

WEDNESDAY, JUNE 8, 2011
TOWN OF SAWMILLS SPECIAL COUNCIL MEETING
9:00 A.M.

COUNCIL PRESENT

Bob Gibbs
Gerelene Blevins
Beverly Fry
Donnie Potter
Joe Wesson

STAFF PRESENT

Seth Eckard
Susan Nagle
Terry Taylor

CALL TO ORDER: Mayor Bob Gibbs called the meeting to order.

INVOCATION: Mayor Gibbs gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Gibbs led the Pledge of Allegiance.

ADOPT AGENDA: Mayor Gibbs asked for a motion to adopt the agenda.

On a motion made by Beverly Fry, and seconded by Joe Norman, the agenda was adopted. All were in favor.

CODE ENFORCEMENT NOTICE OF VIOLATION: Mayor Gibbs stated there would be no action taken by Council at this meeting. The purpose of this meeting is to listen and talk to John and Nancy Greene as well as any abutting property owners in attendance.

During the May 17, 2011 regular meeting, Council discussed this matter and tabled the Code Enforcement appeal until the June 21, 2011 meeting. The Solid Waste Committee gave this matter to Code Enforcement Officer Tony Cline. Officer Cline stated that he has had many conversations and meetings over the last few months with the property owners John and Nancy Greene. Officer Cline stated that several issues cited in the violation have been taken care of, but the issue of the junk motor vehicle still needed to be addressed. Officer Cline advised Mr. and Mrs. Greene to appeal his interpretation of the ordinance since the circumstances for this are a little bit different. The junk vehicle in question is a tractor-trailer and not a car.

PUBLIC COMMENT: Mayor Gibbs asked if anyone present would like to speak.

Kirk Gobble, who lives right across the street on Villa Woods Lane from Mr. and Mrs. Greene stated there is a lot of yard art; but Mr. and Mrs. Greene spend more time taking care of their yard and trying to keep it clean than anyone around. Mr. Gobble also stated that he sees no issue with the tractor-trailer used for storage in the yard as there are others being used in the Town of Sawmills.

J.D. Phillips, who lives on Villa Woods, showed an aerial photo of when all this started. Mr. Phillips also showed the attached petition, signed by neighbors less than a year ago, to get rid of the tractor-trailer. Mr. Phillips stated, thanks to Officer Tony Cline, this matter has come a long way but still has a way to go and the property needs to be cleaned up.

Robert Yount who lives on Villa Woods stated he has lived there for 42 years. Mr. Yount stated the reason he signed the petition was that the grounds were not kept up and there are rats, feral cats, opossums squirrels and snakes. Mr. Yount is concerned about a health hazard as this property used to be nice but it has just got worse, and if it is law, enforce it.

Jack Davis, who lives on Villa Woods, stated the trailer was there twenty-four years ago and was not a problem then and should not be a problem now. Mr. Davis thinks the tractor-trailer should be grandfathered.

Jean Davis, who lives on Villa Woods, stated if she was going to buy a house her decision would be based on the neighbors and businesses around it.

Wendy Greene stated she has been a part of the clean up at the Greene house. The matter at hand is covering the tractor-trailer, and they have found a cover big enough fixing the issue of the tractor-trailer.

Clyde Cogdell, who lives on Villa Woods, stated the reason he signed the petition was to clean the place up and had nothing to do with the tractor-trailer. Mr. Cogdell does not see anything wrong with the tractor-trailer.

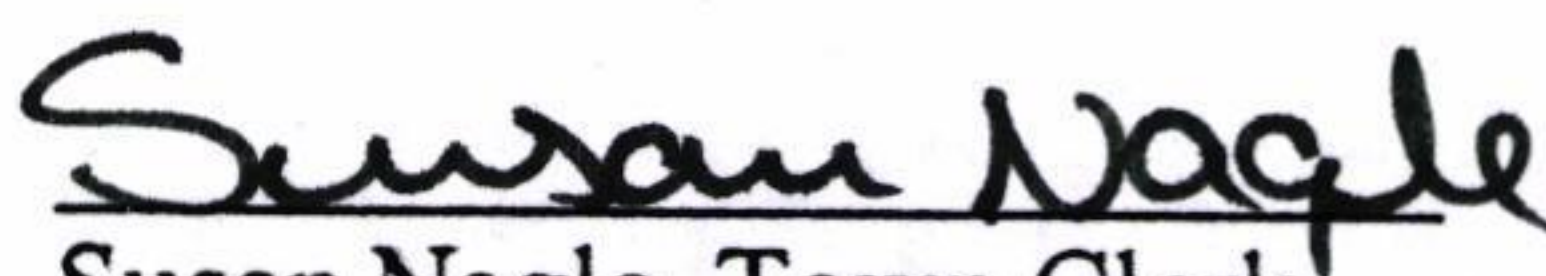
Town Attorney Terry Taylor stated that if there is an approved cover over the tractor-trailer then Council has no more jurisdiction. Attorney Taylor also stated that if there is an approved cover over the tractor-trailer by the June 21, 2011 meeting there would be no Council action needed.

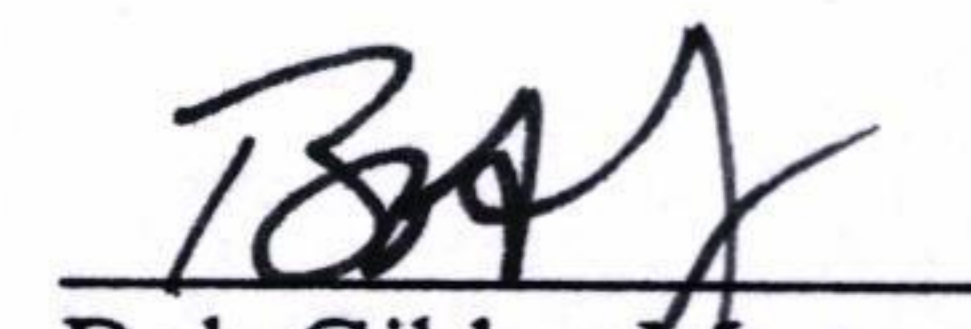
Property Owner John Greene stated the trailer has been there for twenty-five years. Mr. Greene also stated, when the tractor-trailer was put in he called the County as Sawmills was not incorporated yet. The County authorized him that as long as the tractor-trailer was so many feet off of the property line then it could be placed on the property.

Administrator Eckard stated Code Officer Tony has estimates on the cost of a contract to remove an empty tractor-trailer and the amount would be around \$250.00 to \$350.00.

Officer Cline stated there are three ways this violation could be satisfied. The junk vehicle would have to be removed, have an approved cover over it, or by demonstrating that the vehicle is operational as it was intended.

ADJOURN: After much discussion, a motion made by Joe Wesson and seconded by Donnie Potter, to adjourn the meeting. All were in favor.


Susan Nagle, Town Clerk


Bob Gibbs, Mayor

TUESDAY, JULY 19, 2011
TOWN OF SAWMILLS REGULAR COUNCIL MEETING
6:00 P.M.

COUNCIL PRESENT

Bob Gibbs
Gerelene Blevins
Beverly Fry
Joe Norman
Joe Wesson

STAFF PRESENT

Seth Eckard
Susan Nagle
Terry Taylor

COUNCIL ABSENT

Donnie Potter

CALL TO ORDER: Mayor Bob Gibbs called the meeting to order.

INVOCATION: Pastor Rick Crouse gave the invocation.

PLEDGE OF ALLEGIANCE: Mayor Gibbs led the Pledge of Allegiance.

ADOPT AGENDA: Mayor Gibbs asked for a motion to adopt the agenda.

On a motion made by Joe Norman, and seconded by Beverly Fry, the agenda was adopted. All were in favor.

APPROVAL OF MAY 17th AMENDED REGULAR MEETING MINUTES: Mayor Gibbs asked for a motion to approve the Amended May 17, 2011 regular meeting minutes.

On a motion made by Gerelene Blevins, and seconded by Joe Wesson, the minutes were approved. All were in favor.

APPROVAL OF JUNE 21st REGULAR MEETING MINUTES: Mayor Gibbs asked for a motion to approve the June 21, 2011 regular meeting minutes.

On a motion made by Beverly Fry, and seconded by Joe Norman, the minutes were approved. All were in favor.

RECOGNITION:

YARD OF THE MONTH WINNERS: Mr. and Mrs. Steve Duncan from the 28630 zip code and Mr. and Mrs. Douglas Laxton from the 28638 zip code were the yard of the month winners for August. Mayor Bob Gibbs stated that both winners are unable to be here tonight but may pick up their picture and certificate at the Town Hall at their convenience.

No Council action is required.

RECYCLE REWARDS PROGRAM WINNER: Administrator Seth Eckard stated it is an honor to congratulate Sam, Joan, and Erica Baston as the first winners of the recycle rewards program. Administrator Eckard stated that the Baston family is unable to be here tonight but may pick up their certificate at the Town Hall at their convenience and they will receive a credit of twenty-five dollars (\$25.00) on their current sanitation bill.

No Council action is required.

APPOINTMENTS:

REVIEW OFFICER: Mayor Gibbs asked Council to discuss appointing Town Planner Emily Hines as the Review Officer for the Town making the current Review Officer Administrator Eckard the alternate in the absence of Hines.

On a motion made by Joe Norman, and seconded by Joe Wesson, Council appointed Town Planner Emily Hines as the Review Officer and Administrator Eckard as the alternate for the Town. All were in favor.

BOARD OF ADJUSTMENT MEMBERS: Town Administrator Seth Eckard stated the terms of appointment for the current Board of Adjustment members has expired and two of the members residing in the town limits and two members residing in the E.T.J. (extraterritorial jurisdiction) have given consent to serve another term. Three seats within the town limits are vacant and Administrator Eckard would like Council to come back to the regular Council meeting August 16, 2011 with nominations.

No Council action is required.

FINANCIAL MATTERS:

BID APPROVAL PAVING AND WATERLINE REPLACEMENT LOYE LANE:

Town Administrator Seth Eckard stated the Town recently received the following four bids for the Loye Lane paving and waterline replacement project:

Bell Construction Co., Inc.	\$112,134.42
Midstate Contractors	\$98,060.00
Evans Construction Co.	\$70,683.00
Locke-Lane Construction, Inc.	\$74,722.00

Administrator Eckard stated that Engineer Benjie Thomas would not recommend awarding the bid to Evans Construction Co. due to errors made by their company. After some discussion with Town Attorney Taylor, the staff's recommendation would be to award the bid to the second lowest bidder Locke-Lane Construction, Inc. in the amount of \$74,722.00.

On a motion made by Joe Norman, and seconded by Joe Wesson, Council excused Gerelene Blevins due to a conflict of interest. All were in favor.

On a motion made by Joe Norman, and seconded by Joe Wesson, Council awarded the bid to Locke-Lane Construction, Inc. in the amount of \$74,722.00. All were in favor.

BID APPROVAL FOR NEW ROOF ON TOWN HALL: Town Administrator Seth Eckard stated the Town recently received the following three bids for a new roof on the Town Hall:

Larry Drum Metal Roofing	\$6,900.00
Superior Design Construction Inc.	\$8,786.00
Graggs Metal Roofing	\$6,920.00

Administrator Eckard stated both Larry Drum Metal Roofing and Graggs Metal Roofing have satisfactory bids therefore; staff does not have a recommendation at this time.

After discussion, Gerelene Blevins made a motion and Joe Wesson seconded to award the bid to Larry Drum Metal Roofing in the amount of \$6,900.00.

ADOPT RESOLUTION FOR REVENUE SPENDING POLICY: Town Administrator Seth Eckard stated the Auditors and the Secretary of State recommend that towns adopt a spending policy for Finance Officers to go by. The town already follows this practice but does not have an official policy in place.

On a motion made by Joe Wesson, and seconded by Beverly Fry, Council adopted the Resolution for the Town of Sawmills Revenue Spending Policy. All were in favor.

GATEWAY SIGNS: Mayor Bob Gibbs stated that attached for Council review is a picture of the new signs, which will replace the existing signs. There will also be a tag added to the bottom with Miss Bumgarner's name, date and state that she won the sign art contest for the Town.

