REQUEST FOR BOARD ACTION

ITEM NO. 8.

DATE OF MEETING: May 17, 2010

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

SHORT TITLE: Public Hearing on Proposed Amendments to the Animal Control Ordinance

BACKGROUND: The Pender County Animal Control Ordinance was last amended by the Board of County Commissioners on December 21, 1998. The Animal Control Ordinance Review and Recommendation Committee (ACORRC) appointed jointly by the Pender County BOCC and the Pender County Board of Health met four times and thoroughly reviewed the existing Pender County Animal Control Ordinance. ACORRC reviewed the Pender ordinance and made recommendations for improvements in the ordinance that would strengthen animal control laws and improve performance in the animal control program. On March 16, 2010 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 Animal Control Ordinance Review and Recommendation Committee.

SPECIFIC ACTION REQUESTED: No action requested at this time other than to hold the public hearing.

ANIMALS

Sec. 3-1. Purpose.

The purpose of this chapter is to protect the public health, safety and welfare of the residents of the county from dangerous animals under authority of G.S. 153A-131; to prevent cruelty to animals pursuant to G.S. 153A-127; and to provide for sheltering animals under authority of G.S. 153A-442; and to protect animals and the public from the threat of rabies (hydrophobia) under authority of general statutes relating to rabies contained in public health law.
(Ord. of 5-16-94)

Sec.3-2. Definitions.

[For the purpose of this chapter, the following words and terms shall have the meanings respectively ascribed to them unless the context clearly indicates a different meaning:]

Animal shelter. Any premises operated or designated by the county by contract or otherwise as the repository for impounded dogs, cats and other domestic animals impounded pursuant to this chapter.

At large. Any animal shall be deemed at large when it is off the property of its owner, off of leased property of its owner, off of property for which the owner has permission for the animal to be on, and is not under the restraint of the owner or his designee.

Dangerous animal. Any animal that has demonstrated a fierce or dangerous propensity, or tendency to threaten, attack any person or endanger any person.

Dangerous dog.

1) Any canine which, unprovoked, according to a report verified by employees of the county charged with animal control enforcement, or any law enforcement officer of the county sheriff's department, or a police department in the county, or the county health director or their designee (hereinafter the "appropriate authorities"), or through sworn testimony of an individual, has done bodily harm to a person on public or private property.

2) Any dog which, unprovoked, according to a report verified by the appropriate authorities listed above, has injured or killed a domestic animal without provocation while off the owner's property.

3) Any dog observed by the appropriate authorities listed above, which, unprovoked, chases or approaches a person on public or private property in a threatening or vicious manner or in an attitude of attack.

4) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
5) Exceptions. No dog shall be considered dangerous under this definition if, at the time of the threat, injury, attack or damage, the person attacked was committing a willful trespass

upon the premises of the animal's owner, or was teasing, tormenting, abusing or assaulting the dog, or has in the past teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. No dog shall be considered dangerous pursuant to this section if, at the time of the attack, it has attacked or injured a pet or domesticated animal in defense of an attack by another animal or if it is protecting or defending its young, nor shall a dog be considered dangerous when trained and used by law enforcement or by authorized security companies.

Exposed to rabies. An animal has been exposed to rabies (hydrophobia) within the meaning of this chapter if it has been bitten by, or been exposed to, any animal known or suspected to have been infected with rabies.

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

Neutered or spayed animal. Any male or female animal that has been permanently rendered incapable of reproduction, regardless of method.

Nuisance. An animal or group of animals shall be considered a nuisance if it:

1) Interferes with, molests, or attacks persons or other animals;

2) Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles;

3) Due to its actions, it has been demonstrated to be dangerous to the public health, safety or welfare;

4) Is diseased and dangerous to the public health;

5) Does not have a valid rabies vaccination tag.

Owner. Any person, group of persons, firm, partnership or corporation having a controlling property interest in any animal, or persons responsible for the care, custody and control of any animal. In the event that the owner of keeper of an animal is a minor, the parent or guardian of such minor shall be held accountable for noncompliance with this chapter. Keeping or feeding an animal for more than forty-eight (48) hours shall constitute prima fascia evidence that a person has the care, custody and control of such animal.

Restraint. Any animal is under restraint within the meaning of this chapter if it:

1) Is controlled by means of a chain, leash, electronic device, or other tether;

2) Is within or on a vehicle driven or under the control of the owner or his agent;

3) Is locked within a secure enclosure and cannot exit without assistance;

4) Is locked within the dwelling or outbuildings of the owner and cannot exit without assistance;

5) Is under voice control.
(Ord. of 5-16-94; Ord. of 12-15-97)

Sec. 3-3. Establishment of the animal control program.

