

This attachment has been  
officially adopted by the County  
as an amendment to Attachment t  
and will go into effect on January  
1, 2010.

**ORDINANCE AMENDING CHAPTER 4 OF THE  
DURHAM COUNTY CODE OF ORDINANCES**

WHEREAS, pursuant to N.C. Gen. Stat. §§ 153A-121 and 153A-127, the Board of Commissioners has the authority to define and prohibit the abuse of animals; and

WHEREAS, the Board of Commissioners, pursuant to their authority granted under Article 6 of Chapter 153A of the North Carolina General Statutes, enacted an Animal Control Ordinance; and

WHEREAS, the Board of County Commissioners wishes to amend the Animal Control Ordinance to further define and prohibit the abuse of animals.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DO TH ORDAIN:

1. That Section 4-13 of the Durham County Code of Ordinances, entitled Definitions, is hereby amended to read as follows:

**Sec. 4-13. Definitions.**

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

*Adequate shelter* means an enclosure having at least three solid sides, a roof and a floor, that remains dry inside, is ventilated and has sufficient room for an animal to move about freely and lie down comfortably and promotes the retention of body heat.

*Animal* means every nonhuman species, both domestic and wild.

*At large* means any animal found off of the property of its owner and not under restraint, or any animal previously determined to be dangerous or potentially dangerous that is not confined to a secure enclosure while on the property of its owner. This definition shall exclude any dog, which is in a dog park. This definition shall exclude any dog being used by a law enforcement officer while carrying out the law enforcement officer's official duties.

*Attended leash* means that the tethered dog is in visual range of the responsible party, and the responsible party is located outside with the dog.

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

*Board of Commissioners* means the Durham County Board of County Commissioners.

*Cats* means any and all domestic felines.

*City* means the City of Durham, North Carolina.

*Confinement* means impoundment within the county's animal shelter or other appropriate facility.

*County* means Durham County, North Carolina.

*Cruelty and cruel treatment* means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully.

*Dangerous dog* means any dog that without provocation has killed or inflicted severe injury on a person, or any dog that has been determined by the animal control administrator to be potentially dangerous pursuant to G.S. § 67-4.1.

*Dog park* means an area or tract designated by the owner of the property to be a place in which a dog or dogs are not required to be under restraint. The area or tract designated by the owner of the property must be a secured enclosure. The owner of the property shall post in a conspicuous place and manner a sign on the outside of the enclosure, which designates the area or tract as a dog park.

*Dogs* means any and all domestic canines.

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

*Feral cat* means a domestic cat which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possible generations of abandoned house pets.

*Flood-prone area* means an area in which two or more inches of standing water is likely to accumulate during a period of normal rainfall.

*Habitual violation* means three or more violations of this chapter in the past three years and the most recent violation was within the past 12 months.

*Impoundment* means possession or seizure of an animal by the county animal control division for placement in the county's animal shelter or other appropriate facility.

*In estrus* means a female animal in what is commonly called "heat."

*Livestock* shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine as set forth in N.C.G.S. Chapter 68 Article 3.

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

*Nuisance* means any act of an animal that annoys or disturbs rights and privileges common to the public or enjoyment of private property. The commission on more than one occasion of the following acts shall be evidence of a nuisance:

- (1) Gets into or turns over garbage containers.
- (2) Walks on and/or sleeps on automobiles of another.
- (3) Damages gardens, foliage or other real or personal property.
- (4) Continuously or frequently roams or is found on the property of another.
- (5) Is maintained in an unsanitary condition so as to be offensive to sight or smell.
- (6) Is not confined to a building or secure enclosure while in estrus.

- (7) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock or domestic animals.
- (8) Eliminates on private property without the permission of the owner.
- (9) Is a dangerous or potentially dangerous dog as determined by the animal control administrator.
- (10) Is diseased or dangerous to the health of the public.
- (11) Is housed or restrained less than 15 feet from a public street, road or sidewalk and, in the discretion of the animal control officer, poses a threat to the general safety, health and welfare of the general public.

*Owner* means any person, group of persons, firm, partnership or corporation owning, keeping, having charge of or taking care of an animal or allowing an animal to remain on his/her property.

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

*Person* means any human being, firm, partnership or corporation, including any nonprofit corporation.

*Pet shop* means a business or enterprise, that acquires for the purpose of resale animals bred by others whether as owner, agent or on consignment and sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

*Rabies vaccinator* means a person appointed and certified to administer rabies vaccine or a licensed veterinarian

*Restraint* means a secure enclosure located on the owner's property, attended leash or electronic device of sufficient strength which allows the owner to maintain control of an animal. Voice command is not recognized as adequate restraint.

