

PAMLICO COUNTY
DANGEROUS ANIMAL ORDINANCE

Approved by the Pamlico County Board of Commissioners

October 3, 2022



Doug Brinson – Chairman



Chantelle Allison – Clerk to the Board

Section 1 Definitions

Attack trained means any animal that has been specifically trained by a person to take command to attack or injure a person or animal, or any animal that has been specially trained or disciplined or conditioned to protect persons or property. Attack trained does not include animals possessed and used by law enforcement or military in performance of official duties.

Behavior

Three categories of behavior are defined as follows:

- (1) **Vicious Animal** means one which, when unprovoked, kills or inflicts severe injury on a human, causing broking bones, disfiguring laceration with permanent scars, and no evidence of a tort being committed by the victim, while on or off the owner's property.
- (2) **Dangerous Animal** means with no evidence of a tort being committed by the victim:
 - a. One which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper; or
 - b. One which, when unprovoked, bites a person causing less severe injury than that defined as severe; or
 - c. One which has been trained in attack methods; or
 - d. One which has been trained or is kept primarily or in part for the purpose of fighting, or any animal trained for fighting.
- (3) **Potentially dangerous** means with no evidence of a tort being committed by the victim or any provocation of the animal:
 - a. One which causes any person being chased or approached by the animal to reasonably believe that the animal will cause physical harm to the person when off the property of the owner or keeper; or
 - b. One which when off the property of its owner or keeper, the animal has killed, seriously bitten, inflicted injury or otherwise caused injury by attacking a domestic animal when the animal was unprovoked by the actions of the other animal.

Direct control means that an animal is within sight or hearing of the owner and will respond instantly to the commands or signals to come, sit, or stay.

- (1) **Come** means that the animal shall immediately leave the position where it is located and return to its owner.
- (2) **Sit** means that the animal shall immediately cease movement in any direction and assume a sitting position;
- (3) **Stay** means that the animal shall immediately cease movement in any direction and remain at the spot in which the command was heeded until released by its owner or keeper.

Animal means any animal that has a vertebrae except for a human.

Owner means any person or entity that has possessory rights to the animal. Owner means any person handling, keeping, possessing, harboring, maintaining, or having the care, custody, or control of the animal except licensed veterinarian clinics, animal control shelters, or licensed boarding kennels. Minor children

are not to be considered owners. The parent(s), legal guardian, or person(s) acting in loco parentis will be considered owner, and as such will be considered the individual responsible for the animal.

Provocation or location of attack irrelevant means any animal that causes a person's death by attacking, biting, or mauling the person, regardless of whether the animal was provoked and regardless of where the incident resulting in the person's death has occurred.

Severe Injury means any physical injury to a human being that results in muscle tears, disfiguring lacerations, multiple sutures, corrective surgery, cosmetic surgery, broken bones, or hospitalization, either individually or in any combination thereof.

Without provocation means that the animal was not teased, tormented, abused, threatened, chased, or in any other way set upon or antagonized, and with no evidence of a tort being committed by the victim. This also means that the animal was not coming to the aid or defense of a person not engaged in illegal or criminal activity and who was not using the animal as a means of carrying out such activity.

Section 2 Animals Declared Vicious

- a) No animal declared vicious may be offered for sale, given away, traded, or placed for adoption. The owner of an animal so designated shall notify the County authority, in writing, within two working days of any change in residence of the owner and animal, giving the correct new address, phone number, and physical location of same. The owner of an animal so declared will retain possession of the animal until the animal dies, is destroyed, or surrendered to the County authority for disposal. When the animal dies or is destroyed, the owner will immediately notify the County authority of the death of the animal so that proper identification can be made by reading electronic implant.
- b) The declaration of vicious will carry with it certain and specific conditions not necessarily the same as those restrictions of animals declared dangerous or potentially dangerous.
- c) An animal determined to be a vicious animal may be destroyed by the County authority when it is found, after proceedings conducted to determine that the release of the animal would create a significant threat to the public health, safety, and welfare. If it is determined that an animal so declared as vicious shall not be destroyed, the County authority responsible for animal control, appellate board or judicial authority may impose additional conditions to protect the public health, safety, and welfare.
- d) The owner of an animal declared vicious may be prohibited from owning, possessing, controlling, or having custody of any animal for a period of up to three years if found, after proceedings that ownership or possessing of an animal by that person would create a significant threat to the public health, safety, and welfare.

