition. It shall be unlawful for any person to keep an inherently dangerous mammal within the county.
- (B) Exemption. Traveling fairs, circuses and carnivals shall be exempt from this section.
- (C) Recapturing.
 - (1) The owner of any inherently dangerous mammal shall reimburse the county for all costs incurred while attempting to recapture any escaped, inherently dangerous mammal.
 - (2) If the animal is sheltered or euthanized by Animal Care Enforcement, the owner shall also pay these costs.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.18 CONFINEMENT AND PROCEDURE OF POTENTIALLY DANGEROUS DOGS.

- (A) The owner of a dog that has been deemed potentially dangerous by the Office of Animal Care Enforcement will be notified in writing, giving the reasons for the determination.
 - (1) The owner shall immediately confine the dog in a humane secure enclosure.
 - (2) If no humane secure enclosure is available at the owner's residence, the dog shall be confined at the animal control shelter or a boarding facility at the owner's expense.

- (B) The owner may appeal the determination by filing written objections with the Dangerous Dog Appeal Board within 3 days.
 - (1) The Appeal Board shall schedule a hearing within 10 days of the filing of the objections. After the appellate hearing, the Board will determine, based on the testimony and evidence, if the dog should be considered dangerous or overturn the declaration.
 - (2) The owner of the dog and the complainants will be notified by mail the outcome of the hearing.
 - (3) If the dog is found by the Board to be considered a dangerous dog, the owner of the dog is required to keep the dog in accordance with all state and local laws pertaining to dangerous dogs.
- (C) If the owner of a dog that has been deemed potentially dangerous does not file an appeal with the Dangerous Dog Appeal Board within 3 days of the notice, the dog shall be considered a dangerous dog.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

Statutory reference:

Potentially dangerous dogs; definition and procedures, see G.S. 67-4.1 through 67-4.4

§ 90.19 CONFINEMENT REQUIREMENTS; CONFISCATION OF DANGEROUS DOGS.

- (A) The owner of a dog that has been deemed dangerous by the Office of Animal Care Enforcement or the Dangerous Dog Appeal Board will

- be notified in writing, giving the reasons for the determination. The owner shall immediately and at all times confine the dog in a humane secure enclosure. If no secure enclosure is available at the owner's residence, the dog shall be confined at the Animal Care Enforcement shelter or a boarding facility, at the owner's expense, until a humane secure enclosure is constructed on the owner's property. The enclosure must meet the approval of the Animal Care Enforcement Director, who has the authority to mandate additional confinement requirements at his or her discretion. If no adequate humane secure enclosure is constructed upon the owner's property after the expiration of 30 days of notice of declaration, the dog shall be euthanized.
- (B) The owner shall conspicuously and securely display a uniform dangerous dog warning sign on the secure enclosure. Additional uniform dangerous dog warning signs shall be conspicuously and securely posted at all points of entrance to the residence, and must be visible and legible from the public highway or street. Uniform dangerous dog warning signs must be purchased from the Animal Care Enforcement Department at the owner's expense.
- (C) The owner of a dog that has been deemed dangerous shall have the dog spayed/neutered at the owner's expense, and provide proof of the spay/neuter to the Animal Care Enforcement Department within 30 days of the date of written notification.
- (D) The owner of a dog that has been deemed dangerous shall have the dog micro-chipped at the owner's expense, and register the micro-chip number with the Animal Care Enforcement Department within 2 business days of the date of written notification.
- (E) A dog that has been deemed dangerous either by Animal Care Enforcement or by the Dangerous Dog Appeal Board shall at all times be kept in a humane secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog is on the premises. The humane secure enclosure shall be locked at all times to prevent the escape of the dog or the entry of young children. The dog may be removed from the secure enclosure for exercise or veterinary care so long as it is under the control of its owner by the use of a securely attached leash and muzzle.
- (F) An Animal Care Enforcement officer is empowered to confiscate a dog and harbor it at the owner's expense if the dog is found in violation of state and/or local laws pertaining to dangerous dogs. If any dangerous dog is confiscated under this provision, the owner of the dangerous dog shall be given written notice at the time of confiscation that the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.

- (G) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.20 REQUIRED NOTIFICATION TO ANIMAL CARE ENFORCEMENT BY OWNERS OF DANGEROUS DOGS.