Mayor Gibbs stated the enclosed quote from Assurance Sign and Display in the amount of \$5,680.06 will cover the cost to design and install the signs and there are sufficient funds in the budget to cover this expenditure. Mayor Gibbs also stated that there would be no decisions made tonight giving the Council and Miss Bumgarner a chance to review the picture for approval at the next regular Council meeting.

No Council action is required.

STREET EVALUATION AND PRIORITIZATION PROPOSAL: Town Administrator Seth Eckard stated that during the budget workshops, Council discussed the possibility of grading the streets in the town and West Consultants, PLLC has drawn up a proposal.

Engineer Benjie Thomas with West Consultants, PLLC stated that the proposal, would evaluate, grade and score each town street, include pictures taken where there are significant issues, and the cost estimate to resurface those streets. The study could take two (2) to three (3) months to complete and would range in cost from \$10,000.00 to \$20,000.00 with payment taken out of Powell Bill Funds in the current fiscal year's budget.

On a motion made by Joe Wesson, and seconded by Joe Norman, Council approved the Street Evaluation and Prioritization Proposal with West Consultants, PLLC. All were in favor.

REQUEST FOR DONATION TO YOUNG LIVES: Administrator Eckard stated as you may recall, during the May Council meeting Young Lives Coordinator Kim Nichols requested a donation in the amount of \$250.00. Council stated that at this time, there are no more funds in the donation line item for the current budget year. Council also stated the new budget year starts July 1, 2011 and the new budget year starts July 1, 2011 so this item will go on the agenda for consideration in July if she would like to attend the meeting. Council stated this item will be on the agenda for consideration in July as the new budget year starts July 1, 2011.

After discussion, Joe Wesson made a motion, and Beverly Fry seconded, to approve a donation to Young Lives in the amount of \$250.00. All were in favor.

REQUEST FOR DONATION TO SOUTH CALDWELL ATHLETIC BOOSTERS:

Administrator Eckard stated that the town has received a request from the South Caldwell Athletic Boosters for a donation of \$75.00. This covers a quarter-page ad in the 2011-2012 program and is the same amount the town has given in year's past..

On a motion made by Joe Norman, and seconded by Gerelene Blevins, Council approved a donation to the South Caldwell Athletic Boosters in the amount of \$75.00. All were in favor.

UPDATES:

LEGISLATIVE UPDATE: Attorney Terry Taylor enclosed the attached summary giving the number and a brief description of some of the laws passed by the North Carolina General Assembly that would have an impact on the town.

No Council action is required.

ADOPT RESOLUTION FOR CALDWELL COUNTY ANIMAL CONTROL:

Administrator Eckard stated Caldwell County has and will continue to enforce Animal Control within the Town of Sawmills. Included in last months agenda was the changes made by Caldwell County to the Animal Control Ordinance. Due to changes with this ordinance, the town will need to adopt a Resolution requesting Caldwell County to continue to enforce the Animal Control Ordinance within the town repealing any inconsistent ordinances.

On a motion made by Joe Norman, and seconded by Joe Wesson, Council adopted the Resolution authorizing Caldwell County to continue to enforce the Animal Control Ordinance in the town. All were in favor.

CODE ENFORCEMENT MONTHLY REPORT: Administrator Seth Eckard updated Council on the enclosed report, which shows the progress that Code Enforcement Officer Tony Cline continues to make throughout the Town.

No Council action is required.

ADMINISTRATOR'S REPORT: Administrator Eckard would like to thank Finance Director Karen Clontz for her hard work on finishing the long process to get the town a reimbursement from DOT (Department of Transportation) in the amount of \$13,600.00 for snow removal which was more than anticipated.

Administrator Eckard stated some of you might have noticed there was some sidewalk repairs improving the corners of Mission Road and Baird Drive as well as the corner of US Highway 321-A and Mission Road and the company hired did a terrific job.

A few months ago, Administrator Eckard applied for a scholarship to attend the National ICMA Conference in Milwaukee, Wisconsin and received word a few weeks ago that he had won the scholarship. Administrator Eckard will receive a stipend of \$850.00 to help cover the cost of the flight and the hotel, and the registration fee in the amount of \$600.00 will also be waived.

Administrator Eckard also stated that he and the Mayor have been talking about the possibility of getting some of the churches involved in getting the food banks replenished and he would like the Mayor to talk about that need

Mayor Gibbs stated that there is a great need in our community with folks struggling economically. Mayor Gibbs also stated that Mt. Zion, Dry Ponds, Sunrise, and South Caldwell Family Worship all four have a food bank and they send people to SCCM (South Caldwell Christian Ministries). The Farmer's Market takes place every Tuesday and once a week have a church set a truck out there with someone from there church to collect can goods, and non-perishable foods to take to there church to put in the food bank. The Mayor would like the Council to give him the ok to talk to the churches and see if they would be willing to do this and start collection the first or second week in August.

Attorney Taylor suggested checking with some of the local businesses to see if any of them have a cooler, they would be willing to share. Having a cooler would allow a place to store any leftover produce until the next day a vendor might wish to donate to SCCM or any local churches food pantry.

CLOSED SESSION: PERSONNEL MATTERS: Mayor Gibbs asked for a motion to go into closed session.

Joe Wesson made a motion, and Joe Norman seconded, to go into closed session. All were in favor.

Mayor Gibbs asked for a motion to go back into the regular session meeting.

Joe Wesson made a motion, and Joe Norman seconded, to come out of closed session. All were in favor.

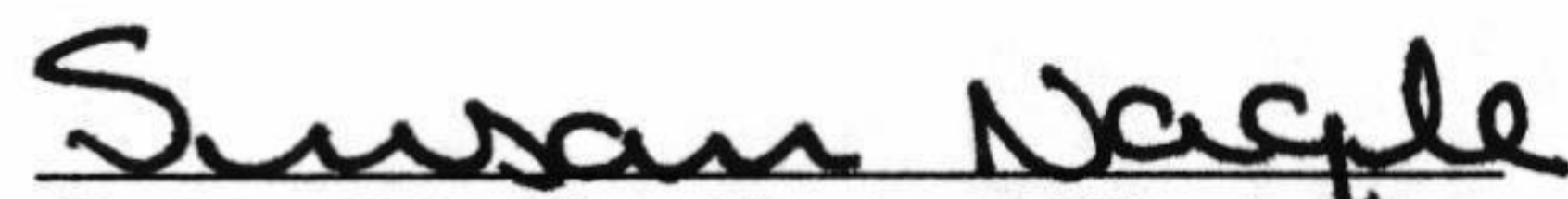
THE FOLLOWING ACTIONS TAKEN: Joe Wesson made a motion, and Joe Norman seconded, to increase the monthly stipend for Mayor Gibbs to Four Hundred Dollars (\$400.00) per month along with mileage reimbursement paid to the Mayor and all Council Members where mileage is in excess of twenty-five (25) miles (at the same rates as Town employees) effective August 1, 2011. All were in favor.

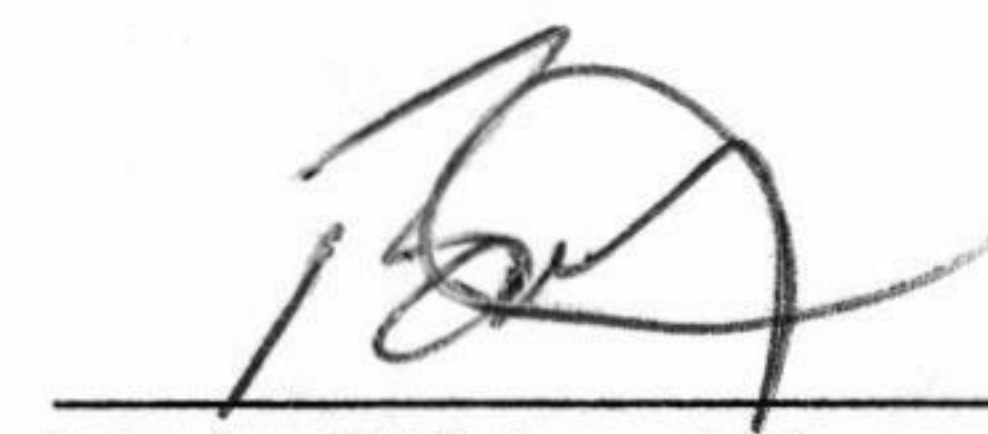
Joe Wesson made a motion, and Joe Norman seconded, to increase the Town Administrator's salary to Fifty-Two Thousand Dollars (\$52,000.00) per year effective August 1, 2011. All were in favor.

The Mayor and Council Members complimented Administrator Eckard on a job well done thus far, with a sincere "Thank you" for all he has brought to the Town in his short time of being the Administrator.

ADJOURN: Mayor Gibbs asked for a motion to adjourn.

On a motion made by Joe Wesson, and seconded by Gerelene Blevins, the meeting was adjourned. All were in favor.


Susan Nagle, Town Clerk


Bob Gibbs, Mayor

NORTH CAROLINA

2011

CALDWELL COUNTY

**RESOLUTION
TOWN OF SAWMILLS
REVENUE SPENDING POLICY**

THAT WHEREAS, the Town of Sawmills has reviewed the Fund Balance Reporting and Governmental Fund Type Definitions received from the Department of State Treasurer in regards to a Memorandum entitled "Memorandum No. 2010-35 Revised".

THAT WHEREAS, in review of the Memorandum from the Department of State Treasurer, it has come to the attention of the Finance Officer that it is appropriate for the Town of Sawmills to now adopt a revenue spending policy to provide guidance for the Finance Officer in regards to programs with multiple revenue sources.

NOW, THEREFORE, be it resolved that the Town of Sawmills does hereby adopt a Revenue Spending Policy to provide guidance in regards to the Finance Officer and accounting for programs for multiple revenue sources.

It further is Resolved by the Town Council that the Finance Officer will use resources in the following hierarchy: bond proceeds, Federal funds, State funds, Non-Town funds, Town funds. For purposes of fund balance classification, expenditures are to be spent from restrictive fund balance first and then followed in order by committed fund balance, assigned fund balance and then lastly, unassigned fund balance. The Finance Officer has the authority to deviate from this policy if it is in the best interest of the Town but only after it has been reported to the Town Administrator and then forwarded to Council for their review and approval.

This the 19TH day of JULY, 2011.



Susan Nagle
Town Clerk

TOWN OF SAWMILLS

Bob Gibbs
Bob Gibbs, Mayor



JANET COWELL
TREASURER

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

T. VANCE HOLLOMAN
DEPUTY TREASURER

Memorandum #2010-35 ** REVISED**

TO: Local Government Officials and Their Independent Auditors

FROM: Sharon Edmundson, Director, Fiscal Management

SUBJECT: GASB Statement No. 54 *Fund Balance Reporting and Governmental Fund type Definitions* - Part 2- Components of Fund Balance

DATE: May 20, 2010, original issue date, September 29, 2010, revision date

Governmental Accounting Standards Board (GASB) has issued GASB Statement No. 54 *Fund Balance Reporting and Governmental Fund Type Definitions* that will be effective for fiscal periods that begin after June 15, 2010, meaning the fiscal year ending June 30, 2011 for North Carolina governments. The statement has two major areas of discussion: fund balance classifications and fund type definitions. Memorandum # 2010-23 was issued on March 3, 2010 and discusses GASB Statement No. 54 as it relates to fund type definitions. Memorandum 2010-23 has been reissued (September 29, 2010) to include additional guidance on Special Revenue Funds, Emergency Telephone System (911) Funds and Occupancy and Food Tax Funds in particular. This memo addresses GASB's guidance on the new components of Fund Balance. GASB Statement No. 54 does not affect the government-wide or accrual-based statement presentations, nor does it change the amount of total fund balance on any fund statements. Statement No. 54 does, however, significantly change the focus of fund balance reporting from what purposes fund balance is going to be used or appropriated for to what constraints are placed on how resources within fund balance can be used and the identification of the source of those constraints. This change means there is not a one to one crosswalk from the old classifications of fund balance to the new classifications of fund balance.

