

ANIMAL CONTROL ORDINANCE
OF
MCDOWELL COUNTY, NORTH CAROLINA

Article 1. PURPOSE AND DEFINITIONS

Section 1. Purpose Declared

This ordinance is enacted for the purpose of protecting the public from rabies transmitted by unconfined, uncontrolled, and unimmunized dogs and cats, and to regulate dogs and cats that are a particular nuisance or danger to persons or property.

Section 2. Definitions

ANIMAL – One of the lower animals, as distinguished from human beings. Animal includes dogs and cats and other domesticated animals.

ANIMAL SHELTER – Any premises designated by McDowell County in accordance with the provisions of this ordinance and applicable state laws for the purpose of impounding and caring for small animals found running at large or otherwise subject to impounding.

ANIMAL CONTROL OFFICER – Any person designated as such by McDowell County.

APPROPRIATE AUTHORITY – Any Animal Control Officer, any Police Department, Sheriff's Department or the Health Department.

AT LARGE – Off the premises of the owner and not under restraint or not under the immediate effective control of the owner or the responsible person. "At large" shall also mean any dog or cat not wearing a rabies tag.

CAT – A cat of either sex.

DOG – A dog of either sex.

OWNER – Any person, group of persons, firm, partnership, or corporation that has a possessory property right in any animal, such as owning, keeping, having charge of, having custody of, sheltering, feeding, harboring or taking care of the animal.

OWNER'S REAL PROPERTY – Any real property owned or leased by the owner of an animal, but does not include any public right of way or a common area of a condominium, townhouse, or apartment complex.

RESTRAINT – An animal is under restraint within the meaning of this ordinance if it is:

- A. controlled by means of a chain, leash, or other like device;
- B. within a vehicle being driven or parked;
- C. within the dwelling house of the owner or keeper; or
- D. within a “secure enclosure” as approved by an Animal Control Officer

SECURE ENCLOSURE – A fence or structure of adequate height that forms a completely enclosed humane structure suitable to prevent the animal from escaping and to prevent the injury of young children. The “secure enclosure” must be sanctioned or approved by an Animal Control Officer.

ARTICLE II: DUTIES OF ANIMAL CONTROL OFFICERS

Section 1. General Duties, Authority, and Responsibility of Animal Control Officers.

Animal Control officers shall:

- A. Have the responsibility to enforce all laws of the State and North Carolina and all ordinances of McDowell County pertaining to the ownership and control of dogs, cats, and other animals and shall cooperate with all other law enforcement officers in McDowell county in fulfilling their duty;
- B. Act as Rabies Control Officers, working under the immediate supervision of the District Health Director, and shall carry out the provisions of N.C. General Statute 130A-185 to 200, including the requirements of all applicable local animal control ordinances and rules.
- C. Make such canvasses of the county as are deemed necessary to ascertain that all animals are duly vaccinated against rabies as required by local rule, ordinance or state statute.
- D. Cooperate with local veterinarian and the Health Director with the scheduling and implementation of rabies clinics as required by N.C. General Statute 130A-187.
- E. Assist and participate in those functions or activities which will minimize animal suffering and will result in promoting animal welfare.
- F. Cooperate with the local humane societies and other organizations interested in animal welfare and in investigating animal cruelty or animal abuse where necessary.
- G. Operate the McDowell County Animal Shelter pursuant to the policies of McDowell County.

- H. Comply with the financial policies of McDowell County.
- I. The Public Works Director shall be able to perform all the duties of an Animal Control Officer, pursuant to N.C. General Statutes 130-41(2).

Section 2 Records to be Kept by Animal Control Staff

It shall be the duty of the Animal Control Officers to keep, or cause to be kept, accurate and detailed records of:

- A. Impoundment and disposition of all animals coming into the Animal Shelter;
- B. Bite cases, violations or complaints, and the investigation of same;
- C. All other records deemed necessary by McDowell County.

ARTICLE III: ANIMALS CREATING A NUISANCE

- (A) It shall be unlawful for an owner to permit an animal to run at large if such animal is reported as having created a public nuisance and an Animal Control Officer determines, after investigation, that the reports are supported by the evidence. In such cases and only in such cases, the owner must keep the animal that has been found to be creating a public nuisance on his property at all times, thus, the animal is under restraint. For the purposes of this section, public nuisance includes, without limitation, the following:
 - (1) Animals that habitually or repeatedly chase, snap at, attack or harass pedestrians or individuals.
 - (2) Animals that habitually or repeatedly chase, snap at, attack or harass other animal livestock.
 - (3) Animals that tip over garbage pails, damage yards, gardens, flowers, or personal property.
 - (4) In the case of a female animal, one that is allowed to run at large during estrus.
- (B) Upon receipt of a written complaint signed by two or more residents of McDowell County, each complainant residing in separate dwellings in the vicinity in which the violation and issue occurred, made under oath before an individual authorized by law to take acknowledgements, setting forth the nature and ate of the act, the apparent owner, and description of the animal doing such act, the Animal Control Department shall investigate the complaint to determine whether the act complained of violated this ordinance.

ARTICLE IV: COMPLIANCE WITH STATE LAW

- (A) It shall be unlawful for an animal owner or other person to fail to comply with the North Carolina General Statutes relating to Animal Control and the control of rabies.
- (B) The Animal Control Officer in conjunction with local law enforcement and the Health Department is authorized to enforce the North Carolina General Statutes relating to Animal Control and the control of rabies.

ARTICLE V: PENALTY

Failure to comply with the terms of this Article, shall be a misdemeanor punishable by a fine up to \$500.00 and/or by imprisonment for up to 30 days. Each day's violation of this section is a separate offense. Payment of a fine imposed in a criminal proceeding pursuant to this Article does not relive a person of his/her liability for the civil fees or fines imposed herein.

ARTICLE VI: GENERAL PROVISIONS

Section 1. Severability

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

Section 2. Conflicting Ordinances

All other ordinances of McDowell County that are in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3. Effective Date

This ordinance shall become effective on the 7th day of August, 1995.

MCDOWELL COUNTY

Terry L. Smith, Chairman
McDowell County Board of Commissioners

ATTEST:

Carrie Padgett, Clerk to the Board