*Secure enclosure* unless otherwise specifically defined herein, means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. A motor vehicle shall not constitute a secure enclosure.

*Stray, lost, or unwanted* means any animal found within the county wandering at large which does not have identification of an owner.

*Tethering* means tying out or fastening a dog outdoors on a rope, chain or other type of line for holding a dog. This shall not include tying out or fastening a dog outdoors on an attended leash.

*Vaccination* means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

*Wild animal* means any animal that is or once was native to this state or any species of wild bird which naturally occurs or historically occurred in this state, being native or migratory.

*Working days* means any day of the week excluding Saturday, Sunday and legal holidays. If the last day of the time period specified herein shall fall on a Saturday, Sunday or legal holiday, then the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

2. That Section 4-62 of the Durham County Code of Ordinances, entitled General care; prohibited acts, is hereby amended to read as follows:

**Sec. 4-62. General care; prohibited acts.**

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

(1) *Failure to provide adequate food.* 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 a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition

(2) *Failure to provide adequate water.* All animals shall have constant access to a supply of clean, fresh, potable water or a supply of clean, fresh potable water provided at suitable intervals. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one hour during each interval.

(3) *Failure to provide adequate shelter.* 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:

- a. Underneath outside steps, decks and stoops.
- b. Underneath houses.
- c. Inside or underneath motor vehicles.
- d. Inside metal or plastic barrels.
- e. Inside cardboard boxes.
- f. Inside temporary animal carriers or crates.
- g. Shelters located in flood-prone areas.
- h. Shelters surrounded by waste, debris, obstructions or impediments that may endanger an animal.

(4) *Failure or refusal of any owner* in contact with or having knowledge of a sick, diseased or injured animal to provide proper medical treatment for the animal or notify the animal control division of the condition. A sick animal shall go no longer than 24 hours without veterinary care.

(5) *Animal abuse.* Examples of animal abuse 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 left outside in inclement weather or extreme temperatures without adequate shelter.
- d. Intentionally allowing animals to engage in a fight.
- e. Allowing animals to be kept in unsanitary conditions.
- f. Allowing animals to be kept in crowded conditions. As to dogs, less than 100 square feet of unobstructed area per each dog weighing 20 pounds or under, less than 200 square feet of unobstructed area per each dog weighing greater than 20 pounds. This sub section (f) shall not apply to licensed boarding facilities, licensed pet stores, veterinary care and grooming facilities.
- g. Trapping a dog or cat without a permit issued by animal control.
- h. Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The animal control division shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the county if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves.

(6) *Tethering of a dog except under the following circumstances:*

- a. Tethering for a period not to exceed 7 consecutive days while actively engaged in:
  - (i) shepherding or herding livestock;
  - (ii) lawful dog activities such as hunting training and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors;
  - (iii) meeting the requirements of a camping or recreational area
- b. When participating in recognized exempt activities or when a dog is on an attended leash, tethered dogs shall be attended by a responsible person and shall be tethered in a manner that does not cause unjustifiable pain, suffering or risk of death. Tethers must be made of rope, twine, cord or similar material with a swivel on one end or must be made of a chain that is at least ten feet in length with swivels on both ends and which does not exceed ten per cent of the dog's body weight. All collars or harnesses used for the purpose of tethering a dog must be made of nylon or leather.

(7) Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal.

- (8) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from the vehicle.
- (9) Failure or refusal to report injured or killed domestic animals.
- a. All persons who injure or kill a domesticated animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately.
  - b. If the owner is unknown, the person who injured or killed the animal shall immediately notify the animal control administrator, or the police department if the injury or death occurred in the city, or the sheriff's department if the injury or death occurred in the county by giving his or her name and address, a description of the animal and the location of the incident.
- (10) Unless otherwise permitted by law, giving away or offering any animal as a prize, premium or advertising device for or as an inducement to enter any contest, game or other competition involving skill or chance, or auctioning, raffling or otherwise offering as a prize or premium any animal for fundraising or charitable purposes.
- (11) Displaying any dog or cat on public property for the purpose of selling or giving the animal away. This subsection (11) shall not apply to the display of animals in a Pet Shop, commercial kennel, veterinarian's office, or display by a nonprofit animal welfare entity organized and operated under 501(c)(3) of the Internal Revenue Code.

This section 4-62 is not intended, and shall not, in any manner regulate the Durham County Animal Shelter or the care of animals that fall under the exclusive province of federal or state laws.

3. The Chapter, as amended, is effective on the 1st day of January, 2010.