Following are key segments from Statement No. 54 on fund balance reporting using bold type to emphasize various points; secondly is our assessment of the potential impact on units of government and their fiscal reporting.

Classification Definitions

Classification	Definition	Examples
Nonspendable	"amounts that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact." ¹	Inventories, prepaid amounts (expenses), long-term receivables, endowment funds
Restricted	"Fund balance should be reported as restricted when constraints placed on the use of resources are either: a. Externally imposed by creditors (such as through debt covenants), grantors, contributors, or laws or regulations of other governments; or b. Imposed by law through constitutional provisions or enabling legislation." ¹	Restriction by State Statute, unspent bond proceeds, Grants earned but not spent, Powell Bill, debt covenants, taxes raised for a specific purpose
Committed	"Used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision-making authority" ¹ • Self-imposed limitations set in place prior to year-end, but can be calculated after year end. • Limitation imposed at highest level and requires same action to remove or modify • Ordinances that lapse at year-end do not meet the committed test	The governing board has decided to pass a resolution to set aside County Funds of \$1M for mental health hospital. Any amendments or modifications must go back to the board.
Assigned	"Amounts that are constrained by the government's intent to be used for specific purposes, but are neither restricted nor committed" • Assignments can occur anytime before issuance of financial statements • Assignment ability can be delegated by the board (example: Manager, Finance Officer, Budget Officer) • For governmental funds (exclusive of the General Fund) this is the lowest level of positive fund balance.	The governing board has budgeted to set aside County Funds of \$1M for a mental health hospital. County Mgr. may amend this up to \$100,000. The governing board has appropriated fund balance usually titled - Subsequent year's expenditures
Unassigned	Unassigned fund balance is the lowest classification for the General Fund. This is fund balance that has not been reported in any other classification. • The General Fund is the only fund that can report a positive unassigned fund balance.	

Restriction by State Statute

North Carolina G.S. 159-8 prohibits units of government from budgeting or spending a portion of their fund balance. This is one of several statutes enacted by the North Carolina State Legislature in the 1930's that were designed to improve and maintain the fiscal health of local

¹ GASB Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*

government units. This amount, known as the "restricted by State statute" (RSS), is calculated at the end of each fiscal year for all funds. The calculation in G.S. 159-8(a) provides a formula for determining what portion of fund balance is available for appropriation. The amount of fund balance not available for appropriation is what is known as "restricted by State statute". The formula is as follows:

Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget.

In the current fund balance presentation RSS is presented on the face of the balance sheet after it has been reduced by reserve for inventories, prepaids, encumbrances, and assets held for resale. Under this new guidance RSS is considered a resource upon which a restriction is "imposed by law through constitutional provisions or enabling legislation." As with the previous presentation RSS will be reduced by inventories and prepaids as they will be shown in nonspendable classification; however, encumbrances are no longer broken out separately on the face of the balance sheet and will now be included within RSS which will be included in the fund balance on the face of the balance sheet. Assets held for resale should be reported in the classification that describes how the proceeds from the sale will be used. If proceeds meet the definition of restricted then they should be classified as restricted. If proceeds from the assets do not meet the classifications of restricted, committed or assigned then they would be classified as nonspendable. The example in Attachments A and B walks you through this calculation. For presentation in the General Fund RSS should be calculated before other restrictions. Units could have a portion of fund balance that is included in restriction by state statute that is also restricted by grant provisions. In the General Fund, RSS should be shown as calculated in Attachments A and B and any additional grant restrictions should be shown. In funds other than the General Fund, GASB 54 will require that RSS be calculated and classified as restricted, however, if the same funds are also restricted by federal or State law then the unit and auditor will decide which presentation is best. If the unit will be spending funds under the provision of the federal or State law then better presentation would probably be restricted by federal/State law. This situation would commonly occur in a grant fund.

Negative or Residual Fund Balance Amounts

Paragraph 19 in GASB Statement No. 54 provides guidance on when and how negative or residual fund balance amounts should be displayed for governmental funds. Below are five guiding rules that will provide the answers to most fund balance presentations. How these rules are applied is affected by a unit of governments flow assumptions.

1. All Funds – Restricted, committed or assigned fund balance categories should never be negative.
2. General Fund – Nonspendable, restricted or committed fund balance categories can reduce or create a negative unassigned fund balance classification.
3. For all governmental funds except the General Fund – nonspendable, restricted, or committed reduce total fund balance to arrive at the amount available for

assignment. Assignments are only possible if this amount is positive and the amount of total assignments is limited to that total positive amount. In other words, an assignment cannot create a negative amount for unassigned fund balance. If the total fund balance minus the nonspendable, restricted, and committed portions is a negative amount, it should be reported as a negative amount/deficit in the unassigned category. This is in line with guiding rule #1 above.

4. General Fund – Only the General Fund can have a positive unassigned fund balance classification.
5. General Fund – If nonspendable, restricted and committed amounts are more than total fund balance, then assigned is zero and unassigned shows the necessary negative amount.

Stabilization Arrangements

GASB set out specific guidelines for revenue stabilization funds, working capital, various fund balance reserves, contingencies, or similarly titled purposes in paragraph 20 of GASB Statement No. 54. For purposes of this memo the above amounts will be referred to as "stabilization amounts". Stabilization amounts may be expended only when certain specific circumstances exist. These specific circumstances should not be expected to occur routinely. GASB provides an example stating that a stabilization amount that can be accessed "in an emergency" or "anticipated revenue shortfall" would not qualify to be classified within the committed classification because the circumstances or conditions that constitute an emergency are not sufficiently detailed, and it is not unlikely that an "emergency" or "revenue shortfall" of some nature would routinely occur. In addition to meeting the "not routine" specific circumstances test outlined above, the stabilization amounts also must meet the criteria for restricted or committed as outlined in the chart above. GASB specifically prohibits stabilization amounts being classified as assigned. As units of government review their fund balance policies they will need to see if they meet the above criteria. If current policies do not meet the above criteria these amounts which might have previously been classified as designated fund balance will now be classified as unassigned fund balance. The resulting risk is that amounts of fund balance that are essential to be maintained for good financial health will be presented on the balance sheet combined with other amounts that can be budgeted for expenditure. Units of government are urged to review their existing policies and make any changes necessary in order to ensure that the presentation under GASB Statement No. 54 will best serve your governmental unit. We also recommend that you discuss this presentation with your auditors before June 30, 2011 so that any concerns they have about how you intend to classify your fund balance policy can be addressed by the Board before year end. Attachment D provides a sample fund balance policy.

Display of Fund Balance on the Face of the Balance Sheet

GASB Statement No. 54 allows fund balance to be displayed in the aggregate for each category or through a more detailed presentation for nonspendable, restricted, committed, or assigned categories. This decision to aggregate can be made by each classification, so that, a unit may decide to report restricted fund balance at a more detailed level, while committed or assigned may be at an aggregate level. The "two components of nonspendable fund balance – (a) not in

spendable form and (b) legally or contractually required to be maintained intact" should be reported separately either on the face of the statements or in the notes. The unit should present major restricted purposes, and specific purposes for major commitments and assignments on the face of the balance sheet or in the notes.

Note Disclosure

GASB Statement No. 54 paragraph 23 also mandates note disclosure about a unit's decision making authority and order of spending when resources from multiple fund balance categories are available for use for the same purpose. The following chart describes the required disclosures. Paragraph 24 requires that units who use encumbrance accounting should disclose significant encumbrances by major funds and nonmajor funds in the aggregate along with any other significant commitments. For units in North Carolina encumbrances are already included in reserved by State statute on the face of the balance sheet but should be disclosed in the notes. A sample note also is provided in Attachment C.

Committed Fund Balance	1. The government's highest level of decision-making authority and 2. The formal action that is required to be taken to establish (and modify or rescind) a fund balance commitment.
Assigned Fund Balance	1. The body or official authorized to assign amounts to a specific purpose and 2. The policy established by the governing body pursuant to which that authorization is given.
Spending Policies of Governmental Unit	1. Unit of government needs to disclose whether the government considers restricted or unrestricted amounts to have been spent when an expenditure is incurred for purposes for which both restricted and unrestricted fund balance is available and 2. Whether committed, assigned or unassigned amounts are considered to have been spent when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

Impact on Units of Government and State & Local Finance Division

Due to potential impact on both units of government and the audit review process in the Fiscal Management Section of the Local Government, we wanted to provide as much lead time as possible for implementation of Statement No. 54. We also have discussed our interpretation of GASB Statement No. 54 with the GFOA (Governmental Finance Officers Association) as many of our units submit their reports to their *Certificate of Achievement for Excellence in Financial Reporting* program. Even though implementation is not mandated for most units until June 30, 2011, the Fiscal Management section will be starting on several program changes to its fiscal data bases and illustrative materials prior to that time. Due to the need for reprogramming, we are requesting that units of government do not early implement GASB Statement No. 54 as it applies to the fund balance classifications of nonspendable, restricted, committed, assigned, and unassigned.

Units of government also will have some implementation actions which we have outlined below.

1. Review that all funds are properly classified as outlined in Memo 2010-23.
2. Review your fund balance policy or any similar policy to ensure you understand how these amounts will be displayed on your unit's balance sheet. Make any policy changes before June 30, 2011 if your fund balance policy needs revision.
3. Review or develop policy on spending order of revenues as outlined above in "Spending Policies of Governmental Unit". Make any needed changes before June 30, 2011 as your policy will be disclosed in the notes.
4. Some units record detail fund balance accounts on their general ledger, while others only record fund balance in total. Units that record detail accounts may need to modify their general ledger accounts.
5. GASB Statement No. 54 requires retroactive restating of fund balance for all prior periods presented. Changes to fund balance information presented in the statistical section of a CAFR may be made prospectively, although retroactive application is encouraged.

Staff of the Fiscal Management Section recommends that units draft their restated 2010 fund balance for the 2011 report and discuss fund balance policy presentations with their auditors during the 2010 audit process. This will define any problems and allow for their resolution, including any necessary board action if policies are involved.

Conclusion

In response to several inquiries on the Memorandum # 2010-23, issued on March 3, 2010 which discusses GASB Statement No. 54 as it relates to fund type definitions, we have developed a worksheet, Attachment E, which clarifies various common scenarios and the process that led to our conclusions. It discusses how to classify capital reserve funds, 911 funds, economic development funds, etc. We also have provided, Attachment F, a similar worksheet that discusses logic used to categorize fund balance presentations.

Legislation has mandated that the Emergency Telephone System (ETS) Fund be reported as a Special Revenue Fund and that the funds not be combined with any other fund sources or expenditures for budgetary purposes. As a legally budgeted fund, the ETS Fund will be presented as either a major or non-major Special Revenue Fund in the annual financial statements. This will enable the 911 Board to get the information they need to carry out their statutory responsibilities.

