



REQUEST FOR BOARD ACTION

ITEM NO. 12.

DATE OF MEETING: April 6, 2009

REQUESTED BY: Jack Griffith, Ph.D., Health Director

SHORT TITLE: Resolution to Amend Animal Control Ordinance

BACKGROUND: The Pender County Animal Control Ordinance was last amended by the Board of County Commissioners on December 21, 1998. The new amendments will assist the Animal Control Program in protecting the citizens of Pender against rabies as well as puppy and feline mills. On March 17, 2009 the Board of Health unanimously voted to request that the Board of County Commissioners favorably adopt the changes and amendments of the existing ordinance recommended by the Board of Health.

SPECIFIC ACTION REQUESTED: Approve Animal Control Ordinance amendments. No action is requested at this time. This Ordinance Amendment is presented as a first reading.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

PS
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that the Animal Control Ordinance is amended to include the following changes and additions:

Changes:

Sec. 3-2. Kennel

Any facility which houses, for compensation, domestic animals, including, but not limited to, dealers, breeders, veterinarians or pet shops.

Delete Sec. 3-2 definition "Kennel" in its entirety and amend to read as follows:

Kennel - An individual, household, or entity that owns, keeps, or produces four or more litters of cats and/or dogs per calendar year.

Additions:

Sec. 3-27. Licenses for cats and dogs

- (a) Every person who is responsible for any puppy or kitten shall have such puppy or kitten vaccinated against rabies and licensed as provided in this section on or before the puppy or kitten reaches four months of age, but no earlier than three months of age.
- (b) Every dog and cat shall be vaccinated as indicated by the state and the county. No dog or cat shall be exempted from this section due to advanced age.
- (c) The county board of health shall establish a preset fee for each license certificate.
- (d) Dog or cat licenses shall be valid for one year or three years from the date issued and shall be renewed annually during the same month.
- (e) It shall be the responsibility of the owner to have the dog or cat vaccinated in time for renewal of the animal's license.

(f) A dog or cat brought into the county which has been vaccinated in accordance with the requirements of the state pursuant to G.S. 130A-193, shall be registered in the county within 30 days of initial entry into the county. All other dogs and cats brought into the county shall be vaccinated and licensed immediately.

State law references: Vaccination and confinement of dogs and cats brought into the state, G.S. 130A-193

Sec. 3-28. Permits for kennels

(a) No person may maintain a kennel within the County of Pender except in accordance with a permit issued pursuant to this section.

(b) Animal control shall issue the permit required by this section. The permit application forms shall be promulgated by animal control pursuant to this section. Before issuing the permit, animal control shall require proof that each of the following conditions has been met by the kennel operator:

(1) Each dog/cat kept or maintained in the kennel must be vaccinated for rabies;

(2) Permits shall include the name, address, and telephone number of the owner/operators of the kennel, the address and physical location of the kennel, and the number of dogs/cats over the age of six months being kept at the kennel as of January of the year for which the permit is issued;

(4) The applicant or any other person associated with the operation of the kennel must not have been convicted or found liable for cruel or inhumane treatment of animals within the five years next preceding the date of the permit application;

(5) There must be no violations of any health or sanitation codes or ordinance arising from or in connection with the handling or disposal of animal wastes involving the premises or any person associated with the operation of the kennel for the five years next preceding the date of the permit application;

(6) If the applicant is not the owner of the premises proposed for the kennel operation, there must be written permission from the owner of the premises to engage in the operation of the kennel;

(7) There must be no reported incidents of injurious or threatening behavior by dogs on the premises for the 12 months next preceding the date of the license or permit application. Any such reported incidents must be independently verified and confirmed in the records of the Pender County Animal Control, Pender County Sheriff's Department or a police department in the county; and

(8) No more than one kennel permit may be issued for any premises within the county. For purposes of determining the number of dogs, all dogs on a single premises shall be included in the total.

(c) When a permit is denied for any reason, animal control shall state the reason for the denial in writing and shall deliver the determination to the applicant personally or by registered or certified mail, return receipt requested.