Section 3 Mandated housing in a secure enclosure

Any animal that has been declared potentially dangerous, dangerous, or vicious shall be enclosed in a secure enclosure in accordance with this section. A secure enclosure is:

- a) Outdoors

- (1) The primary enclosure for said animal will be set inside a protective fence constructed of nine-gauge chain link, at least six feet in height, with a padlocked gate. The gate must be securely closed, even when the owner is inside the primary enclosure to effect care/cleaning.
- (2) The primary enclosure will be constructed of nine-gauge chain link, at least six feet in height and a minimum of ten feet by ten feet square, with sufficient structures and anchoring around the perimeter such that the animal cannot escape by digging under the perimeter, which may include a concrete floor anchored to the fencing. Anchoring may be accomplished by either by burying the fence or by installing anchors to be the bottom rail of the fence to preclude the escape of the animal. The top area of the pen will be totally enclosed, including the protective fence, with chain link of a minimum gauge of 11.5, so anchored to the side walls of the pen/protective fence to preclude the escape of the animal by climbing. All support uprights, top and bottom rails and all hardware needed to erect pen and perimeter fence to be of such grade as to properly support weight of said fencing. The gate to the primary enclosure will be padlocked and must be securely closed, even when the owner is inside the pen to effect cleaning of the pen and care of the animal.
- (3) The animal's house, sufficiently sized to accommodate the animal will be always available to the animal to protect it from the elements of nature. Said shelter will be kept in good repair and kept in a clean manner.
- (4) The outside enclosure will be inspected by Pamlico Animal Control on a yearly basis, and without notice to the owner of the animal.
- (5) The owner will provide access to Pamlico Animal Control within 24 hours for inspection if the owner is not at home.

b) Indoors

- (1) If the animal is housed in a residence all or part of the time, the residence windows and doors will be secured as to prevent the animal's escape.
- (2) Inside other building/structure - If the animal is housed in an outbuilding, garage, storage shed, or other structure the building will be secured as to prevent to animal's escape. Ventilation will be provided by manner of windows or other openings to provide adequate air exchanged to prevent the overheating of said outbuilding, said openings to be secured to prevent the animal's escape. The animal will have natural sunlight as well as artificial light.
- (3) The inside enclosure will be inspected by Pamlico Animal Control on a yearly basis, and without notice to the owner of the animal
- (4) The owner will provide access to Pamlico Animal Control within 24 hours for inspection if the owner is not at home.

c) Other Restrictions for the Animal

- (1) The vicious animal is not permitted to be unconfined on the owner's property without a muzzle, regardless of whether in the presence of the owner or others. The muzzle will be properly fitted so as not to restrict the breathing or vision of the animal and not to cause harm by abrading or cutting into the skin.
- (2) When off the property, in the accompaniment of the owner or other responsible adult, the animal will be secured by a leash no longer than four feet and muzzled. The leash will be

attached to a collar or harness. Both leash and collar or harness must be manufactured specifically for the control of the animal.

- (3) Adequate food will be provided at least one time every 24 hours, and at all times fresh palatable water will be available in a container so placed as to prevent spillage, being soiled by excrement/urine or debris, and in a location available to the animal.
- (4) Posting of the property and perimeter fencing will be in such a manner as to warn any and all persons, including children, of the presence of a vicious animal. Said signs will be placed in such a manner as to be visible from the common entrance(s) to the property, specifically the driveway, but not limited to that point. Said signs must be visible from all property lines on the property and must be specifically placed on all sides of the perimeter fence.
- (5) Tethering is not permitted.

Section 4 Permanent Identification of Declared Animals Required

Any animal declared vicious, dangerous, or potentially dangerous will be permanently identified by an electronic implant. The cost of said implant will be paid by the owner of the animal. The owner is hereby required to allow and assist the County authority responsible for overseeing the dangerous animal ordinance in reading the electronic implant at such times as deemed reasonable or at such time the identification of the animal is in question, either by County authority or by complaint filed by any third party.

Section 5 Obedience Training/Behavior Modification May Be Required

If so required by the appellate board as a condition of release from the designation of dangerous or potentially dangerous, obedience classes or training shall be obtained from a certified/licensed animal trainer specializing in behavior modification and standardized training procedures recognized by the American Kennel Club or other recognized animal behaviorists. Successful completion of the training by both the owner and the animal will be required as a condition of release from said designation. All costs of said training will be borne by the owner of the animal and will be paid in full to the satisfaction of the trainer.