GASB Statement No. 54 is not in effect for most units until June 30, 2011; therefore, the illustrative statements will not be updated for this Statement until after the June 30, 2010 audit season. If you have any questions or comments please contact Melinda Canady at (919) 807-2384 or via email at Melinda.canady@nctreasurer.com

Memorandum #2010-35
GASB Statement No. 54-Components of Fund Balance
May 20, 2010, revised September 29, 2010
Page 7

ATTACHMENT A – Calculation of RSS and FB presentation for Carolina County
ATTACHMENT B – Calculation of RSS and FB presentation for City of Dogwood
ATTACHMENT C – Sample Note Disclosure Presentations for City of Dogwood
ATTACHMENT D – Sample Fund Balance Policy
ATTACHMENT E – GASB – 54 Fund Classification Worksheet
ATTACHMENT F – GASB – 54 Fund Balance Presentations



REMIT TO Assurance Sign and Display
P. O. Box 826
Granite Falls NC 28630
(828)396-6700 FAX(828)313-0612

● Sales Order # 3003

05/16/11

Bill To:

Prepared By: CUSTOMER SERVICE

TOWN OF SAWMILLS
bgibbs@townofsawmills.com
4076 US HWY 321-A
SAWMILLS NC 28630

TOWN OF SAWMILLS
bgibbs@townofsawmills.com
4076 US HWY 321-A
SAWMILLS NC 28630

PHONE: FAX:

Description

0

PO #: WELCOME SIGNS

Production time for the for the following item(s) will be
approximately 5 working days upon approval of artwork

Quantity	U/M	Description	Each	Amount
Art Due Date		05/20/11	Prod. Due Date	05/20/11
2.00	EA	WELCOME SIGN SINGLE SIDE HDU BOARD WITH SIGN RATED MDO BOARD. BLASTED, PRIMED, AND PAINTED WITH SIGN RATED PAINT. ALSO WILL HAVE HP DIGITAL GRAPHICS FOR SEAL, HANDS AND TREES.	1,936.25	3,872.50
1.00	EA	6 X 6 POST PRIMED,PAINTED, CUT & BEVELED FOR EACH SIDE OF SIGN	225.00	225.00
1.00	EA	INSTALLATION INCLUDES DIGGING HOLES, CONCRETE, ASSEMBLY AND CLEANUP ** PER CUSTOMER APPROVED LOCATION ON HWY 321-A ** ----- CUSTOMER WILL BE RESPONSIBLE FOR REMOVAL OF EXISTING SIGNS AND BRICK BASE. -----	1,265.00	1,265.00

SubTotal: 5,362.50



REMIT TO Assurance Sign and Display
P. O. Box 826
Granite Falls NC 28630
(828)396-6700 FAX(828)313-0612

Sales Order # 3003

05/16/11

Bill To:

Prepared By: CUSTOMER SERVICE

TOWN OF SAWMILLS

bgibbs@townofsawmills.com
4076 US HWY 321-A
SAWMILLS NC 28630

TOWN OF SAWMILLS

bgibbs@townofsawmills.com
4076 US HWY 321-A
SAWMILLS NC 28630

PHONE:

FAX:

Description

0

PO #: WELCOME SIGNS

Production time for the for the following item(s) will be
approximately 5 working days upon approval of artwork

Quantity	U/M	Description	Each	Amount
----------	-----	-------------	------	--------

(Page 2)

Sales Tax	276.58
Total:	5,639.08

Terms:

THANK YOU FOR YOUR BUSINESS. 50% deposit due upon signing, 50% due
upon delivery/installation. Visa/MC/Amex accepted.

Assurance Sign & Display, LLC's/("ASD") Standard Terms and Conditions of
Sale are incorporated herein by reference and apply to all sales.

The Terms and Conditions can be found on ASD's website @

<http://www.assurancesign.com/tandc.html>

or can be provided on written request.



405 South Sterling Street, Morganton NC 28655

828 433 5661 / fax 828 433 5662 / info@west-consultants.com

July 14, 2011

Mr. Seth Eckard
Town of Sawmills
4076 US Highway 321-A
Granite Falls, NC 28630

RE: Street Evaluation and Prioritization Proposal

Dear Seth:

We understand that the Town of Sawmills may be interested in evaluating all of its streets, for the purpose of identifying deficiencies and for determining the order in which streets should be resurfaced. If so, West Consultants, PLLC can perform this service. We have done this type of evaluation and prioritizing for other towns, and it has helped them maintain their streets in an orderly way. One benefit is that it helps the Town make sure that the most critical issues are addressed first, before they cause larger, more expensive problems.

If the Town desired us to, we would propose the following tasks that would result in a prioritization of every street:

1. Observe each street noting all visible, significant defects in pavement surfaces, shoulders, and ditches. Storm drain structures and pipes with obvious issues would be noted, but inspection of the inside of pipes or structures is not proposed.
2. Rate each street's asphalt pavement defects in 13 categories, as shown on the enclosed form. Tally the ratings for each street and rank them accordingly.
3. Take digital photographs of significant defects or issues that require maintenance attention.
4. Produce a report to present the collected information and ratings. Estimated resurfacing costs at current prices would be included, but estimates of other costs, such as storm drainage improvements, would not be included.

Sawmills currently maintains 28 miles of streets. It is difficult to determine how much time it would take to assess all of them. At our current fee of \$40/hour for an engineering technician, I believe the total fee would be within a range of \$10,000 to \$20,000. Should the Town decide to proceed with this service, we could determine a fixed price or we could work on an hourly basis. One alternative that would reduce the cost would be to rate the asphalt pavements only (ignoring all other street elements) and to do so primarily while driving rather than walking.

Please let me know if further information is needed concerning this proposal.

Sincerely,

WEST CONSULTANTS, PLLC


Benjamin B. Thomas, PE

/kj
Enclosure

ASPHALT PAVEMENT RATING FORM

STREET OR ROUTE _____ CITY OR COUNTY _____

LENGTH OF PROJECT _____ WIDTH _____

PAVEMENT TYPE _____ DATE _____

(Note: A rating of "0" indicates defect does not occur)

DEFECTS		RATING
Transverse Cracks.....	0-5	_____
Longitudinal Cracks.....	0-5	_____
Alligator Cracks.....	0-10	_____
Shrinkage Cracks.....	0-5	_____
Rutting.....	0-10	_____
Corrugations.....	0-5	_____
Raveling.....	0-5	_____
Shoving or Pushing.....	0-10	_____
Pot Holes.....	0-10	_____
Excess Asphalt.....	0-10	_____
Polished Aggregate.....	0-5	_____
Deficient Drainage.....	0-10	_____
Overall riding quality (0 is excellent):		
10 is very poor.....	0-10	_____
Sum of defects		_____

Condition Rating = 100-Sum of Defects

= 100- _____

Condition Rating = _____

CALDWELL COUNTY
TOWN OF SAWMILLS POWELL BILL STREETS
2011

Street Name	Paved	Gravel	Unsurfaced	Non- conforming	Total Mileage
Acorn Avenue	0.13				0.13
Adams Drive	0.09				0.09
Ala Lane	0.16				0.16
Amber Drive	0.08				0.08
Annas Drive	0.18				0.18
Atlas Drive	0.21				0.21
Baird Drive	0.42				0.42
Baker Circle	0.86				0.86
Bay Court	0.02				0.02
Benfield Drive	0.36				0.36
Betts Street	0.09				0.09
Blackburn Court	0.24				0.24
Blacksmith Lane	0.11				0.11
Buckhead Drive	0.19				0.19
Bucks Drive	0.11				0.11
Candle Stick Lane	0.08				0.08
Carriage Lane	0.20				0.20
Casey's Pl.	0.13				0.13
Chantilly Drive	0.30				0.30
Cherokee Court	0.05				0.05
Cleo Drive	0.13				0.13
Clyde Drive				0.20	0.20
Coble Dairy Road	0.21				0.21
Coble Lane	0.15				0.15
Coral Drive	0.20				0.20
Creekview Dr.	0.09				0.09
Dakota Drive	0.59				0.59
Delta Court	0.15				0.15
Diamond Street	0.34				0.34
Doris Drive	0.15				0.15
Drum Lane	0.23				0.23
Duff Drive	0.41				0.41
Duncan Drive	0.20				0.20
Edgewood Drive	0.36				0.36
Eli Lane	0.16				0.16
Everhart Lane	0.16				0.16
Freedom Lane	0.20				0.20
Gatewood Drive	0.16				0.16

CALDWELL COUNTY
TOWN OF SAWMILLS POWELL BILL STREETS
2011

Street Name	Paved	Gravel	Unsurfaced	Non- conforming Total Mileage
Granville Drive	0.12			0.12
Green Street	0.12			0.12
Greenwood Street	0.12			0.12
Greenwood Terrace	0.37			0.37
Helena Street	0.83			0.83
Helton Road	1.50			1.50
Holden Place	0.20	0.01		0.21
Horseshoe Acres Lane	0.20			0.20
Hunters Path Drive	0.37			0.37
Jay Street	0.15			0.15
Jett Drive	0.15			0.15
Jody Drive	0.11			0.11
Kalee Ann Drive	0.49			0.49
Karr Drive	0.18			0.18
Kathrin Court	0.11			0.11
Keith Avenue	0.48			0.48
Kendell Place	0.14			0.14
Kensway Drive	0.21			0.21
Lafayette Avenue	0.67			0.67
Lakewood Drive	0.54			0.54
Land Harbour Drive	0.70			0.70
Laurel Springs Drive	0.12			0.12
Leah Drive	0.16	0.01		0.17
Leo Drive	0.13			0.13
Leta Lane	0.16			0.16
Long Bay Drive	0.48			0.48
Lowman Drive	0.11			0.11
Lunsford Drive	0.10			0.10
Magnolia Lane	1.00			1.00
Marble Stone Drive	0.39			0.39
Marcus Drive	0.18			0.18
Mayfield Drive	0.18			0.18
Midland Drive	0.13			0.13
Mill Race Drive	0.17			0.17
Miller Street	0.09			0.09
Mindy Drive	0.08			0.08
Mitchum Drive	0.24			0.24
Moore Acres	0.73			0.73

CALDWELL COUNTY

TOWN OF SAWMILLS POWELL BILL STREETS

2011

Street Name	Paved	Gravel	Unsurfaced	Non-conforming	Total Mileage
North Bay Drive	0.33				0.33
O.J. Lane	0.43				0.43
Oxford Drive	0.13	0.01			0.14
Paul Drive	0.26				0.26
Poplar Lake Drive	0.03				0.03
Remont Street	0.08				0.08
Rock View Place	0.15				0.15
Roger McCall Lane	0.11				0.11
Rual Drive	0.23				0.23
Russell Drive	0.29	0.01			0.30
Sams Way	0.14				0.14
Shoun Drive	0.11			0.04	0.15
Sigmon Drive	0.25				0.25
Stamey Road	1.22				1.22
Stillwater Drive	0.04				0.04
Terrace Drive	0.22				0.22
Trojan Lane	0.65				0.65
Union Church Road	0.23				0.23
Unnamed Street	0.12				0.12
Villa Lane	0.05				0.05
Villa Woods	0.22				0.22
Water Works Road	1.08				1.08
White Pine M.H.P.	0.32				0.32
Whitetail Court	0.05				0.05
Withers Drive	0.26	0.06			0.32
Woodland Drive	0.17				0.17
Totals	27.28	0.10		0.24	27.62
Less Nonconforming Mileage				Less Nonconforming	(0.24)
Total Mileage					27.38