The owner of a dangerous dog shall inform the Office of Animal Care Enforcement, as soon as practicable, but not later than 24 hours after the occurrence of any of the following:

- (A) An assault, attack or biting upon any human being committed by a dangerous dog;
- (B) An assault, attack or biting upon any domesticated animal or pet by a dangerous dog;
- (C) The destruction of or damage to property of another by a dangerous dog; or
- (D) The roaming or escape of any animal required to be restrained or confined to a secure enclosure.
- (E) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation

continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.21 TRANSFER OF OWNERSHIP OR RELOCATION OF DANGEROUS DOGS.

- (A) If the owner of a dangerous dog wishes to transfer ownership or possession of the dog to another person, the owner shall provide written notice to the authority that made the determination under this chapter, stating the name and address of the new owner or possessor of the dog before the ownership of the dog is transferred.
- (B) If the owner of a dangerous dog plans to relocate and/or change address, the owner shall provide written notice to the authority that made the determination under this chapter, stating the new address and or date of relocation prior to this occurrence.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

§ 90.22 LAW ENFORCEMENT DOGS EXCLUDED.

Any dog used by a law enforcement agency in the investigation of crimes, or as otherwise necessary in the enforcement of the law, is excluded from requirements of this chapter, with the exception that they are regulated by the provisions of §§ 90.15 and 90.36.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.23 DOGS USED FOR SENTRY OR GUARD DUTY.

A sign warning that there is a guard or sentry dog on the premises shall be displayed. The owner shall post a plainly visible sign upon the secure enclosure, warning that a dangerous dog or animal is on the premises. Any person owning, maintaining or harboring a dog for sentry or guard purposes must register the dog with the Office of Animal Care Enforcement.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.24 INTERFERENCE WITH ENFORCEMENT.

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

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.25 ANIMALS CREATING A NUISANCE.

(A) Pursuant to G.S. § 153A-121, a county may by ordinance define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens, and the peace and dignity of the county; and may define and abate nuisances.

(B) Nothing in this chapter shall prevent a private citizen from bringing an action to abate a nuisance, or from bringing an action for damage, loss or injury to the private citizen or his or her property resulting from an animal being a public nuisance.

(C) Penalty. Violation of this section shall be punishable as a Class 3

misdemeanor and/or \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.26 EXCLUSION FOR HUNTING DOGS.

This chapter shall not be interpreted as restricting persons owning specially trained hunting/working dogs from actually using their dogs for hunting/working in the presence of the owner or an agent of the owner, and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations or ordinances of the state and the county.

(Ord. passed 10-5-2009)

§ 90.27 NUISANCES PROHIBITED.

It shall be unlawful for any owner to permit a dog or cat to create a nuisance as defined by this chapter.

(A) Nuisance acts. It shall be unlawful for an owner to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Nuisance means any act of an animal that disturbs rights and privileges common to the public or enjoyment of private property. The commission of a nuisance act on more than one

occasion shall be evidence of a nuisance. A nuisance act includes but is not limited to:

- (1) Continuously or frequently roams or is found on the property of another person;
 - (2) Turns over garbage containers or removes garbage from a container;
 - (3) Damages gardens, foliage or other real personal property of another person;
 - (4) Eliminates on private property without the permission of the property owner;
 - (5) Walks on or sleeps on automobiles of another person;
 - (6) Is maintained in an unsanitary condition so as to be offensive to sight or smell;
 - (7) Is not confined to a building or secure enclosure while in estrus;
 - (8) Is diseased or dangerous to the health of the public;
 - (9) Chases, snaps at, attacks, or otherwise molests pedestrians, cyclists, motor vehicle passengers, farm stock, or domestic animals;
 - (10) Is housed or restrained less than five feet from a public street, road or sidewalk.
 - (11) Habitually loiters on school grounds or county recreation property.
- (B) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

§ 90.28 PROCEDURE FOR COMPLAINT.

Any citizen who personally witnesses a violation of this chapter may file a complaint in the following manner:

Nuisance complaints. Any person wishing to file an animal nuisance complaint must fill out a nuisance/complaint form. Before initiating a civil or criminal proceeding pursuant to this chapter or any state statute, the Animal Services Director or his or her designee shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from the complaint.