Section 6 Release from Status of Declaration of Dangerous or Potentially Dangerous

- a) If after 24 months there are no additional instances of the declared behavior, the animal shall be removed from the list of dangerous or potentially dangerous animals. The animal may, but is not required to be, removed from the list of dangerous or potentially dangerous animals prior to the expiration of the 24-month period if the owner or keeper demonstrates to the County authority's satisfaction that changes in circumstances or measures taken by the owner or keeper, such as training of the animal, have mitigated the risk to public safety.
- b) If, however, within one year following removal from the list of dangerous or potentially dangerous, the animal exhibits any of the behaviors that resulted in the original declaration, or any other behavior that would result in the declaration of dangerous or potentially dangerous, the animal automatically, with no right of appeal will be declared dangerous and will be subject to all the restrictions and constraints as defined for the remainder of the animal's life. Any applicable fees

permit registrations, surety bond or insurance would be reinstated for the continued inspections by the designated County authority.

- c) No animal declared vicious will be released from that designation. Only animals declared dangerous or potentially dangerous may be released upon satisfactory evidence presented as stated in this Section.
- d) No animal declared dangerous or potentially dangerous may be given away, sold, traded, or placed for adoption. Owner of a declared animal will retain possession of the animal until the animal is released by the appellate board, dies, is destroyed, or surrendered to Pamlico County Animal Control for disposal.

Section 7 Exceptions to Declaration

- a) No animal may be declared vicious, dangerous, or potentially dangerous when being used by certified law enforcement officer(s) in carrying out the official duties of that office.
- b) No animal may be declared dangerous or potentially dangerous if any injury or damage is sustained by a person who, at the time of sustaining the injury or damage was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal or was committing or attempting to commit a crime.
- c) No animal may be declared dangerous or potentially dangerous if the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault.
- d) No animal may be declared potentially dangerous if injury, or damage was sustained by a domestic animal which at the time of injury or damage was teasing, tormenting, baiting, abusing, or assaulting the animal.
- e) No animal may be declared potentially dangerous if the injury or damage to a domestic animal was sustained while the animal was working as a hunting animal, herding animal, or predator control animal, on the property of, or under the control of its owner or keeper by electronic means, and the damage or injury was to a species or type of animal appropriate to the work of the animal.
- f) No animal will be declared potentially dangerous if the animal in on the owner's property and is restrained or in a pen or tie out and the person enters the area of where the animal is secured.

Section 8 Certain Animals May Be Killed

- a) Subject to provisions of containment and enclosure found in this ordinance, an animal that has been declared vicious, dangerous or potentially dangerous that is chasing or approaching in a menacing fashion on in an apparent attitude of attack, that attempts to bite or otherwise endanger, or that kills or injures a person or an animal that is the property of another person can be killed at the time of that chasing, approaching, attempt, killing or injury.
- b) If, in attempting to kill such an animal, a person wounds it, that person shall not be liable to prosecution under the penal laws which govern cruelty to animals. The person may still be civilly liable for the death or injury of that animal.

- c) The owner of said animal is liable in damages for any injury, death of another animal or loss to a person or property that is caused by the animal unless the injury, death or loss was caused to the person or property of an individual who, at the time, was committing or attempting to commit a criminal offense or willful tort against any person or was teasing, tormenting, or abusing the animal on the owner's property.
- d) Any animal, regardless of declaration of dangerousness or viciousness, that has killed a human being, maybe seized by County authority, and humanely destroyed after all appeal rights of the owner have been exhausted pursuant to this ordinance. If humane capture of the animal cannot be affected, the animal may be destroyed on site by any person or persons without prosecution for cruelty to animals or civil liability for such action. This provision does not relieve the owner of the animal from any liability imposed by this ordinance or any other applicable State or Federal law for the actions of the animal.

Section 9 Disposition of Vicious, Dangerous or Potentially Dangerous Animals

- a) All potentially dangerous, dangerous, and vicious animal so declared shall be properly licensed if applicable, microchipped and vaccinated.
- b) All potentially dangerous, dangerous, and vicious animal so declared shall at all times be maintained, housed, kept, or otherwise restrained as outlined in this article.
- c) The owner of an animal so designated as potentially dangerous, dangerous, and vicious animal shall notify the County authority, in writing, within two working days of any changes in residence of the owner and animal, giving the correct new address and physical location of same. If the animal dies or is humanely destroyed be persons authorized to do same, the owner will immediately notify the County authority of the death of the animal so that proper identification can be made by reading the electronic implant.