Proposed Priority Order	REF #	Street Name	Year Built	Last Year Resurfaced	From	To	Street Maintenance	Type (S, C, or P)*	Mileage	Length (Feet)	Width (Feet)	Rating	Curb & Gutter (ft or in)	Sidewalk (ft or in)	Condition (Poor or Good)	Overlay Depth (Inches)	Tonnage	Cost of Asphalt per ton	Cost
1	39	Unnamed Street **	-	-	Cline Park Road	End	Town	P	0.17	897.60	0	0	N	N	Poor		0.00	\$85.00	\$ -
2	16	3rd Street Place, SW	-	-	Main Ave. West	End	Town	G	0.15	792.00	12	30	N	N	Poor		0.00	\$83.00	\$ -
3	17	2nd Street Place, SW	-	-	4th Ave, SW	End	Town	G	0.09	475.20	12	30	N	N	Poor		0.00	\$85.00	\$ -
4	37	3rd St., NE Ext.	-	-	5th Ave., NE	End	Town	G	0.08	422.40	10	30	N	N	Poor		0.00	\$85.00	\$ -
5	18	Clayton's Court	-	-	4th Ave, SW	End	Town	P	0.05	264.00	12	70	N	N	Poor	2	217.22	\$85.00	\$ 18,483.63
6	15	4th Street Place, SW	-	-	Main Ave. West	End	Town	P	0.17	897.60	18	77	N	N	Poor	2	30.20	\$85.00	\$ 3,077.27
7	36	3rd Street, NE	-	-	1st Ave, NE	End	Town	P	0.03	158.40	17	78	N	N	Poor	2	255.55	\$85.00	\$ 21,721.92
8	14	5th Street Place, SW	-	-	Main Ave. West	End	Town	P	0.20	1056.00	18	80	N	N	Good		0.00	\$85.00	\$ -
9	11-A	2nd Street, SW (Old)	-	-	Main Ave. West	End	Town	P	0.09	475.20	17	83	N	N	Good		0.00	\$85.00	\$ -
10	6	5th Avenue, SE	-	-	South Center St.	End	Town	P	0.12	633.60	16	83	N	N	Good		0.00	\$85.00	\$ -
11	5	3rd Street, SE, Extension	-	-	I-40 Access Road	End	Town	P	0.13	666.40	18	83	N	N	Good		0.00	\$85.00	\$ -
12	7	1st Street, SE Ext.	-	-	4th Ave, SE	End	Town	P	0.04	231.79	18	84	N	N	Good		0.00	\$85.00	\$ -
13	19	11th Street, NE	-	-	US Hwy 70	End	Town	P	0.36	1900.80	22	85	N	N	Good		0.00	\$85.00	\$ -
14	2	2nd Avenue, SE	-	-	Main Ave. East	Main Ave. East	Town	P	0.14	739.20	19	86	N	N	Good		0.00	\$85.00	\$ -
15	38	5th Avenue, NE	-	-	3rd St., NE	End	Town	P	0.09	475.20	18	87	N	N	Good		0.00	\$85.00	\$ -
16	29	3rd Avenue NW	-	-	Warlick Church Road	End	Town	P	0.17	897.60	18	88	N	N	Good		0.00	\$85.00	\$ -
17	27	Shepherd's Court	-	-	Warlick Church Road	End	Town	P	0.19	1003.20	18	88	N	N	Good		0.00	\$85.00	\$ -
18	25	Oak Street	-	-	Wilson Road	Chickies Road	Town	P	0.10	526.00	20	88	N	N	Good		0.00	\$85.00	\$ -
19	13-B	3rd Avenue, SW (Old)	-	-	2nd St SW	End, each way	Town	P	0.04	211.20	17	88	N	N	Good		0.00	\$85.00	\$ -
20	30	4th Avenue, NE	-	-	North Center St	End	Town	P	0.05	264.00	16	89	N	N	Good		0.00	\$85.00	\$ -
21	21	Lisa Lane	-	-	Wilson Road	End	Town	P	0.11	580.80	18	89	N	N	Good		0.00	\$85.00	\$ -
22	3	1st Street, SE	-	-	Main Ave. East	End	Town	P	0.12	633.60	16	89	N	N	Good		0.00	\$85.00	\$ -
23	35	2nd Avenue, NE	-	-	North Center St	End	Town	P	0.04	211.20	16	90	N	N	Good		0.00	\$85.00	\$ -
24	24	Pine Street	-	-	Chickies Road	Wilson Road	Town	P	0.12	633.60	20	90	N	N	Good		0.00	\$85.00	\$ -
25	23	Chickies Road	-	-	Poplar St	Pine St.	Town	P	0.15	792.00	20	90	N	N	Good		0.00	\$85.00	\$ -
26	10	4th Street, SW	-	-	1st Ave, SW	Main Ave. West	Town	P	0.15	792.00	18	90	N	N	Good		0.00	\$85.00	\$ -
27	28	Oak Ridge Drive	-	-	Warlick Church Road	End	Town	P	0.11	580.80	18	91	N	N	Good		0.00	\$85.00	\$ -

Street Gated, Not Ruled

Street Gated, Not Ruled

EXAMPLE PHOTOS



DEVELOPING POT HOLE ON 3RD STREET SE



DEVELOPING POT HOLE ON 3RD STREET SE (ABOUT 2" OF SETTLEMENT)



DRAINAGE PROBLEM ON 3RD STREET SE EXT.



DRAINAGE PROBLEM ON 3RD STREET SE EXT.
GRASS SHOULDER SHOULD BE TRIMMED DOWN TO
ALLOW RUNOFF TO EXIT ROADWAY (ABOUT 2")



3rd Avenue NW Shoulder Too High Blocking Runoff



3rd Avenue NW Entrance Pipe Needs to be Extended

YOUNG, MORPHIS, BACH & TAYLOR, LLP

Attorneys at Law

400 Second Avenue, NW (28601)
Post Office Drawer 2428
Hickory, North Carolina 28603-2428
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Charles R. Young, Sr. ■ *
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■ Certified Mediator
• Of Counsel
♦ Board Certified Specialist in
Real Property Law-Residential,
Business, Commercial and
Industrial Transactions

July 19, 2011

MEMORANDUM

To: Seth Eckard, Town Administrator, Mayor Bob Gibbs and Town Council

From: Terry M. Taylor

Re: Legislative update

Below is a summary of new laws passed during the most recent legislative session. Several of the new changes will impact the Town's operations, while many are specific to the Planning Department. Please let me know if you have questions about the new legislation.

Administration

1) An Act to Require Counties, Cities, and Employers to Use the Federal E-verify Program to Verify the Work Authorization of Newly Hired Employees. (House Bill 36 - Signed by Governor June 23, 2011)

Summary: This bill requires municipalities, as well as counties and businesses employing 25 or more employees, to register and participate in E-Verify to verify the work authorization of new employees. Effective as of June 23, 2011, Sawmills must now verify that any new employee is authorized to work in the United States and must do so regardless of race, religion, gender, ethnicity, or national origin.

Relevant General Statute modified: § 160A-169.1

Effective Date: June 23, 2011

July 19, 2011

Page 2 of 6

2) An Act to Provide that When Cities and Counties Act Outside of the Scope of Their Authority, the Party Successfully Challenging that Action May Recover Reasonable Attorney's Fees. (House Bill 687 - Signed by Governor June 24, 2011)

Summary: The new law allows a court to award reasonable attorneys' fees and costs to a party that prevails in an action against the Town if the court finds that the Town acted outside the scope of its legal authority. Further, the law states that if a court finds a municipality's actions were an abuse of its discretion, then the court shall award attorneys' fees and costs paid to the prevailing party by the municipality.

Relevant General Statute modified: § 6-21.6

Effective Date: October 1, 2011

3) An Act to Establish Certain Statutory Standards for Selective Vegetation Removal Within the Rights-of-Way of the State Highway System. (Senate Bill 183 - Ratification Pending)

Summary: The new law sets forth requirements for the removal of trees, shrubs and underbrush in or on the right-of-way of State roads or highways, namely that it cannot be done without a written "selective vegetation removal permit." The owner of the outdoor advertising sign or the business may make the request for a permit. The new language provides the application requirements, approval criteria for issuance, as well as criteria for denial, and establishes enforcement standards for vegetation removed in violation of a permit or the statute.

For the application and approval process, the Department establishes a means of calculating the maximum cut or removal zone based on the location of the sign, the right-of-way, the viewing area from the road; these are the parameters within where trees may be cut. The statute sets characteristics of the trees that can and cannot be cut. For example, native dogwoods and native redbuds cannot be cut, or cutting is limited of trees that existed at the time the sign was constructed. In addition to submitting a site plan locating the existing trees, the applicant must also tag the trees in the tree(s) requested to be cut or pruned.

As it affects the Town of Sawmills, the Town will be given the opportunity to review the applications if the applicant's site is located within the town limits and the Town makes a written request to the Department of Transportation to review such applications. In its written request, the Town must provide the name of the local official to whom the applications should be sent. The Town will be given thirty (30) days to review the application(s) and provide comments, but the comments are nonbinding. The new law also expressly prohibits local governments from regulating the cutting, trimming, pruning, or removal of vegetation by a permittee within the interstate or primary highway rights-of-way.

The law also incorporates criteria for denial of an outdoor advertising sign. Criteria includes previous violations for illegal cutting, the location of existing trees that at maturity would block the visibility of the sign, rezoning of the site to a commercial or industrial district within one year prior to the application where the rezoning is spot zoning or not part of the comprehensive plan, or where a new DOT construction contract is going to be let in the coming twelve months and the project will affect the new sign.

Relevant General Statute modified: § 136-93, § 136-127, and § 136-133

Effective Date: October 1, 2011, applies to permit applications, or renewals, and offenses occurring on or after that date.

Planning, Zoning and Inspections

4) An Act to Clarify the Definition of "Bona Fide Farm Purposes," to Prohibit the Involuntary Municipal Annexation of Property used for Bona Fide Farm Purposes, and to Provide that Property used for Bona Fide Farm Purposes is Exempt from the Exercise of Municipal Extraterritorial Jurisdiction. (House Bill 168 – Signed by Governor June 27, 2011)

Summary: This bill expands the definition of a farm for "bona fide farm purposes" per N.C. Gen. Stat. § 153A-340(b)(2). Evidence of such purposes now include a farm sales tax exemption certificate issued by the Department of Revenue, a copy of the property tax listing showing the property is eligible for the State's present use value program, a copy of the farm owner's most recent federal income tax Schedule F, a forest management plan, or a farm identification number issued by the United States Department of Agriculture Farm Service Agency.

The bill also affects Sawmills zoning power with its changes to Chapter 160A of the General Statutes by prohibiting the involuntary annexation of any property being used for bona fide farm purposes as of the date of the resolution of intent to consider annexation passed by the municipality. Further, it prevents a municipality from exercising its extraterritorial jurisdiction (ETJ) power over property used for bona fide farm purposes when the property is located in the municipality's ETJ geographic area. If the property ceases use as a bona fide farm, then the property is subject to the municipality's ETJ power.

Relevant General Statute modified: § 160A-36, § 160A-48, § 160A-360

Effective Date: Effective June 27, 2011 and applies to annexations initiated on, after, or pending on that date.

5) An Act Requiring Counties and Cities to Have Reasonable Cause Before Inspecting Residential Buildings or Structures (Senate Bill 683 - Signed by Governor June 23, 2011)

Summary: The new legislation establishes greater parameters for the Town's inspections of residential buildings for unsafe or unsanitary conditions. The Town may make periodic inspections only when there is reasonable cause to believe that unsafe, unsanitary, unlawful conditions exist. Reasonable cause means:

- The landlord or owner has a history of more than two verified violations of the housing ordinance or code;
- There has been a complaint that there are substandard conditions in the building or there has been a request to inspect the building;
- The inspection department has actual knowledge of an unsafe condition within the building; or
- Violation(s) of the local ordinance are visible from outside of the property.

This applies the same to inspections of single-family or multi-family buildings. It does not prohibit periodic inspections required by State law for fire prevention.

The also provides for inspections as part of a targeted effort in a geographic area designated by Council. If conducting periodic inspections in a designated targeted area, reasonable cause is not required; however, the Town must provide notice to the owners and residents in the targeted area of the inspection plan, notice of a public hearing about the inspection plan, conduct the public hearing, and develop a plan to for how low-income residential property owners will be able to comply with the minimum housing code standards.

The new law also prohibits the Town from requiring an property owner or manager of rental property to obtain a permit or permission from the Town to lease or rent their property. The Town also cannot require an owner or manager to enroll or participate in a governmental program to obtain their certificate of occupancy, nor can the Town levy any special fee or tax on residential rental property unless it levies the same against other commercial and residential properties. There are two exceptions to this allowing the Town to require permission or levy a fee, where (1) the owner has had more than three verified violations in a 12-month period, or (2) the property is within the top 10% of properties with crime problems by local ordinance. Fees collected for these purposes cannot be used to support other areas of the Town budget, but to cover the cost of operating the registration program.

Relevant General Statute modified: § 160A-424

Effective Date: June 23, 2011

6) An Act Clarifying that a Local Government may not Impose a Moratorium on Development Approvals for the Purpose of Developing and Adopting a New or Revised Development Ordinance. (House Bill 332 - Signed by the Governor June 24, 2011)

Summary: The new law amends the existing development moratorium statute to prohibit municipalities from adopting a moratorium to develop or adopt new or amended plans or

ordinances for residential uses.