(Ord. passed 10-5-2009)

RABIES CONTROL

§ 90.35 COMPLIANCE WITH AND SUPPLEMENTARY TO STATE LAW.

- (A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.
- (B) It is the purpose of this subchapter to supplement state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to

punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.36 INOCULATION OF DOGS, CATS AND OTHER PETS.

- (A) It shall be unlawful for an owner to fail to provide current inoculation against rabies for any dog or cat 4 months of age or older. Should it be ordered by the County Animal Care Enforcement, County Board of Health, the County Board of Commissioners or the State Public Health Veterinarian that other pets be inoculated in order to prevent a threatened epidemic, or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.
- (B) A rabies inoculation shall be deemed "current" for a dog or cat if 2 inoculations have been given 1 year apart, and booster doses of rabies vaccine administered every 3 years.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.37 INOCULATION TAG.

- (A) Upon complying with the provision of § 90.36, there shall be issued by the inoculator, to the owner of the animal inoculated, a metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.
- (B) It shall be unlawful for any dog or cat owner to fail to provide the dog or cat with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.
- (C) It shall be unlawful for any person to use for any animal a rabies inoculation tag issued for another animal.
- (D) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.38 REPORT AND CONFINEMENT OF ANIMALS BITING PERSONS OR SHOWING SYMPTOMS OF RABIES.

- (A) Every dog or cat that has bitten any person or that shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Care Enforcement Office, and thereupon shall be securely quarantined at the direction of the Animal Care Enforcement Office for a period of 10 days, and shall not be released from the quarantine except by written permission from the Animal Care Enforcement Office.
- (B) Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel approved by the Office of Animal Care Enforcement, or county animal shelter, at the expense of the owner; provided, however, that if an Animal Care Enforcement officer determines that the owner of an animal that must be quarantined has adequate confinement facilities upon his or her own premises, the animal control officer shall authorize the animal to be confined on the premises. The Animal Care Enforcement officer determines may not authorize the animal to be confined on the owner's premises unless the owner has a fenced-in area in his or her yard, and the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof will be required at the time of investigation. If the animal is confined on the owner's premises, the Animal Care Enforcement officer determines shall revisit the premises for inspection purposes, at approximately the middle of the

confinement period, and again at the conclusion of the confinement period.

- (C) In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies, or kept for the supervised quarantine period required by this section at the county animal shelter.
- (D) If rabies does not develop within 10 days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the Animal Care Enforcement Office. If the dog or cat has been confined in the county animal shelter, the owner shall pay any necessary veterinarian fees and a boarding fee set by and approved by the County Board of Commissioners. Any animal that has bitten a person, which has not been reclaimed within 24 hours from the end of the 10-day rabies observation quarantine period, shall be destroyed by the Animal Care Enforcement Office
- (E) In the case of any carnivore or bat, the animal may be euthanized and the head examined for rabies.
- (F) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.39 DESTRUCTION OF ANIMAL EXPOSED TO RABID ANIMAL.

Unvaccinated animals exposed by a known rabid animal shall be immediately destroyed. If the animal has a current rabies inoculation, it shall be revaccinated and returned to the owner.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.40 AREA-WIDE EMERGENCY QUARANTINE.

- (A) When reports indicate a positive diagnosis of rabies, the County Health Director may order an area-wide quarantine for such period as he or she deems necessary. Upon invoking of such emergency quarantine, no dog, cat or other carnivore shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no dog or cat or other carnivore may be taken or shipped from the county without written permission of the Office of Animal Care Enforcement. During the quarantine period, the local

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

- (B) In the event there are additional positive cases of rabies occurring during the period of quarantine, the period of quarantine may be extended at the discretion of the County Health Director.
- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.41 POSTMORTEM DIAGNOSIS.

- (A) If an animal dies while under observation for rabies, the head of the animal shall be submitted to the County Health Department for shipment to the State Laboratory of Public Health for rabies diagnosis.
- (B) The carcass of any animal suspected of dying of rabies shall be surrendered to the County Animal Care Enforcement Office. The head of the animal shall be submitted to the County Health Department for shipment

to the State Laboratory of Public Health for rabies diagnosis.

- (C) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.42 UNLAWFUL KILLING, RELEASING AND THE LIKE OF CERTAIN ANIMALS.