The county animal control program is hereby created and shall be housed in the county health department. The county health director shall be responsible for the administration of the program and shall utilize such employees as are determined by the county board of commissioners as necessary and feasible to administer the program.
(Ord. of 5-16-94)

Sec. 3-4. Health director.

The health director shall direct such employees as are assigned to the animal control program in its administration. In the performance of their animal control duties, employees shall have all the powers, authority and immunity granted under this chapter and the laws of the state in enforcing this chapter and state animal control laws, including, but not limited to, rabies, and other laws regulating the care, treatment, control and impoundment of animals.
(Ord. of 5-16-94)

Sec. 3-5. Employees' duties.

The employees of the animal control program shall:

1) Have the responsibility along with law enforcement agencies to enforce all laws of the state and all ordinances of the county pertaining to animals and shall cooperate with all law enforcement officers within the county in fulfilling the duty;

2) Enforce and carry out all laws of the state and all ordinances of the county pertaining to rabies control;

3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved and suspected of having rabies, for a period of not less than ten (10) days, for reporting to the health director as soon as practicable the occurrence of any such animal bite. Employees shall monitor the condition of any quarantined animal on a daily basis. Any animal, other than a dog or cat, determined to have symptoms of rabies shall be destroyed and tested.

4) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the county subject to seizure or impoundment under this chapter or state law;

5) Investigate cruelty or abuse with regard to animals; animals must have adequate food, water, and shelter as observed by the investigating Animal Control Officer or local law enforcement.

6) Keep or cause to be kept, accurate and detailed records of:

   a. Seizure, impoundment, and disposition of all animals coming into the animal control program;

   b. Bite cases, violations and complaints, and investigation of same;

   c. All monies belonging to the health department or county which were derived from fees, penalties, sales of animals, or other sources;

7) Animal control officers shall be empowered to issue criminal citations and civil notices of violation of this chapter, or state animal control laws.

(Ord. of 5-16-94)

8) Animal Control Officers will provide educational documents for the public to inform them of the legal steps they can take in the event of an animal complaint

Sec. 3-6. At large.

It shall be unlawful for any owner or keeper of a dog or cat to allow it to run at large in the county. Hunting dogs shall be exempt from the provisions of this section, while engaged in hunting, as long as they are under the supervision of the owner or keeper.

(Ord. of 12-15-97)

~~**Sec. 3-7. Confinement, muzzling, and control of vicious or dangerous domestic animals.**~~

~~It shall be unlawful for any person to keep any vicious, fierce or dangerous domestic animal within the county unless it is confined within a secure building or enclosure, or it is securely muzzled and under restraint by means of a leash, chain or rope and firmly under control at all times.~~

~~(Ord. of 5-16-94)~~

Sec. 3-7. Precautions against attacks by dangerous dogs.

(a) It is unlawful for an owner to:

   (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;

   (2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3(6)), the owner shall provide written notice to:

   (1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and

   (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(c) Violation of this section is a class 3 misdemeanor punishable by a fine of no less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00).

Sec. 3-8. Compliance with state rabies laws; supplemental to state rabies laws.

a) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

b) It is the purpose of this chapter to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(Ord. of 5-16-94)

Sec. 3-9. Vaccination of dogs, cats and other pets.

a) It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four (4) months of age or older. Should it be deemed necessary by the health director or the board of health that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.

b) A rabies vaccination shall be deemed "current" if the vaccination has been given which was appropriate for the species and the vaccination has not expired according to guidelines of the commission for health services of the state.
(Ord. of 5-16-94)

c) All rabies vaccines administered by certified rabies vaccinators employed by the Pender County Health Department shall be paid for at a rate set by the Pender County Board of Health.

Sec. 3-10. Vaccination tag and certificate.

a) There shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.

b) It shall be unlawful for any dog or cat owner or keeper to fail to provide the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached.

c) In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog or cat is found not to be wearing a currently valid rabies tag.

d) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

e) All dogs or cats shipped or otherwise brought into this county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one (1) week after entry, and shall remain confined for two (2) additional weeks after vaccination unless accompanied by a certificate issued by a licensed veterinarian showing that such dog or cat is apparently free from rabies and has not been exposed to same or that such dog or cat has received a proper dose of rabies vaccine as evidenced by a current rabies vaccination tag or certificate.
(Ord. of 5-16-94)

Sec. 3-11. Identification Tag.

It shall be unlawful for a dog owner to own a dog that is not fitted with an ID tag displaying the owner's name and phone number on the collar of the dog; the ID tag shall be worn at all times and shall serve as prima fascia evidence of ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00).

Sec. 3-12 Unlawful removal or destruction of identification articles.