Relevant General Statute modified: § 160A-381(e)

Effective Date: June 24, 2011

7) An Act to Clarify that a Municipality has no Authority to Petition Itself for Self-Annexation of Property it does not Own or Have any Legal Interest in, Such as State-maintained Streets, and to Clarify that a Petition for Voluntary Satellite Annexation Must be Signed and, if no Signature is Required for Certain Property, the Property may not be Included in the Petition over the Owner's Objection. (House Bill 171 - Signed by Governor April 28, 2011)

Summary: This new law prohibits the Town from adopting a resolution or petitioning itself to annex any land it does not own or have a legal interest in, when (1) annexing satellite municipal property, or (2) when annexing by voluntary petition. When defining land it does not own, this includes State-maintained streets, unless the Town owns the underlying land and does not hold just an easement.

Additionally, the new law sets forth that a petition for voluntary satellite annexation is not valid if it is unsigned, it is signed by the town, but the town does not own the property or have a legal interest in it.

Relevant General Statute modified: § 160A-58.1 and 58.7, § 160A-31

Effective Date: April 28, 2011

8) An Act Changing the Statute of Limitations and Repose for Challenging Zoning Ordinances, Clarifying the Applicability of the Statute of Limitations to Enforcement Actions or Administrative Appeals, and to Prohibit Specified Zoning Ordinances Affecting Single-family Detached Residential Uses on Lots Greater than Ten Acres in Agricultural Zoning Districts. (House Bill 806 - Signed June 27, 2011)

Summary: The new law changes and clarifies the statute of limitations for certain zoning actions.

- *Two Months* - Actions challenging the validity of an ordinance adopting or amending a zoning map, or approving a conditional use permit, a special use permit, or a conditional zoning district, have a statute of limitations of two months. The statute of limitations accrues from the date of adoption of the ordinance.
- *One Year* - Actions challenging the validity of a municipal zoning ordinance (or unified development ordinance) have a statute of limitations of one year. The statute of limitations accrues from the point the person challenging the ordinance has standing to challenge the ordinance.

- *Three Years* - Actions challenging an ordinance based on an alleged defect in the adoption of the zoning ordinance have a statute of limitations of three years from the adoption of the ordinance.

These changes do not prevent a person, who is a party in an action involving the enforcement of a zoning ordinance, from raising as a defense the invalidity of the ordinance, nor does it bar raising it as a defense on appeal if the appeal was timely filed. However, raising a defense that the ordinance is invalid based on a flawed adoption process may only be done within three years of the ordinance's adoption.

Relevant General Statute modified: §160A-364.1, § 1-54, and § 1-54.1

Effective Date: July 1, 2011, but does not apply to litigation pending on that date.

**NORTH CAROLINA
CALDWELL COUNTY**

**TOWN OF SAWMILLS
RESOLUTION ADOPTING CALDWELL COUNTY
ANIMAL CONTROL ORDINANCE**

THAT WHEREAS, the Sawmills Town Council of the Town of Sawmills finds it necessary and desirable for the purpose of promoting the health, safety, morals and general welfare of the community and to enhance the community, neighborhood and area appearance to request the County of Caldwell to enforce their current Animal Control Ordinance within the Town Boundaries, and

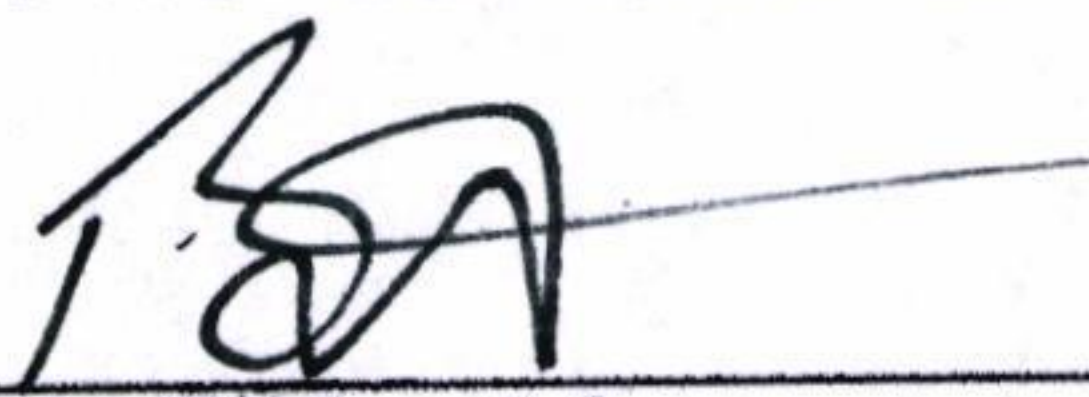
THAT WHEREAS, the County Commissioners are authorized by the Provisions of Chapter 153A-122 of the North Carolina General Statutes as amended to enforce County Ordinances within municipal boundaries upon request.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Sawmills, North Carolina, that for the purpose of promoting the health, safety, morals and general welfare of the community and to enhance the community, neighborhood and area appearance that the Mayor and Clerk are authorized to request Caldwell County to enforce the Animal Control Ordinance within the Town Boundaries in accordance with the terms and conditions of that current Caldwell County Animal Control Ordinance and Amendments attached hereto as Exhibit A.

This the 19th day of JULY, 2011.

TOWN OF SAWMILLS

BY:

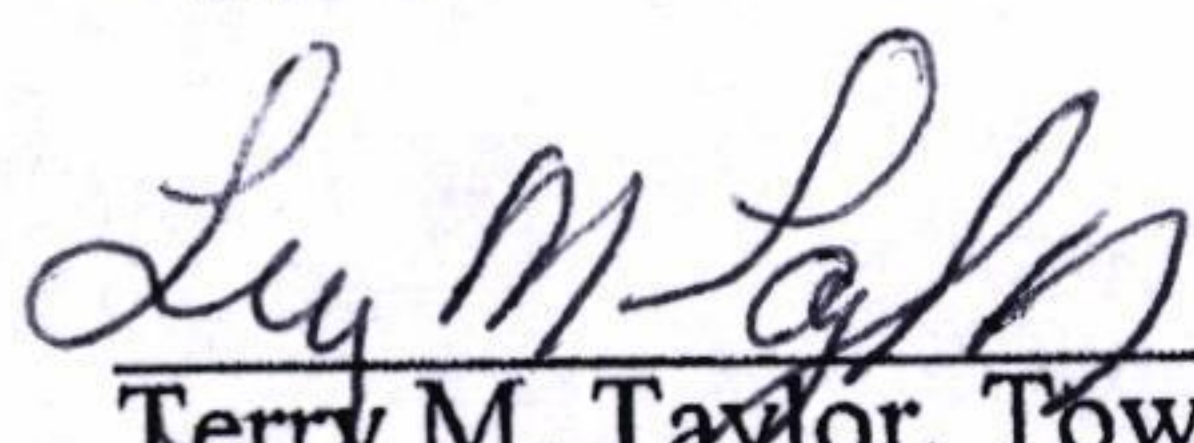

Bob Gibbs, Mayor

ATTEST:


Town Clerk



Approved as to Form:


Terry M. Taylor, Town Attorney

**NORTH CAROLINA
CALDWELL COUNTY**

**AGREEMENT FOR ENFORCEMENT OF
COUNTY ANIMAL CONTROL ORDINANCES**

THIS AGREEMENT, made and entered into this 19th day of JULY, 2011, by and between the **COUNTY OF CALDWELL**, a body politic and corporate organized and existing under the laws of the State of North Carolina (hereinafter referred to as "County"); and the **TOWN OF SAWMILLS**, a municipal corporation organized and existing under the laws of the State of North Carolina (hereinafter referred to as "Town");

WITNESSETH:

THAT WHEREAS, the Town has requested the County to allow its staff to enforce the County's Animal Control Ordinance within the corporate limits of the Town;

AND WHEREAS, the County has agreed to allow its staff to enforce the provisions of said ordinances within the corporate limits of the Town upon certain terms and conditions as are hereinafter set forth.

NOW, THEREFORE, the County and the Town hereby agree as follows:

1. The County's staff are hereby authorized and directed to enforce the Caldwell County Animal Control Ordinance within the corporate limits of the Town;
2. That there shall be no charge by the County to the Town for this service;
3. That either party may terminate this Agreement by thirty (30) days written notice to the other party, delivered by certified mail;
4. That this Agreement shall become effective upon its execution by both parties on the date stated in the first paragraph.

IN WITNESS WHEREOF, the parties have hereto placed their signatures by authority duly given and have affixed their governmental seals on the day and year first above written.

ATTEST:

Susan Hagle
[Governmental Seal]



TOWN OF SAWMILLS

BY:

Bob Gibbs
Bob Gibbs, Mayor

COUNTY OF CALDWELL

ATTEST:

BY:

[Governmental Seal]

Caldwell County Animal Control Ordinance

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Caldwell County Animal Control Ordinance

ARTICLE I - GENERAL

Section I: Definitions

Adequate Shelter: Any suitable weather-proof structure intended to be inhabited by an animal, built in such a way as to have four (4) sides, one (1) side having ample opening to allow for an entrance for the animal. Said structure will have a top and bottom being large enough for the animal to turn around while inside.

Animal Shelter: Any premises designated by the county for the purpose of impounding and caring for all animals found running at large or otherwise subject to impounding in accordance with the provisions of this ordinance.

At Large: Refers to any animal off the premises of his owner and not under sufficient physical restraint such as a securely fitting collar and leash, collar and chain, or similarly effective device to allow the animal to be controlled.

Attack: An approach to a person by an unrestrained animal in a vicious, terrorizing or threatening manner or apparent attitude of attack, without the animal having been teased, molested, provoked, beaten, tortured, or otherwise harmed.

Attack Training Facility: Any person, group of persons, partnership or corporation engaged in boarding, breeding, selling or training dogs or other animals in mode of an attack.

Breeder: Any person or establishment that breeds animals for the purpose of resale to the general public or dealers.

Cat: A domestic feline of either sex including stray.

Dangerous Animal: Any animal that has demonstrated a fierce or dangerous propensity or tendency to do any act which may endanger persons or property and/or any nondomesticated animal indigenous to the State of North Carolina including hybrid animals that are part wild. This would include but not be limited to any dog which (1) assaults, bites, attacks or inflicts serious injury on a human being without provocation on public or private property and/or (2) which has killed or injured a pet or domestic animal without provocation. Exceptions: No dog is dangerous pursuant to this definition if at the time the threat, injury or damage was sustained, the person attacked 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. Nor shall a dog be considered dangerous pursuant to this definition if 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.

Dealer: Any person who is licensed by the U.S. Department of Agriculture as a dealer.

Dog: A domestic canine of either sex including stray.

Domestic Animal: Any of various animals as dogs, cats, horses, sheep, cattle, goats, hogs, poultry, etc.; domesticated by man so as to live and breed in a tame condition.

Exhibitor: Any person who is licensed by the U.S. Department of Agriculture as an exhibitor.

Exposed to Rabies: Any person or animal that has bitten, been bitten by, or otherwise come into contact with the bodily fluids of any animal known or suspected to have been infected with rabies.

Inherently Dangerous Mammal: Inherently dangerous mammal is any live member of the canidae, felidae, or ursidae families, including hybrids thereof, which, due to their inherent nature, may be considered dangerous to humans and which include:

1. Canidae, including any member of the dog (canid) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (Canis Familiaris).
2. Felidae, including any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but not including domestic cats (Felis Catus).
3. Ursidae, including any member of the bear family, or any hybrids thereof.

Kennel: Any person, group of persons, partnership or corporation engaged in boarding animals.

Neutered: Any male animal, which has been operated upon to prevent reproduction.

Nuisance: The acts or actions by a cat or dog shall be considered a nuisance if any of the following occurs:

- (1) Turns over garbage containers or removes garbage from them.
- (2) Damages gardens, foliage or other real or personal property.
- (3) Defecates or urinates on property other than the owners.
- (4) Is maintained in an unsanitary condition which results in offensive odors or is dangerous to public health.
- (5) Chases, harasses or otherwise molests other animals, pedestrians, bicyclist, or vehicles.

Owner: Any person, group of persons, firm, partnership or corporation owning, keeping, having custody or control over, sheltering, feeding, harboring, or allowing the animal to remain on or about their property for more than seventy-two (72) consecutive hours. In the event that the owner of an animal is a minor, for purposes of this ordinance the parent or guardian of such minor shall be considered the owner of that animal. The owner of an animal is responsible for the care, actions and behavior of his animals.