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies or any animal that has bitten a human, or to remove the animal from the county without written permission from the Animal Care Enforcement Office.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.43 FAILURE TO SURRENDER
ANIMAL FOR QUARANTINE OR
DESTRUCTION.

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this subchapter, when demand is made therefor by the Animal Control Office.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

IMPOUNDMENT

§ 90.55 GENERALLY.

Any animal that appears to be lost, stray or unwanted, or that is found to be not wearing a valid rabies vaccination tag, as required by state law and this chapter, and not under restraint in violation of this chapter, shall be impounded by the Animal Control Office by any means necessary and confined in an animal shelter in a humane manner. Impoundment of the animal shall not relieve the owner thereof from any penalty that may be imposed for violation of this chapter.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.56 TRAPPING.

The Animal Care Enforcement Department is authorized to place, upon request, live-capture animal traps on private property of the requestor or public property, to trap and remove stray, at-large, unwanted or nuisance animals. It is unlawful for any person other than an Animal Control Care Enforcement Officer or his or her designee to remove any animal from the trap, or to damage, destroy, move or tamper with the trap.

Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 10-5-2009)

§ 90.57 NOTICE TO OWNER.

Immediately upon impounding an animal, the Animal Care Enforcement Office shall make reasonable effort to notify the owner and inform the owner of the conditions. If the owner is unknown or cannot be located, Animal Care Enforcement shall hold the animal for 3 days (72 hours).

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.58 REDEMPTION BY OWNER
GENERALLY.

- (A) The owner of an animal impounded under this subchapter may redeem the animal and regain possession thereof within 72 hours from the time notification of impoundment is given, as required by § 90.57, by complying with all applicable provisions of this chapter, and paying any necessary veterinary fees and a boarding fee set and approved by the County Board of Commissioners.
- (B) No animal owner may be permitted to adopt his or her own animal under the provisions of this section in order to reclaim an animal that has been impounded pursuant to state law or this subchapter.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.59 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMALS GENERALLY.

Disposition of animals in Animal Services custody will be as follows:

- (A) Stray animals will be held for a period of 96 hours to allow owners to reclaim the animals pursuant to N.C.G.S. § 19A-32.1, Minimum holding period for animals in animal shelters; public viewing of animals in animal shelters; disposition of animals.
- (1) Cats deemed to be feral by the Animal Services Director or designee will be held for a period of 72 hours. For the purposes of this section, feral shall mean a cat that has escaped from a domestic or captive status and is living as a

wild animal or a cat which was never domesticated.

- (B) Animals can be reclaimed by owners for fees in accordance with the fee schedule. The owner of an impounded animal shall be entitled to redeem such animal, except as provided in this chapter, upon the payment of all redemption fees as provided in § 92.99 below, and upon furnishing proof of ownership. Animals cannot be reclaimed without proof of a current rabies vaccine, or a rabies vaccine given by Animal Services Certified Rabies Vaccinators (CRVs).
 - (1) In addition to this, dogs will need to wear rabies vaccination tags upon reclaim pursuant to N.C.G.S. § 130A-190, Rabies vaccination tags.
- (C) If not reclaimed after 96 hours stray animals will be made available for the additional outcomes of: adoption, transfer to a rescue group, or euthanasia per N.C.G.S. § 19A-32.1.
- (D) Owner surrendered animals with proof of ownership will be made available for disposition by the Director of Animal Services or designee after a period of 24 hours.
- (E) Nothing in this section shall prevent an animal that is seriously ill or injured from being euthanized for humane reasons prior to end of stray hold per N.C.G.S. § 19A-32.1.
- (F) Emergency rabies quarantine. No animal that has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during a period of

emergency rabies quarantine invoked pursuant to § 90.40, except by special authorization of the County Health Director.

- (G) Adoption contract. Any person adopting a dog or cat from the animal shelter shall be required to sign an adoption contract with the animal shelter, the major provisions of which are outlined in this section. The purchase of euthanized animals from the animal shelter by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.

(H) Exceptions.

(1) The Animal Control Office has the right to refuse adoption of animals to:

- (a) Persons less than 18 years of age; or
- (b) Persons who have previously been cited for violations of this chapter.

(2) Maximum number of animals adopted to same household is 3 per calendar year.

(I) Any animals that exhibit fierce, dangerous or aggressive behavior will not be offered for adoption.

