

Summary of Proposed Amendments Caldwell County Animal Control Ordinance

ARTICLE I - GENERAL

Section I: Definitions

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 which results in offensive odors or is dangerous to public health.
- (5) Chases, harasses or otherwise molests other animals, pedestrians, bicyclist, or vehicles.

ARTICLE II - PROHIBITED ACTIVITIES

Section XI: Animals Creating a Nuisance

Pursuant to N.C.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.

Nothing in this article 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 property resulting from an animal being a public nuisance.

Section XII: Exclusion for Hunting Dogs

This ordinance shall not be interpreted as restricting persons owning specially trained hunting/working dogs from actually using their dogs for hunting/working said dogs 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 of North Carolina and Caldwell County.

Section XIII: Nuisances Prohibited

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

Section XIV: Prohibition of Nuisances by Animals Running at Large

It shall be unlawful for any owner to permit or allow his animal(s) to enter upon public property unless the animal is under the direct control of its owner using a properly fitting collar and leash.

Section XV: Procedure for Complaint

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

- A. A citizen who witnesses a violation of this article may submit a written complaint to the Animal Control Department within 10 days of any alleged violation. The written complaint must be signed by the complaining witness and include a detailed explanation of the alleged violation(s). The written complaint must include a detailed description of the animal(s) and the name and address, if known, of the owner or keeper of the animal(s). Any evidence (i.e. photographs) should be attached to the complaint.
- B. Within a reasonable time considering the available resources of the Animal Care and Control Department, an Animal Control Officer will notify the owner of the complainant and conduct an investigation of the alleged violation. The Animal Control Officer will prepare a written report with findings of fact and a determination as to whether or not the alleged violation is true based upon a preponderance of the evidence.
- C. If the written findings indicate that a violation has occurred, the Animal Control Officer shall cause the owner of the animal(s) in question to be so notified in writing to take such steps within forty-eight (48) hours as may be necessary to prevent future violations.
- D. Subsequent violations of this article shall subject the owner of the animal(s) to civil and/or criminal penalties as provided by the State of North Carolina and this ordinance. Any person who has been convicted of a criminal violation of this ordinance shall restrain his/her animal(s) on his/her own premises.
- E. Any animal found off of the premises of its owner after having been convicted of a criminal violation of this ordinance shall be unlawful and may be impounded by the Animal Care and Control Department. A notice of impoundment shall be served upon the owner or affixed to the owner's premises.

ARTICLE V - Imposition of Penalties for Violations of the Ordinance

- A. Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of ~~one hundred twenty-five~~ dollars (~~\$100.00~~) (\$25.00) which shall be paid in full within ~~seventy two (72) hours~~ five (5) business days of the service of the citation by a representative of the Caldwell County Animal Control Office or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the

penalty within ~~the seventy-two (72) hour period~~ five (5) business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt.

Each subsequent violation of any of the provisions of this ordinance shall subject the violator to the imposition by citation of a civil penalty in the amount of one hundred dollars (\$100.00) which shall be paid in full within five (5) business days of the service of the citation. If the offender does not pay the penalty within five (5) business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of the debt.

Failure to make payment in full and correct the violation or violations within ~~the seventy-two (72) hour period~~ five (5) business days will result in an additional penalty of twenty-five dollars (\$25.00) per violation per day until the violation is corrected and citation is paid. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the Caldwell County Animal Shelter.

- B. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1) shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a three hundred dollar (\$300.00) civil penalty and, after a ten (10) day waiting period, exclusive of Sundays and holidays, said dog shall be destroyed by the Office of Animal Control.
- C. If any dangerous ~~animal or dangerous~~ dog ~~as defined in North Carolina General Statutes 67-4.1)~~ shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any domestic animal or pet, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of four hundred dollars (\$400.00).~~
- D. If the owner of any animal or dangerous dog is found in violation of Article ~~I II~~ Section ~~VII V~~, Article ~~I II~~ Section ~~VIII VI~~ and/or Article ~~I II~~ Section ~~X VII~~ of this ordinance, the owner of said animal or dog shall pay a one hundred fifty dollar (\$150.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of three hundred dollars (\$300.00).~~
- E. Any person in possession of or keeping an inherently dangerous mammal within the county shall be in violation of this ordinance and shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of three hundred dollars (\$300.00) which shall be paid in full within ~~seventy-two (72) hours~~ five business days of the service of the citation by a representative of the Caldwell County Office of Animal Control or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ~~the seventy-two (72) hour period~~ five

business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt. Failure to make payment **in full** and correct the violation or violations within ~~the seventy-two (72) hour period~~ **five business days** will result in an additional penalty of six hundred dollars (\$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 Caldwell County Animal Shelter.