Pet: A domesticated animal kept for pleasure rather than utility.

Premises: That portion of land owned or occupied by an owner, not including any portion of such land that is accessible to the public as a right of way.

Restraint: An animal is under restraint within the meaning of this ordinance 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.

Secure Enclosure: A fence or structure with four sides of adequate height, made from metal or any equivalent material, forming or causing a humane secure enclosure. ~~suitable to prevent the animal from escaping and to prevent the entry of young children.~~ The door or gate shall have a latch capable of being securely locked to prevent the animal from escaping or the entry of young children. The secure enclosure shall have a securely fitting top made from metal or any equivalent material to prevent the dog from climbing out and a floor made of concrete, concrete pavers or equivalent to prevent the dog from digging out of the secure enclosure. For the purpose of this definition, a home, mobile home or separate garage ~~do not meet this definition.~~ does not qualify.

Spayed: Any female animal which has been operated upon to prevent reproduction.

Stray: Any dog or cat that appears stray, homeless or unwanted, and any dog or cat that is not displaying a valid rabies tag.

Section II: Establishment and Composition of the Office of Animal Control

- A. There is hereby created the Office of Animal Control within the Caldwell County Health Department, which shall be composed of such employees and/or officials as shall be determined by the Board of Health and Board of Commissioners.
- B. Employees or agents enforcing this ordinance shall be designated as animal control officers. In the performance of their duties, animal control officers shall have all the powers, authority and immunity granted under this chapter and by the general laws of this State to enforce the provisions of this chapter, and the General Statutes of North Carolina as they are related to the care, treatment, control or impounding of animals.

- C. Except as may be otherwise provided by statutes, local laws or ordinances, no officer, agent or employee of the county charged with the duty of enforcing the provisions of this chapter or other applicable laws shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties unless he acts with actual malice.

Section III: General Duties of Office of Animal Control

- A. The Office of Animal Control shall be charged with the responsibility of:
1. Enforcing, in this county, all state laws, rules, and regulations and all county ordinances relating to the care, custody and control of domesticated dogs and cats.
 2. Assisting in the enforcement of the laws of the state with regard to animals and especially with regard to vaccination of animals against rabies and the confinement or controlling of dangerous animals and dangerous dogs.
 3. Investigating cruelty or abuse with regard to all animals.
 4. Making such canvasses of the county, including the homes in the county, as it deems necessary for the purpose of ascertaining that all animals are vaccinated against rabies as required by local ordinance or State statute.
 5. Operating, pursuant to policies of the Board of Health, Board of County Commissioners, the county animal shelter.
- B. It shall be the duty of The Office of Animal Control to keep, or cause to be kept, accurate and detailed records of:
1. Impoundment and disposition of all animals coming into the animal shelter.
 2. Bite cases, violations and complaints, and investigation of same.
 3. All funds belonging to the county which were derived from the operation of the Animal Control Program.
 4. All rabies vaccinations given in the county by veterinarians and Animal Control Staff.
 5. All other records deemed necessary.

Section IV: Establishment of a Dangerous Dog Appeal Board

There is hereby created a Dangerous Dog Appeal Board to serve as the official appellate body that hears all dangerous dog appeals. (per General Statutes 67-4.1 Dangerous Dogs). The Appeal Board will convene at the direction of the Caldwell County Board of Health or its designee. The Appeal Board is to be composed of Five (5) members appointed by the Caldwell County Board of Health and shall serve three (3) year staggered terms. The Appeal Board shall be composed of three (3) Veterinarians licensed to practice veterinarian medicine in the State of North Carolina and two (2) members of the general public.

Section V: Enforcement in Municipalities; Restricted

Animal control officers shall have no authority to enforce this ordinance within the boundaries of any municipality unless the governing body of that municipality adopts a resolution stating that Caldwell County is empowered to enforce the provisions of this ordinance within that municipality, and repeals any inconsistent ordinance.

Section VI: Deceased Animals

- A. It shall be the duty of the owner or person in charge of any animals that die from any cause, and the owner, lessee or person in charge of any land upon which any animals die, to bury the dead animals to a depth of at least three (3) feet beneath the surface of the ground within twenty-four (24) hours after the death of the animals is known, or to otherwise dispose of the animals in a manner approved by the state veterinarian.
- B. It shall be unlawful for any person to remove the carcasses of dead animals from his premises to the premises of any other person without the written permission of the person having charge of such premises and without burying such carcasses as provided in this section.
- C. The Animal Control Office does not pickup any deceased animal from properties or roadways.

ARTICLE II - PROHIBITED ACTIVITIES

Section I: Animal Cruelty

It shall be unlawful for any person to molest, tease, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, wound, injure, poison, abandon, kill, or subject to conditions detrimental to its health or general welfare any animal, or to cause or procure such action. The word "torture" and "torment" shall be held to include every act, omission or neglect whereby

unjustifiable physical pain, suffering or death is caused or permitted. However, this section shall not apply to the following activities:

- A. The lawful taking of animals under the jurisdiction and regulations of the North Carolina Wildlife Resources Commission.
- B. Lawful activities conducted for purposes of biomedical research or training or for purposes of production of livestock, poultry, or aquatic species.
- C. Activities conducted for lawful veterinary purposes.
- D. The lawful destruction of any animal by its owner, veterinarian, Health Director or Animal Control Officer, for the purposes of protecting the public, other animals, property, or the public health.

General Care: Prohibited Acts

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

- A. Failure to provide adequate food, water and shelter.
 - 1. All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed twenty-four (24) hours, a quantity of wholesome foodstuff in proper containers suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.
 - 2. All animals shall have access to a constant supply of clean, fresh water.
 - 3. All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include but are not limited to the following:
 - a. Underneath outside steps decks and stoops.
 - b. Underneath houses.
 - c. Inside or underneath motor vehicles.
 - d. Inside metal barrels.
 - e. Inside cardboard boxes.
 - f. Inside temporary animal carriers or crates.
 - g. Shelters located in flood-prone areas.
 - h. Shelters surrounded by debris, obstructions or impediments that may endanger an animal.
- B. It shall be unlawful for any owner to fail to keep his animal or animals in good health and comfort and veterinarian care when needed to prevent suffering and humane care and treatment.
- C. Animal Cruelty. Examples of cruel treatment include, but are not limited to the following:

1. Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck.
 2. Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
 3. Allowing a dog or cat to be tethered or contained in such a way as to prevent it from having adequate shelter at all times.
 4. Intentionally allowing animals to engage in a fight.
 5. Allowing animals to live in crowded or unsanitary conditions.
 6. Failure or refusal to obtain medical treatment for an animal when such treatment is obvious.
- D. Chaining or tethering an animal to a stationary object for a period of time or under conditions that are harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to the following:
1. Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal.
 2. Using a chain or tether made of rope, twine, cord or similar material.
 3. Using a chain or tether that is less than eight (8) feet in length and/or does not have swivels on one end. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar.
 4. Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter.
 5. Using a chain as a primary collar. All collars used for the purpose of chaining or tethering animals must be made of nylon or leather.
- E. It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chicks, ducklings or other fowl under six (6) weeks of age or rabbits under eight (8) weeks of age as pets, toys, premiums or novelties; provided, however that this section shall not be construed to prohibit the sale or display of such baby chicks, ducklings, or other fowl or such rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes other than for pets or novelties.
- F. It shall be unlawful to color, dye, stain, or otherwise change the natural color of baby chickens or other fowl or rabbits.

Section II: Female in Estrous (Heat)

It shall be unlawful for any owner or keeper of a female dog in estrous (heat) not to confine said dog in a secured enclosure.

Section III: Keeping of Inherently Dangerous Mammals

- A. It shall be unlawful for any person to keep an inherently dangerous mammal within the county.
- B. Traveling fairs, circuses and carnivals shall be exempt from this section.
- C. Recapturing: The owner of any inherently dangerous mammal shall reimburse Caldwell County for all costs incurred while attempting to recapture any escaped inherently dangerous mammal. If the animal is sheltered or euthanized by Animal Control, the owner shall also pay these costs.

Section IV: Confinement and Procedure of Potentially Dangerous Dogs

See definition and procedures per the North Carolina General Statutes (G.S. 67-4.1 through 67-4.4) which addresses Potentially Dangerous Dogs.

The owner of a dog that has been deemed Potentially Dangerous by the Office of Animal Control will be notified in writing, giving the reasons for the determination. The owner shall immediately confine the dog in a humane secure enclosure. If no humane secure enclosure is available at the owner's residence the dog shall be confined at the Animal Control Shelter or a boarding facility at the owner's expense. The owner may appeal the determination by filing written objections with the Dangerous Dog Appeal Board within three (3) days. The Appeal Board shall schedule a hearing within ten (10) days of the filing of the objections. After the appellate hearing the board will determine based on the testimony and evidence if the dog should be considered dangerous or overturn the declaration. The owner of the dog and the complainants will be notified by mail of the outcome of the hearing. If the dog is found by the Board to be considered a Dangerous Dog the owner ~~of the dog~~ is required to keep the dog in accordance with all state and local laws pertaining to Dangerous Dogs. If the owner of a dog that has been deemed Potentially Dangerous does not file ~~an a written~~ appeal with the Dangerous Dog Appeal Board within three (3) days of the notice the dog shall be considered a Dangerous Dog.

Section V: Confinement Requirements and Confiscation of Dangerous Dogs

- A. The owner of a dog that has been deemed dangerous by the Office of Animal Control or the Dangerous Dog Appeal Board will be notified in writing, giving the reasons for the determination. The owner shall immediately ~~and at all times~~ confine the dog in a humane secure enclosure. If no secure enclosure is available at the owner's residence the dog shall be confined at the Animal Control Shelter or a boarding facility at the owner's expense until a humane secure enclosure is constructed on the owner's property. ~~The enclosure must meet the approval of the Caldwell County Animal Control Director, who has the authority to mandate additional confinement requirements at his/her discretion. If~~

no adequate humane secure enclosure is constructed upon the owner's property after the expiration of thirty (30) days of notice of declaration, the dog shall be euthanized.

- B. The owner shall conspicuously and securely display a uniform dangerous dog warning sign on the humane secure enclosure. Additional uniform dangerous dog warning signs shall be conspicuously and securely posted at all points of entrance to the residence and must be visible and legible from the public highway or street. Uniform dangerous dog warning signs must be purchased from the Caldwell County Animal Control Department at the owner's expense.
- C. The owner of a dog that has been deemed dangerous shall have the dog spayed/neutered at the owner's expense and provide proof of the spay/neuter to the Animal Control Department within thirty (30) days of the date of written notification.
- D. The owner of a dog that has been deemed dangerous shall have the dog micro-chipped at the owner's expense and register the micro-chip number with the Animal Control Department within two (2) business days of the date of written notification.
- E. A dog that has been deemed dangerous either by Animal Control or the Dangerous Dog Appeal Board shall at all times be kept in a humane secure enclosure. The humane secure enclosure shall remain locked at all times to prevent the escape of the dog or the entry of young children. The dog may be removed from the secure enclosure for exercise or veterinarian care so long as it is under the control of its owner by the use of a secure fitting collar, leash, and muzzle.
- F. An animal control officer is empowered to confiscate a dog and harbor it at the owner's expense if the owner of the dog is found in violation of state and/or local laws pertaining to dangerous dogs. If any dangerous dog is confiscated under this provision, the owner of the dangerous dog shall be given written notification at the time of confiscation that the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days.