It shall be unlawful to intentionally remove or destroy any identifying articles including collars, tattoos, tags, microchips or any other article used to prove ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00)

Sec. 3-13. Notice to health director when person bitten; confinement of animal.

a) When a person has been bitten by an animal having rabies or suspected of having rabies, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his possession or under his control, to notify the health director, or person duly authorized by the health director, immediately, and give their names and addresses; and the owner or person having a dog or cat in his possession or under his control shall immediately securely confine it for ten (10) days at the expense of the owner in such place as may be designated by the health director. Animals other than dogs or cats having rabies or suspected of having rabies shall be euthanized and tested, unless the health director authorizes the animal to be kept indoors in an enclosed pen, or outside in an enclosed pen with one-half-inch mesh hardware cloth, in such a way as to preclude all animal contact for a period of six (6) months from the date of exposure. It shall be the duty of every physician, after his first professional attendance upon a person bitten by any animal having rabies or suspected of having rabies, to report to the health director the name, age and sex of the person so bitten, and precise location of the bite wound, within twenty-four (24) hours after first having knowledge that the person was bitten. If the owner of or a person who has in his possession or under his control an animal having rabies or suspected of having rabies refuses to confine the animal as required by this chapter by G.S. 13A-184 et seq., the health director may order seizure of the animal.

b) Law enforcement agencies investigating animal bites shall report such bites immediately to the health director or person duly authorized by the health director and gives the names and addresses of persons bitten and owner of animal.

c) Animals confined per subsection (a) above shall not be released from confinement except by permission from the health director.

d) Animals confined per subsection (a) above shall be confined at the expense of the owner or keeper.

e) In cases of bites by an animal whose owner or keeper is not known, the animal shall be kept for the supervised confinement period required by the chapter at the animal shelter, or euthanized and tested at the discretion of the health director.

f) Badly wounded, diseased, or suffering animals which are suspected of having rabies may be humanely destroyed immediately and the head forwarded to the laboratory section of the state division of health services for examination.
(Ord. of 5-16-94)

Sec. 3-12. Destruction or confinement of animal bitten by a known rabid animal.

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six (6) months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper.
(Ord. of 5-16-94)

Sec. 3-14. Area-wide emergency quarantine.

a) When reports indicate a positive diagnosis of rabies to the extent that lives of persons are endangered, the health director may declare an area-wide quarantine for such period as he deems necessary. Upon invoking of such emergency quarantine, no dog or cat may be taken or shipped from the county without written permission of the health director. During such quarantine, the health director, law enforcement officers, or persons duly authorized by the health director may seize and impound any dog or cat found running at large in the county. During the quarantine period the health director shall be empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination facilities strategically located throughout the county.

b) In the event there are additional positive cases of rabies occurring during the period of quarantine, such period of quarantine may be extended at the discretion of the health director.
(Ord. of 5-16-94)

Sec. 3-15. Postmortem diagnosis.

a) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the health department for shipment to the laboratory section of the state division of health services for rabies diagnosis.

b) The carcass of any animal suspected of dying of rabies shall be surrendered to the health department. The head of such animal shall be shipped to the laboratory section of the state division of health services for rabies diagnosis.
(Ord. of 5-16-94)

Sec. 3-16. Unlawful killing or releasing of certain animals.

It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation for biting a human, or to remove such animal from the county without written permission from the health director, provided that a licensed veterinarian or the health director, or persons duly authorized by the health director, may authorize any such animal to be killed for rabies diagnosis.
(Ord. of 5-16-94)

Sec. 3-17. Failure to surrender animal for confinement or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this chapter, when demand is made therefore by the health director.
(Ord. of 5-16-94)

Sec. 3-18. Impoundment.

a) Any animal which constitutes a nuisance as defined by this chapter, or is not wearing a currently valid rabies vaccination tag, or is alleged to be in violation of this chapter or subject to seizure or impoundment under state law or this chapter, may, in the discretion of the health director or their designee, be seized, impounded, and confined in a humane manner in an animal shelter.

b) 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.
(Ord. of 5-16-94)

Sec. 3-19. Notice to owner or keeper.

a) Upon impounding an animal, notice of such impoundment shall be posted for a minimum of seventy-two (72) working hours, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.

b) Such notice shall be prominently displayed on a bulletin board at a place designated by the health director, and the time and place of the taking of such animal, together with the time and date of posting the notice shall be stated therein.
(Ord. of 5-16-94)

Sec. 3-20. Redemption by owner or keeper generally.

a) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within seventy-two (72) working hours after notice of impoundment is posted as required by this chapter and complying with all applicable provisions of this chapter by paying any applicable fees as determined by the board of health.

