

Burke County, North Carolina
Agenda Abstract
Meeting Date: May 4, 2021



SCHEDULED PUBLIC HEARINGS

Subject Title: BOC - Ord. Amending Chapter 6, Animals, Burke Co. Code of Ordinances & Public Hearing - 6:00 PM

Presented By: Jeff Brittain and/or Debbie Hawkins

Summary of Information: In August of 2020, the Board adopted most of the Animal Advisory Board's revisions to Chapter 6, Animals, of the Burke County Code of Ordinances. The Board asked the AAB to seek additional public input, revise three (3) sections and report back in 90 days. Although the process took longer than anticipated and after many hours of meetings and public input, the AAB completed its mission and voted unanimously to approve the proposed ordinance revisions. The proposed ordinance was reviewed by the Chairman, Vice Chairman in consultation with the AAB executive committee, the County Manager, the County Attorney, the Animal Services Director, and the Clerk on April 6th. During this meeting, the County Attorney was asked to reword provision No. 6 of the breeding and transfer of ownership section. A public hearing on the draft ordinance is recommended for public transparency.

Budgetary Effect: None. Funding for codification is included in the budget.

County Manager's Recommendation: Approval is recommended.

Suggested Motion:

- 1. Hold a public hearing to receive comments from the public.**
- 2. Adopt Ordinance No. 2021-04.**

**Burke County
North Carolina**

**Ordinance Amending Chapter 6, Animals
Burke County Code of Ordinances**

New text is printed in **bold**. Text to be removed is printed in **bold** and contains a strikethrough mark.

ARTICLE I. – IN GENERAL

Section 6.1. – Definitions

Adequate shelter means provision of and access to shelter that is suitable for the species, age, condition, size, and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; have enough shade to protect itself from any direct sunlight that is likely to cause overheating or discomfort; is properly lighted **to provide a minimum of 8 hours of light**; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and, for dogs and cats, provides a solid surface, resting platform, pad, floor mat, or similar device that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. **Bedding material should be clean and not pose a health risk. Premises and primary enclosure should be clean, free of debris and odor, and feces disposed of at least daily.** Under this chapter, shelters whose wire, grid, or slat floors (i) permit the animals' feet to pass through the openings, (ii) sag under the animals' weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter. For the purpose of this definition, the following do not constitute adequate shelter:

- (1) Underneath stoops, decks, and outside steps.
- (2) Inside or underneath vehicles.
- (3) Metal barrels.
- (4) Cardboard boxes.

Adequate space means sufficient space to allow each animal to (i) easily stand, sit, lie, turnabout, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. When an animal is tethered, adequate space means a tether that permits the above actions and is appropriate to the age and size of the animal; is attached to the animal by a properly applied collar, halter, or harness configured so as to protect the animal from injury and prevent the animal or tether from becoming entangled with other objects or animals, or from extending over an object or edge that could result in the strangulation or injury of the animal; ~~and is at least three (3) times the length of the animal, as measured from the tip of its nose to the base of its tail, is a minimum of 10 feet,~~ except when the animal is being walked on a leash ~~or is attached by a tether to a lead line.~~ When freedom of movement would endanger the

animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

~~**Approved breeder means any individual who has applied for and secured a breeder's permit from the Burke County Animal Services Department.**~~

~~**Hobby breeder is any person with knowledge of their specific breed(s) (i.e. health risks, canine obstetrics, genetics and will make informed decisions before considering a mating). A hobby breeder is one who breeds not more than once within a 12-month period while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can discuss with the breeder the conditions of the dogs or cats. A hobby breeder must obtain a Breeder's Permit from the Burke County Animal Services Department.**~~

~~**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.**~~

~~**Restrained means to provide a physical restraint such as a leash, tether, or similar effective and humane device to control the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure as permitted in this Ordinance.**~~

~~**Restraint system means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object that cannot be moved by the dog. This includes but is not limited to on or within a vehicle being driven or parked.**~~

~~**Tethering means to restrain a dog outdoors by means of a rope, chain, wire or product manufactured for the purpose of tethering a dog, one end of which is fastened to the dog and the opposite end of which is connected to a stationary object or to a cable or trolley system. This does not include walking an animal with a handheld leash.**~~

~~**Tethering means the securing of an animal to an anchor point by a cable or chain to confine it to a desired area. There are two types of tethering: fixed or running.**~~

Sec. 6-4. Animal abuse / cruelty.

No changes to Sections 1, 2 (a-m), 3 (numbering error), 4 (a-g), 5 (a-e), 6 and 7 (1 -2)

~~**(3) (3)**~~ The following acts or omissions shall constitute fighting or bating under this article:

~~**(5) (4)**~~ These provisions shall not apply to any person:

(6) (5) Nothing in this section shall be construed to prohibit, impede, or otherwise interfere with recognized animal husbandry and training techniques or practices not otherwise specifically prohibited by law.