(d) Any kennel issued a permit pursuant to this section shall be maintained in a clean and sanitary condition at all times. The portion of the premises occupied by the kennel shall be cleaned of dog/cat feces and other animal waste at least once a day and said feces and animal waste shall be properly disposed of. Failure to maintain a kennel in accordance with this provision shall also result in the kennel and dogs/cats being declared a public nuisance pursuant

to section 3-2 and shall subject the kennel operator to the abatement procedures and penalties set forth in this chapter.

(e) The requirements of this section apply to all kennels in operation within the county on the effective date of this section, as well as any established or brought within the county thereafter. However, operators of kennels that are within the county on the effective date of this section shall not be deemed in violation until after they have been notified in writing of the requirements of this section and have failed to apply for the required permit within 30 days. In any event, no kennel operator shall be deemed in violation of this section for a period of 180 days following its effective date.

(f) A permit issued in accordance with this section may be revoked by animal control for any of the reasons enumerated under subsection (b), above. Animal control shall state the reason for the revocation in writing and shall deliver the determination of revocation to the permittee personally or by registered or certified mail, return receipt requested.

(g) Any person who is denied a permit or whose permit is revoked pursuant to this section shall have 30 days to comply with the requirements of this section or to reduce the number of dogs on the premises to not more than four.

(h) Any person who is denied a permit or who has a permit revoked may appeal the denial or revocation to the Board of Health or his designee by giving written notice of appeal to the Board of Health within 30 days or after the receipt of the written determination. The Board of Health or its designee shall conduct a de novo hearing to determine if the permit should be denied or revoked. Any enforcement action shall be stayed pending determination of an appeal pursuant to this subsection.

Sec. 3-29. Permit, inspection and enforcement.

(a) Complete applications shall be reviewed and approved or denied within 30 days of the date of submittal. Annual permits are valid from the time they are issued until the first day of the month of January of the next year after their issuance. The annual permit fee will be set by the county board of health. Applicants that hold a license issued pursuant to the North Carolina Animal Welfare Act, shall have the fee for such license waived. The animal control director shall mail out a permit renewal notice to each kennel one month before their kennel permit expires.

(b) Kennel permits shall be issued by animal control.

(c) The application must be complete in order for animal control to accept and review the application. Prior to administrative approval, animal control may conduct a criminal background check of the applicant and property owner.

(d) Within 30 days of submission of the application for a license or permit, animal control may conduct an inspection of the kennel.

(e) Animal control shall inspect kennels on an annual basis. The inspection must be during business hours. Notice is not required before an inspection. The inspection report must list separately each standard set forth in section 3-28 and must require animal control to document whether the facilities comply with each standard.

(f) Upon failure by a kennel operator to grant access to animal control to perform the annual inspection or discovery of a violation of any provision of sections 3-28 and 3-29, animal control may revoke the permit or require cure of set violations within 30 days. However, upon a finding

of gross abuse or gross neglect, animal control shall immediately impound all animals found on the premises.

(g) The animal control supervisor, their authorized representative or any law enforcement officer who discovers that a person responsible for a kennel does not have valid proof of a current kennel permit shall issue that person a citation for failure to purchase a permit and cause the person to purchase such kennel permit within 72 hours. Individuals who fail to purchase the permit within 72 hours shall be issued another citation for failure to purchase the required permit. It is the kennel owner or operator's responsibility to submit to animal control proof of purchase.

(h) All complaints concerning a kennel within the county shall be investigated and addressed by animal control. Notwithstanding subsection (f), if any person shall deny animal control admittance to his property, upon probable cause, animal control shall be entitled to secure from any judicial official with jurisdiction to issue warrants a court order granting such admittance.

(i) Any person who violates any provision of sections 3-28 and 3-29 shall be deemed guilty of a misdemeanor and shall be punishable according to G.S. 14-4. Each day that a violation continues shall constitute a separate offense. The county may also initiate any applicable civil action, such as the seizure of animals and/or revocation of a kennel permit.

(j) The animal control supervisor or their authorized representative may issue a citation for any violation of this article, which subjects the offender to a civil penalty in an amount approved by the board of health. This penalty may be recovered by the county in the nature of a debt if the offender does not pay the penalty within 20 days of being cited. Each day of a continuing violation constitutes a separate offense under the article. These citations may be imposed in addition to any and all other available civil and criminal remedies and actions.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman 4/6/09
Date

ATTEST 4/6/09
Date