b) No animal owner or keeper may be permitted to adopt his own animal under the provisions of this chapter, but he must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to state law or this chapter.

c) A hunting dog wearing a valid rabies vaccination tag may not be impounded under this chapter for being at large while training or engaged in a hunt. Provided, however, that the dog and the owner or keeper of such hunting dog are otherwise in compliance with the provisions of this chapter and that the impoundment occurred during a lawful wildlife hunting season or training of the dog out of season and the use of hunting dogs is permitted for such season or in training. No such animal may be released if it is impounded under the rabies provisions of this chapter or state law, or has been found to be a vicious or dangerous dog under this chapter.
(Ord. of 5-16-94)

Sec. 3-21. Destruction or adoption of unredeemed animal generally.

a) If an impounded animal is not redeemed by the owner or keeper within a period of not less than seventy-two (72) hours of impoundment, as established by the health director, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this chapter and with policies promulgated by the board of health.

b) No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this chapter, except by special authorization of the health director.
(Ord. of 5-16-94)

Sec. 3-22. Procedures with respect to redemption or adoption of unvaccinated dog or cat.

a) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a "proof of rabies vaccination notice" at the time of the redemption or adoption. This notice will be stamped with a date stating the maximum time limit allowed to take the dog or cat to the veterinarian of such person's choice for rabies vaccination. The time limit for dogs and cars four (4) months and older will be seventy-two (72) hours, with Sundays and holidays excluded. For puppies and kittens under four (4) months, the time limit will vary according to their age.

b) The "proof of rabies vaccination notice" will be completed by the veterinarian and returned to the animal shelter by the animal owner or keeper.

c) Payment for rabies vaccination provided for in this section will be the responsibility of the person redeeming or adopting the animal.
(Ord. of 5-16-94)

Sec. 3-23. Immediate placement for adoption or destruction of owner surrendered animals.

a) Any animal surrendered by its owner to the animal control division of the health department may be immediately placed for adoption of humanely destroyed when:

1) The owner directs in writing that the animal be placed for adoption or humanely destroyed; and

2) The owner affirmatively represents in writing that he or she is in fact the legal owner of such animal; and

3) The owner agrees that he or she will indemnify and hold the health department harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of such animal; and

4) The owner transfers ownership of such animal to the health department and releases the health department from any and all future claims with respect to the animal.

b) Upon receiving such assurances, the health department may rely on the same and place such animal for adoption, or destroy such animal, as it sees fit.
(Ord. of 5-16-94)

Sec. 3-24. Destruction of wounded, diseased, or unweaned animals.

Notwithstanding any other provision of this chapter, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect), or unweaned and has no identification shall be destroyed immediately in a humane manner. If the animal has identification, the health department shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be reached readily, and the animal is suffering, the health department may destroy the animal at its discretion in a humane manner.
(Ord. of 5-16-94)

Sec. 3-25. Destruction of animals which cannot be seized by reasonable means.

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by order of the health director or person duly authorized by the health director.
(Ord. of 5-16-94)

Sec. 3-26. Interference with enforcement.

It shall be unlawful for any person to interfere with, hinder or molest the employees of the health department or animal control officers or persons duly authorized by this chapter, or seek to release any animal in the custody of such persons, except as otherwise specifically provided. (Ord. of 5-16-94)

Sec. 3-27. Penalty for violation.

a) The violation of any provision of this chapter shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided is G.S. 14-4. Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed by this chapter.

b) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 153A-123(d) and (e).

c) In addition to and not in lieu of the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth:

1) Upon observing a violation the animal control officer may issue a warning notice for first violation(s) or may issue a citation.

2) Such citation shall:

a) State upon its face that a civil penalty in the amount of fifty dollars ($50.00) has been imposed and shall specify the specific violation charged.

~~b) Notify such offender that a failure to pay the civil penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of twenty-five dollars ($25.00), together with the cost of the action to be taxed by the court.~~

b) Notify offender that failure to pay the civil penalty may result in the issuance of a criminal citation for misdemeanor for violation of the above section. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars ($50.00) and not more than five hundred dollars ($500.00).

c) The notice shall also inform the alleged offender that they may answer the notice by mailing such notice, and stated penalty to the health director at the mailing address, or may request a hearing before the health director to contest to civil penalty.

3) The health director is authorized to accept such payments in full and final settlement of the claim or rights of action which the county may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations.

4) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person, or may be mailed to such person at his last known address.

5) All penalties paid to the health director or as may be recovered on a civil action in the nature of debt as herein provided shall be paid into the animal control fund of the county.
(Ord. of 5-16-94; Ord of 12-15-97)