(J) Penalty. Violation of this section shall be punishable as a Class 3 misdemeanor and/or a \$25.00 civil penalty, and any person convicted of the violation shall be subject to punishment as provided in G.S. § 14-4. Each day a violation continues shall be deemed a separate offense, and said violation may also be enforced as set forth in § 10.99 herein.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.60 PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.

All animals 4 months of age or older that leave the animal shelter or any animal hospital or veterinary clinic shall be required to have a current rabies vaccination.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.61 SUSPECTED RABID ANIMALS NOT TO BE REDEEMED OR ADOPTED.

Notwithstanding any other provision of this subchapter, impounded animals that appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with §§ 90.35 et seq.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.62 DESTRUCTION OF WOUNDED OR DISEASED ANIMALS.

Notwithstanding any other provision of this subchapter, any animal impounded that is badly wounded or diseased (not a rabies suspect) shall be destroyed humanely, only after consultation by the Office of Animal Control with a veterinarian licensed to practice in the State of North Carolina. This consultation will include a physical review of the animal by a licensed veterinarian, and agreement by the veterinarian that the animal is suffering and should be

euthanized. If the animal has identification, the Office of Animal Care Enforcement shall attempt to notify the owner before consulting with a licensed veterinarian and euthanizing the animal.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

§ 90.99 PENALTY.

(A) Fees shall be charged in accordance with the schedule of fees adopted by the Caldwell County Board of Commissioners, as may be amended from time to time. The Director of Caldwell County Animal Care Enforcement shall have the authority to waive fees required by this chapter for special circumstances that may arise. The purpose of this authority is to allow some flexibility within this chapter that normally would require Board of Commissioner approval if a situation arises where a fee would be inappropriate, or where the waiver of such fee would be in the best interest of the County of Caldwell.

(B)

(1) Any person, firm or corporation violating any of the provisions of this chapter shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of \$25, which shall be paid in full within 30 business days of the service of the citation by a representative of the County Animal Care Enforcement Office or any law enforcement officer, or both in accordance with G.S. §

153A-123. If the offender does not pay the penalty within 30 business days, the county may recover the penalty plus court costs and attorney fees in a civil action in the nature of debt.

- (2) Each subsequent violation of any of the provisions of this chapter shall subject the violator to the imposition by citation of a civil penalty in the amount of \$100, which shall be paid in full within 30 business days of the service of the citation. If the offender does not pay the penalty within 30 business days, the county may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt.
- (3) Failure to make payment and correct the violation or violations within 30 business days will result in an additional penalty of \$25 per violation per day until the violation is corrected and the citation is paid. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the county animal shelter.
- (C) If any dangerous animal or dangerous dog (as defined in G.S. § 67-4.1) shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a \$300 civil penalty and, after a 10-day waiting period, exclusive of Sundays and holidays, the dog shall be destroyed by the Office of Animal Care Enforcement.
- (D) If any dangerous animal or dangerous dog shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any

- domestic animal or pet, the owner of the animal or dog shall pay a \$200 civil penalty, and the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.
- (E) If any dangerous animal or dangerous dog is found in violation of §§ 90.19, 90.20 and/or 90.21, the owner of the animal or dog shall pay a \$150 civil penalty, and the dog will be humanely euthanized by the Animal Care Enforcement Department at the expiration of 3 business days.
- (F) Any person in possession of or keeping an inherently dangerous mammal within the county shall be in violation of this chapter, and shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of \$300, which shall be paid in full within 72 hours of the service of the citation by a representative of the County Office of Animal Care Enforcement, or any law enforcement officer, or both in accordance with G.S. § 153A-123. If the offender does not pay the penalty within 30 business days, the county may recover the penalty plus court costs and attorney fees in a civil action in the nature of debt. Failure to make payment and correct the violation or violations within the 30 business days will result in an additional penalty of \$600 per violation per day until the violation is corrected. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the county animal shelter.
- (G) Violation of this chapter may subject the violator to criminal as well as civil action. Violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Any person convicted of this violation shall be punishable as provided in G.S. § 14-4. Each day's violation of this section is a separate offense.
- (H) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

(Ord. passed 2-25-2006; Am. Ord. passed 10-5-2009)

Abandoned Vehicles**Section 11.20 Removal of vehicles; abandoned motor vehicle defined.**

A motor vehicle shall be deemed to have been abandoned for the purposes of this Article in the following circumstances:

- (1) It is left unattended upon a street or highway for longer than twenty-four (24) hours in violation of a law or an ordinance prohibiting parking; or
- (2) It is left on property owned or operated by the Town for a period longer than twenty-four (24) hours; or
- (3) It is left on any public street or highway for a period longer than seven days; or
- (4) It is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours.