(7) (6)

3. ~~This section does not apply to the use of herding dogs engaged in the working of domesticated livestock for agricultural, entertainment, or sporting purposes.~~

This section does not apply to dogs actively engaged in shepherding or herding livestock; lawful dog activities such as hunting training as governed by the North Carolina Wildlife and Resources Commission, law enforcement training, veterinary treatment and or the pursuit of working or competing in these legal endeavors, or in meeting requirements of a recreational or camping area are exempt from this section.

First Offense: if, after discussing with the owner the circumstances regarding a possible tethering violation, Animal Services Enforcement determines there has been a violation, Animal Services Enforcement shall explain Burke County Animal Ordinance Sec. 6-12 Chaining / Tethering to the owner. Animal Services Enforcement will issue a warning, give the owner a list of rescue resources in the county who may be able to assist, and arrangements must be made for the dog to be untethered immediately. Failure to comply will result in the issuance of a second offense.

Second Offense: Animal Services may take possession of the animal for a period of up to 14 days and the owner in violation of the ordinance may be charged with a class 3 misdemeanor and a fine imposed up to \$500.00. During the holding period, the animal will be housed at the Burke County Animal Services Center at the owner's expense and accommodation must be made to secure the pet within the parameters of the chaining / tethering ordinance.

Sec. 6-10. Handling of stray or abandoned animals.

(No changes to sections a – c or e – h.)

~~**(d) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter.**~~

(d) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter. Any person adopting an animal from Animal Services for the purpose of returning the animal to the owner will be subject to a civil citation equivalent to the outstanding citations. Any person that has adopted an animal from Burke County Animal Services and wishes to rehome said animal must notify Burke County Animal Services of the person who will be acquiring the animal. If the person acquiring

the animal has outstanding citations, they must pay all citations and fees before they can acquire the animal.

Sec. 6-11. Animal Advisory Board.

(a) Establishment and composition of the county animal advisory board. There is hereby created an animal advisory board to advise the county commissioners, county manager, and animal services director on matters related to the organization and operation of the county Animal Services Center. The advisory board shall be composed of ~~seven~~ **nine** members appointed by the board of commissioners. All members must reside at all times in the county. This board shall include one member, as defined by the listed parameters, for each of the following seats:

- (1) Member of a 501(c)3 animal rescue agency or foster agency.
- (2) Veterinarian (practicing or retired).
- (3) Board of health member or designee, excluding health director.
- (4) At large (pet owner).
- (5) Law enforcement officer, excluding animal control officers.
- (6) Member of a 501(c)3 animal rescue agency or foster agency.
- (7) At large (pet owner).
- (8) Community Ambassador Program Representative**
- (9) At large (large animal owner)**

(No changes to b – p.)

Sec. 6-12. - Chaining and Tethering.

Except as provided in this section, it shall be unlawful for any person owning or keeping a dog to leave a dog restrained to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal.

At no time may a dog remain on an uninhabited property such as a vacant lot or a lot without an occupied domicile.

Any dog less than four (4) months old shall not be tethered.

Under no circumstances shall an unaltered female dog be tethered without direct supervision by the owner or attendant or must be secured in a secondary enclosure.

Only one dog shall be attached to a tether at one time.

The minimum length of the tether shall be ten (10) feet.

The tether line shall weigh no more than five percent (5%) of the dog's body weight and be made of a substance which cannot be damaged by the dog.

The tether must be attached to the dog with an appropriate harness or buckle-style collar properly fitted with room enough for two (2) fingers to fit between the collar and the dog.

The use of pinch, weighted, or choke collars is prohibited when tethered.

Tethering shall be used for no longer than fourteen (14) consecutive hours within a 24-hour period after such time the dog must be released from the restraint to engage in supervised exercise and socialization.

The restraint system shall maintain the dog's freedom of movement and freedom from entanglement, and it shall allow access to food, water, shelter, and shade.

The restraint system shall be affixed to a stationary object which does not permit the dog to travel within five (5) feet of any property line and housed or restrained no more than 15 feet from a public street, road, sidewalk, or right-of-way, such circumstances constitute a public nuisance. If the animal is on the street, road, sidewalk, or right of way, the Animal Services Enforcement Officer shall issue a notice to the owner directing the owner to move the animal. If the animal is found on a public street, road, sidewalk, or right of way and the owner is not at home or refuses to remove the animal from the street, road, sidewalk, or right of way, the animal may be seized and impounded.

If tethered to a pulley or zip line, the stationary cable that the pulley runs on must be at least ten (10) feet in length, anchored on each end to a stationary object which cannot be moved by the dog, and include stops on each end to prevent the animal from becoming wrapped around the stationary object.