Section 10 Notification of Determination

- a) Upon receiving a report of a vicious, dangerous, or potentially dangerous animal, the officer assigned to that report shall make such investigations and inquiries regarding such report as may be necessary to carry out the provisions of this ordinance.
- b) When an assigned officer classifies an animal as vicious, dangerous, or potentially dangerous that person shall notify the animal's owner in writing of that determination, by hand delivery of the declaration with signature proof of delivery. In the event that the hand delivery is not available then such notice shall be served by the sheriff or other process server in an attempt to notify the owner.
- c) Such notice shall include the findings of the investigation, the reason for the determination, a description of the type of animal(s) involved and the procedures for filing an appeal if such an appeal is granted.

Section 11 Procedure for Declaration

- a) The County shall designate a person or persons to determine an animal's status. It also will designate a separate group of persons to hear any appeal.
- b) If the animal falls under the definition of vicious, dangerous, or potentially dangerous, the owner has the right of appeal.
- c) Once either decision has been made the owner must follow all State laws and County ordinances dealing with dangerous, or potentially dangerous animal until all appeals have been exhausted and a final decision rendered. If no appeal is requested or the owner fails to appeal, then the decision is final.
- d) The appellate board shall consist of the Health Director, a County Commissioner, a member of PAWS and a Law Enforcement Officer. No financial remuneration will be paid for their service.
- e) Notice of appeal shall be completed by filing a written objection with the appellate board within three business days after receiving written notice. The appellate board shall schedule a hearing within ten business days of the filing of the appeal. Until the appeal is final, the animal must be controlled and confined pursuant to the article requirements for the specific designation of that animal. Any appeal from the final decision of such appellate board will be submitted to the Superior Court by filing notice of appeal and a petition for review within ten days of the final decision of the appellate board.
- f) Appeals from rulings of the appellate board will be heard in Pamlico County Superior Court. The appeal shall be heard de novo before a Superior Court judge in accordance with G.S. § 67-4.1(c).
- g) In the case of a vicious animal, the animal must be housed at an animal shelter, veterinarian clinic or licensed boarding kennel approved by the County authority until all decisions are final. Fees or charges for such boarding will be paid by the owner prior to the release of the animal. In cases when the determination of the board is that the animal will be humanely euthanized, the owner will still be charged the daily board fee for housing the animal in addition to euthanasia fees and disposal fees, if applicable.
- h) Within seven days after a dangerous, or potentially dangerous animal determination becomes final, the owner must have the animal microchipped and have that number registered with a nationally recognized registry body and have that micro-chip duly registered. All containment areas and the placement of mandated signs will be inspected by Pamlico County Animal Control. Approval or disapproval is the Pamlico County Animal Control's responsibility. Vicious Animals will not be released until they are microchipped.
- i) An owner who violates any part of this section in a willful or grossly negligent manner shall forfeit all rights of ownership of the animal and upon a final determination of such violation the animal may be humanely euthanized by a licensed veterinarian or other person so trained. The person or board responsible for determining that the animal is vicious, dangerous, or potentially dangerous shall determine whether the owner's violation was willful or grossly negligent. The person or board must notify the owner in writing, giving the reason for the determination, before they may euthanize the animal. The owner may appeal the determination by filing written objections to the appellate board within three business days of receipt of the notice. The appellate board shall schedule a hearing within ten days of filing of objections. Any appeal from the final decision of such appellate board shall be taken to the Superior Court by filing notice of appeal and a petition for review within ten days of the final decision of the appellate board.

- j) Appeals from rulings of the appellate board shall be heard in Superior Court. The appeal shall be heard de novo before a Superior Court judge sitting in the County in which the appellate board whose ruling is being appealed is located in accordance with G.S. § 67-4.1(c).

Section 12 Maximum Penalty Per Day for Violation of this Article

- a) A violation of any portion of this article subjects the offender to a maximum criminal penalty of \$500.00 as provided under G.S. § 14-4(a) for each day a violation exists.
- b) A violation of this ordinance subjects the offender to civil penalty of \$500.00 for each day a violation exists. Those sums may be recovered by the County in a civil action in the nature of debt if the offender does not pay within 20 days of notification of a violation. Following receipt of notification of a violation pursuant to this ordinance, an offender commits an additional and separate offense for each day the offender fails remedy of said violation in accordance with this ordinance.
- c) A violation subjects the offender to a civil penalty to be recovered by the County in civil action in the nature of debt if the offender does not pay the penalty within 20 days after being cited for violation of this ordinance.
- d) This ordinance may also be enforced by application for appropriate injunction, order of abatement or such other equitable relief as may be appropriate under G.S. § 153A-123 or similar provision.