Section 11.21 Same; junked motor vehicle defined.

Whenever a motor vehicle is found to be an abandoned motor vehicle as defined in the preceding section and, in addition, is found to be inoperable, or is partially dismantled or wrecked, or is more than five years old and worth less than one hundred dollars (\$100), or does not display a current license plate, it shall be deemed to be a junked motor vehicle.

Section 11.22 Same; duty of owner to remove.

If a motor vehicle is abandoned or junked on a public street or highway, it shall be the duty and responsibility of the owner of such motor vehicle to cause the removal thereof immediately and to pay all costs incident to such removal. It shall be unlawful for any person to allow a motor vehicle owned by him to remain abandoned on a public street or highway after notice has duly been given to such person to have the vehicle removed.

Section 11.23 Same; Removal by Town.

Whenever any motor vehicle is abandoned or junked on a public street or highway, or on property owned or operated by the Town, or on private property, any such vehicle may be removed by or under the direction of the Town's Chief of Police to a storage garage or area; provided no such vehicle shall be removed from private property without the written request or permission of the owner, lessee or occupant

thereof unless the same has been declared by the Building Inspector or the Board to be a health or safety hazard.

Section 11.24 Same; costs of removal; notice to owner.

- a) When an abandoned or junked motor vehicle is removed from private property at the request of the owner, lessee or occupant thereof, the person at whose request such vehicle is removed shall be required to pay or otherwise indemnify the Town for any expenses incurred by reason of the removal and storage of such vehicle.
- b) The owner of any vehicle removed hereunder from any public street or highway, or any property owned or operated by the Town, or any private property, shall pay to the Town all reasonable costs incident to the removal and storage of such vehicle and to locating the owner thereof.
- c) Written notice of each removal of an abandoned or junked vehicle and of the possible sale or disposition thereof shall be given as promptly as possible to the owner thereof at his last known address according to the latest registration certificate or certificate of title on file with the North Carolina Department of Motor Vehicles.
- d) However, notice need not be given to the registered owner of the vehicle when it has no license plate, and the vehicle identification numbers have been removed or defaced and are illegible.

Section 11.25 Same; sale of abandoned motor vehicles.

If an abandoned motor vehicle is worth one hundred dollars (\$100) or more and should the owner thereof refuse to pay the aforementioned costs, or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search, it shall, after being held by the Town for thirty days and after twenty days written notice to the registered owner at his last known address if his identity is known, and to the holders of all liens of record against the vehicle, and to the North Carolina Department of Motor Vehicles, be sold by the Chief of Police or his designee at public auction. Provided, however, that any person proving an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

Section 11.26 Same; disposition of proceeds of sale.

The proceeds of the sale of an abandoned motor vehicle shall be paid to the Town Treasurer who shall pay from such proceeds the costs of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the Town Treasurer for sixty days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within sixty days after the sale, the funds shall be deposited into the Town's general fund and the owner's rights therein shall be forever extinguished.

Section 11.27 Same; disposition of junked motor vehicles.

- a) With the consent of the owner, the Chief of Police or his designee may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time. If any unclaimed abandoned motor vehicle appears to be worth less than one hundred dollars (\$100), the Chief of Police or his designee may dispose of the vehicle as a junked vehicle.
- b) Any unclaimed junked motor vehicle as defined by this Article shall be held for a period of at least fifteen days. The owner of any such vehicle may claim his vehicle during the fifteen-day retention period by exhibiting proof of ownership to the Chief of Police and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held fifteen days it remains unclaimed, said vehicle may be destroyed or sold at a private sale as junk. Within fifteen days after final disposition of a junked vehicle, written notice thereof shall be given to the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

Section 11.28 Same; disposition of unidentified vehicles.