The restraint system shall be situated at least five (5) feet away from any fence to prevent strangulation.

The line attached to the restraint system must allow the dog to move perpendicularly at least ten (10) feet from the stationary cable.

A swivel of proper size and durability shall connect the tether to the pulley or zip line to prevent entanglement.

The clamps attaching the tether to the dog's harness must be of proper size and durability.

In cases where deemed necessary for public safety, written exemptions may be made by the Animal Services Director's discretion for other restraint methods but only after opportunities to verify those methods are needed and that they serve the purpose and intent of this section.

ARTICLE III. – IMPOUNDMENT

Sec. 6-73. – Reclamation by owner.

(No changes to sections a – c.)

- d) Any animal found off the owner's property, at large, will be issued a warning by Burke County Animal Services. Following this warning, the owner of a non-spayed or unneutered dog or cat shall be subject to an unaltered impounded animal fine in addition to any other fees or fines imposed by this title or State law. All subsequent violations will result in an additional, graduated unaltered animal fine. The unaltered impounded animal fines shall be set by the Board of Commissioners. For this section, "impounded" shall mean any animal that is impounded in violation of Sec. 6-10.

Effective date: This section shall be in effect as of July 1, 2021.

Sec. 6-79. - Breeding and Transfer of Ownership.

Any person who breeds and transfers ownership is subject to the standards of care as defined in this Chapter, should receive a copy of the Burke County Animal Ordinance, and adhere to the following:

Breeding

- 1) Only breeds cats and dogs in sound reproductive health; have a screening program in place to test animals for known inheritable diseases or potentially disabling health defects.
- 2) A health record, including routine and preventative care, must be provided for all cats and dogs. This shall include internal and external parasite control, age-appropriate vaccinations, and regular grooming to ensure the health and comfort of the cat or dog.
- 3) Should be provided with daily positive human contact and socialization.
- 4) Should have its overall health and behavior assessed daily. Any deviation in health condition must be addressed expeditiously and appropriately.
- 5) When euthanasia is necessary, it must always be performed humanely as defined by NC General Statute, §19A-23 (9).
- 6) An emergency preparedness plan for owned and bred cats and/or dogs maintained therein should be established and up to date.

Transfer

- (1) Prior to the transfer of ownership, a screening tool shall be used to ensure consumer will meet standards of care as defined by this Chapter.
- (2) Each animal shall have an original health certificate completed by a veterinarian.

- (3) No person, retailer, or dealer shall transfer ownership of any dog or cat that is less than eight weeks old.**
- (4) A purchase contract that follows the NC Consumer Protection Laws, NC General Statute 75-4 (Contracts to be in writing.) should be agreed upon and signed by both the buyer and seller. This contract shall include a return to breeder clause in the event the buyer is unable to keep the cat or dog.**
- (5) The consumer shall receive a copy of the health record and an original health certificate.**
- (6) Any individual assuming ownership of an animal may decline to view the breeder's premises and/or one or both parents of the puppy/kitten and agrees to meet off-site. This must be documented in writing on the purchase contract and the seller must notify Burke County Animal Services of the off-site transfer. Any other transfer of ownership is strictly prohibited.**
- (7) All records must be retained for one (1) year after the transfer date.**
- (8) Failure to comply with this section will result in a 1st time warning. For subsequent offenses, the owner will be subject to civil penalties as outlined in the Burke County Ordinance, Article V, Remedies, Section 6-131. If there is failure to come into compliance after three (3) violations of a similar nature within a 12-month period, then all unaltered pets may be required, at the discretion of Burke County Animal Services, to be spayed or neutered at the expense of the owner/ breeder.**

Sec. 6-80. – Community Breeder Ambassador Program

- (a) Breeders within the county can apply with Animal Services to join the Breeder Ambassador Program. Applicants will be notified once their application has been reviewed and an on-site inspection by an Animal Services' staff member will be performed.**
- (b) Inspections will be conducted based on the breeding standards of care listed in Section 6-2. An approval or disapproval with deficiencies will be issued. If a disapproval is issued, then the applicant may re-apply after three (3) months. If approved, breeders will be subject to annual inspection by Animal Services to keep their approval status.**
- (c) If a valid complaint is received and investigated by Animal Enforcement and found to be true, the breeder may be revoked of their ambassador title. Breeders may re-apply after three (3) months if the deficiency has been brought into compliance.**
- (d) Ambassadors will be brought in as community educators on good breeding practices as well as consulting Enforcement Officers on breeding related investigations.**

(e) Only Community Breeder Ambassadors are eligible to serve on the Burke County Animal Advisory Board.

Adopted this 18th day of May 2021.

Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:

Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board