The proceeds of the sale of a junked motor vehicle, after all costs of removal, storage, investigation and sale, and satisfaction of any liens of record on the vehicle have been deducted therefor, shall be held by the Town Treasurer for thirty days and paid to the registered owner upon demand. If the owner does not appear to claim the remainder of the proceeds within thirty (30) days after disposal of the vehicle, the funds shall be deposited into the Town's general fund and the owner's rights therein shall be forever extinguished.

Section 11.30 Same; immunity.

Neither the Town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, lost or stolen vehicle for disposing of such vehicle as contemplated by this Article.

ARTICLE 5**Sex Offenders Prohibited in Certain Areas.**Section 11.31 Authority.

In accordance with G. S. 160A-174, a city may by ordinance define, prohibit, regulate or abate acts, omissions or conditions which are detrimental to the health, safety and welfare of its citizens and the peace and dignity of the city. Further, under the general ordinance making authority that has been delegated to municipalities as a part of its police power, cities and towns have the authority to enact ordinances to protect the safety and general welfare of its citizens. This chapter is therefore adopted under the authority vested in cities and towns by the Legislature of the State of North Carolina as well as the decisions of the courts of this State interpreting and applying the powers delegated to municipalities.

Section 11.32 Definitions.

The following definitions shall apply for the purposes of administering this Chapter.

Registered Sex Offender. Any individual who is required to register or is registered with the North Carolina Sex offender and Public Protection Registry (established under Article 27A of Chapter 14 of the North Carolina General Statutes) or, the Dru Sjodin National Sex Offender Public Registry (Maintained by the United States Department of Justice), or any other

official state or federal registered sex offender listing maintained by either the United States Department of Justice or any of the several states. For purposes of determining if any individual is registered or is required to register with any one of the official registries, law enforcement officers may rely upon the official website of any state or federal registry of sex offenders and the descriptions published and available from such registry.

Public Park. Any publicly owned or maintained land designated by the Town of Hudson as a park or recreational facility including any adjacent public parking area, as well as the driveway entrance way or pedestrian walkway used by the public to access the public park or recreational facility provided the public walkway, entrance or driveway is not more than 1,000 ft. from the park or recreational facility.

Section 11.33 Sex Offenders Prohibited.

It shall be unlawful for any registered sex offenders to knowingly enter into or on any public park as defined herein.

Section 11.34 Sex Offender Permit.

Any person adjudicated a "Sex Offender" may obtain a permit to visit any Public Park facility provided they are not listed as a "Predator." Permits will be issued to any "Sex Offender" wishing to visit the Public Park within the Town of Hudson provided the "Sex Offender" provides a valid justification to visit the Public Park, and the person requesting the permit is not a "Predator." Permits shall clearly state the dates and times the "Sex Offender" may be in the Public Park and which location the person may visit.

Section 11.35 Posting Required.

Each Public Park or recreational facility shall be posted to the effect that registered sex offenders are prohibited. If there is a public bulletin board at or near the entrance or the main parking lot of each such Public Park or recreational facility, posting a copy of this Ordinance shall be sufficient for compliance. Otherwise, a separate sign or posting indicating that registered sex offenders are prohibited shall be sufficient. Having been posted as required hereunder, subsequent unauthorized removal of such notice, sign or posting, or the damage or destruction of such sign, notice or posting shall not excuse a violation of this Chapter.

Section 11.36 Violation.

If any person shall violate this Chapter, that person shall be guilty of a class 3 misdemeanor and shall be fined not more than FIVE HUNDRED DOLLARS (\$500). Each and every entrance into a Public Park as defined herein shall constitute a separate offense under this chapter and subject the offender to a separate fine.

Section 11.37 Severability.

If any court of competent jurisdiction shall determine that any word, clause, phrase, sentence, paragraph, or subsection of this Chapter is unconstitutional as written, the court shall first attempt to construe the unconstitutional provisions so as to enable such provision to be constitutional as construed. If the court cannot construe such provision narrowly so as to render the same constitutional, then it is hereby declared and the Town of Hudson Board of Commissioners intends that the sections, paragraphs, sentences, clauses and phrases of this Chapter are severable, and if any phrase, clause, sentence, paragraph or section shall be declared unconstitutional or invalid, then such declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections, and that the same would have been enacted by the Town of Hudson Board of Commissioners without such words, clauses, phrases, sentences, paragraphs or sections being included.

(Article 5 adopted this the 16th day of September, 2008.)