~~Section X: Confinement Requirements and Confiscation of Dangerous Dogs~~

~~A dog that has been deemed dangerous either by Animal Control or by the Dangerous Dog Appeal Board shall at all times be kept in a humane secure enclosure. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog is on the premises. The humane secure enclosure shall be locked at all times to prevent the escape of the dog or the entry of young children. The dog may be removed from the secure enclosure for exercise or veterinarian care so long as it is under the control of its owner by the use of a securely attached leash and muzzle.~~

~~An Animal Control Officer is empowered to confiscate a dog and harbor it at the owner's expense if the dog is found in violation of the state and/or local laws pertaining to Dangerous Dogs. If any Dangerous Dog is confiscated under this provision, the owner of the Dangerous~~

~~Dog shall be given written notice at the time of confiscation. If the owner fails to correct the violation upon the expiration of thirty (30) days from confiscation, Animal Control is authorized to euthanize the dog. If the owner corrects the violation the dog may be redeemed within thirty (30) days from confiscation so long as all fees owed to Animal Control for harboring, caring and maintaining the animal are paid.~~

Section VI: Required Notification to Animal Control Office by Owners of Dangerous Dogs

The owner of a dangerous dog shall inform the Office of Animal Control, as soon as practicable, but not later than twenty-four (24) hours after the occurrence of any of the following:

- A. An assault, attack or biting upon any human being committed by a dangerous dog.
- B. An assault, attack or biting upon any domesticated animal or pet by a dangerous dog.
- C. The destruction of or damage to property of another by a dangerous dog.
- D. The roaming or escape of any animal required to be restrained or confined to a secure enclosure.

~~Exception:~~

Section VII: Transfer of Ownership or Relocation of Dangerous Dogs

- A. If the owner of a dangerous dog wishes to transfer ownership or possession of the dog to another person, the owner shall provide written notice to the authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog before the ownership of the dog is transferred.
- B. The owner of a dangerous dog plans to relocate and/or change address, the owner shall provide written notice to the authority that made the determination under this article stating the new address and or date of relocation prior to this occurrence.

Section VIII: Law Enforcement Dogs Excluded

Any dog used by a law enforcement agency in the investigation of crimes or as otherwise necessary in the enforcement of the law is excluded from requirements of this ordinance with the exception that they are regulated by the provisions of Article ~~I~~ II Section ~~IV~~ V and Article ~~II~~ III Section ~~III~~ II of this ordinance.

Section IX: Dogs Used for Sentry or Guard Duty

A sign warning that there is a guard or sentry dog or animal on the premises shall be displayed. The owner shall post a plainly visible sign upon the secure enclosure warning that a dangerous dog or animal is on the premises. Any person owning, maintaining or harboring a dog for sentry or guard purposes must register said dog or animal with the Office of Animal Control.

Section X: Interference with Enforcement of this Ordinance

It shall be unlawful for any person to interfere with, hinder or molest the Animal Control Office agents or officers or Veterinarians in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of such agents.

Section XI: Animals Creating a Nuisance

Pursuant to N.C.G.S. 153A-121, a county may by ordinance define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from an animal being a public nuisance.

Section XII: Exclusion for Hunting Dogs

This ordinance shall not be interpreted as restricting persons owning specially trained hunting/working dogs from actually using their dogs for hunting/working said dogs in the presence of the owner or an agent of the owner, and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations, or ordinances of the State of North Carolina and Caldwell County.

Section XIII: Nuisances Prohibited

It shall be unlawful for any owner to permit a dog or cat to create a nuisance as defined by this ordinance.

Section XIV: Prohibition of Nuisances by Animals Running at Large

It shall be unlawful for any owner to permit or allow his animal(s) to enter upon public property unless the animal is under the direct control of its owner using a properly fitting collar and leash.

Section XV: Procedure for Complaint

Any citizen who personally witnesses a violation of this ordinance may file a complaint in the following manner:

- A. A citizen who witnesses a violation of this article may submit a written complaint to the Animal Control Department within 10 days of any alleged violation. The written complaint must be signed by the complaining witness and include a detailed explanation of the alleged violation(s). The written complaint must include a detailed description of

the animal(s) and the name and address, if known, of the owner or keeper of the animal(s). Any evidence (i.e. photographs) should be attached to the complaint.

- B. Within a reasonable time considering the available resources of the Animal Care and Control Department, an Animal Control Officer will notify the owner of the complainant and conduct an investigation of the alleged violation. The Animal Control Officer will prepare a written report with findings of fact and a determination as to whether or not the alleged violation is true based upon a preponderance of the evidence.
- C. If the written findings indicate that a violation has occurred, the Animal Control Officer shall cause the owner of the animal(s) in question to be so notified in writing to take such steps within forty-eight (48) hours as may be necessary to prevent future violations.
- D. Subsequent violations of this article shall subject the owner of the animal(s) to civil and/or criminal penalties as provided by the State of North Carolina and this ordinance. Any person who has been convicted of a criminal violation of this ordinance shall restrain his/her animal(s) on his/her own premises.
- E. Any animal found off of the premises of its owner after having been convicted of a criminal violation of this ordinance shall be unlawful and may be impounded by the Animal Care and Control Department. A notice of impoundment shall be served upon the owner or affixed to the owner's premises.

ARTICLE III – RABIES CONTROL

Section I: Compliance with State Law, Article as Supplement to State Law

- 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 article 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.

Section II: Inoculation of Dogs, Cats and Other Pets

- A. It shall be unlawful for an owner to fail to provide current inoculation against rabies four (4) months of age or older. Should it be ordered by the Caldwell County Animal Control Office, Caldwell County Board of Health, the Caldwell County Board of Commissioners or the State Public Health Veterinarian that other pets be inoculated

in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner to fail to provide current inoculation against rabies for that pet.

- B. A rabies inoculation shall be deemed "current" for a dog or cat if two inoculations have been given one year apart and booster doses of rabies vaccine administered every three (3) years.

Section III: Inoculation Tag

- A. Upon complying with the provision of Article H III Section II hereinabove, there shall be issued by the inoculator, to the owner of the animal inoculated, a metallic tag, stamped with the number and the year for which issued, and indicating that the animal has been inoculated against rabies.
- B. It shall be unlawful for any dog or cat owner to fail to provide the dog or cat with a collar or harness to which a current tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.
- C. It shall be unlawful for any person to use for any animal, a rabies inoculation tag issued for an animal other than the one using the tag.

Section IV: Report and Confinement of Animals Biting Persons or Showing Symptoms of Rabies

- A. Every dog or cat which has bitten any person or which shows symptoms of rabies shall be confined immediately and shall be promptly reported to the Animal Control Office, and thereupon, shall be securely quarantined at the direction of the Animal Control Office for a period of ten (10) days, and shall not be released from such quarantine except by written permission from the Animal Control Office.
- B. Dogs and cats quarantined under this section shall be confined in a veterinary hospital, boarding kennel approved by the Office of Animal Control, or county animal shelter, at the expense of the owner, provided, however, that if an animal control officer determines that the owner of an animal which must be quarantined has adequate confinement facilities upon his own premises, the animal control officer shall authorize the animal to be confined on such premises. The animal control officer may not authorize the animal to be confined on the owner's premises unless the owner has a fenced-in area in his yard and the fenced-in area has no entrances or exits that are not locked, and the animal is currently vaccinated against rabies. Proof will be required at the time of investigation. If the animal is confined on the owner's premises, the animal control officer shall revisit the premises for inspection purposes at approximately the middle of the confinement period and again at the conclusion of the confinement period.

- C. In the case of stray dogs or cats whose ownership is not known, the dogs or cats may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the county animal shelter.
- D. If rabies does not develop within ten (10) days after a dog or cat is quarantined under this section, the dog or cat may be released from quarantine with the written permission of the Animal Control Office. If the dog or cat has been confined in the county animal shelter, the owner shall pay any necessary veterinarian fees and a boarding fee set by and approved by the Caldwell County Board of Commissioners. Any animal which has bitten a person which has not been reclaimed within twenty-four (24) hours from the end of the ten (10) day rabies observation quarantine period, shall be destroyed by the Animal Control Office.
- E. In the case of any carnivore or bat, the animal may be euthanized and the head examined for rabies.

Section V: Destruction of Animal Bitten by Rabid Animal

Unvaccinated animals bitten by a known rabid animal shall be immediately destroyed. If the animal has a current rabies inoculation, it shall be revaccinated and returned to the owner.

Section VI: Area-Wide Emergency Quarantine

- A. When reports indicate a positive diagnosis of rabies, the Caldwell County Health Director may order an area-wide quarantine for such period as he/she deems necessary. Upon invoking of such emergency quarantine, no dog, cat or other carnivores shall be taken into the streets or permitted to be in the streets during such period. During such quarantine, no dog or cat or other carnivore may be taken or shipped from the county without written permission of the Office of Animal Control. During the quarantine period, the local health authorities 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 Caldwell County Health Director.

Section VII: Postmortem Diagnosis

- A. If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Caldwell County Health Department for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis.

- B. The carcass of any animal suspected of dying of rabies shall be surrendered to the Caldwell County Animal Control Office. The head of such animal shall be submitted to the Caldwell County Health Department for shipment to the North Carolina State Laboratory of Public Health for rabies diagnosis.

Section VIII: Unlawful Killing, Releasing, etc. of Certain Animals

It shall be unlawful for any person to kill or release any animal under observation for rabies, any animal suspected of having been exposed to rabies, or any animal which has bitten a human, or to remove such animal from the county without written permission from the Animal Control Office.

Section IX: Failure to Surrender Animal for Quarantine or Destruction

It shall be unlawful for any person to fail or refuse to surrender any animal for quarantine or destruction as required in this article, when demand is made therefore by the Animal Control Office.

ARTICLE ~~III~~IV - Impoundment

Section I: General~~ly~~

Any animal which appears to be lost, stray or unwanted, or which is found to be not wearing a valid rabies vaccination tag, as required by state law or this ordinance, and not under restraint in violation of this ordinance, shall be impounded by the Animal Control Office by any means necessary and confined in an animal shelter in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty which may be imposed for violation of this ordinance.

Section II: Trapping

The Animal Control Department is authorized to place, upon request, live-capture animal traps on private property of the requestor or public property to trap and remove stray, at large, unwanted, or nuisance animals. It is unlawful for any person other than an Animal Control Officer or their designee to remove any animal from the trap or to damage, destroy, move, or tamper with the trap.

Section III: Notice to Owner

Immediately upon impounding an animal, the Animal Control Office shall make reasonable effort to notify the owner and inform such owner of the conditions. If the owner is unknown or cannot be located, Animal Control shall hold for three (3) days (72 hours) seventy-two hours.

Section IV: Redemption by Owner Generally

- A. The owner of an animal impounded under this article may redeem the animal and regain possession thereof within seventy-two (72) hours from the time notification of impoundment is given, as required by Article III IV Section IV by complying with all applicable provisions of this chapter and paying any necessary veterinarian's fees and a boarding fee set and approved by the Caldwell County Board of Commissioners.
- B. No animal owner may be permitted to adopt his own animal under the provisions of Article III IV Section IV in order to reclaim an animal that has been impounded pursuant to state law or this article.

Section V: Destruction or Adoption of Unredeemed Animals Generally

- A. If an impounded animal is not redeemed by the owner within the period prescribed in Article III IV Section III, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption by the first such person who pays the adoption fee.
- B. No animal which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to Article III Section VI of this ordinance, except by special authorization of the Caldwell County Health Director.
- C. Adoption Contract - Any person adopting a dog or cat from the animal shelter shall be required to sign an adoption contract with the animal shelter, the major provisions of which are outlined in this section. The purchase of euthanized animals from the animal shelter by a duly licensed biological supply company or veterinary researcher shall not be deemed to be an adoption.
- D. Exceptions:
 - 1. The Animal Control Office has the right to refuse adoption of animals to persons less than eighteen (18) years of age or persons who have previously been cited for violations of this ordinance.
 - 2. Maximum number of animals adopted to same household is 3 per calendar year.

- E. Any animals that exhibit fierce, dangerous or aggressive behavior will not be offered for adoption.

Section VI: Procedure with Respect to Redemption or Adoption of Unvaccinated Dog or Cat

All animals four (4) months of age or older that leave the Animal Shelter or any animal hospital or veterinary clinic shall be required to have a current rabies vaccination.

Section VII: Suspected Rabid Animals Not to be Redeemed or Adopted

Notwithstanding any other provision of this article, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with Article ~~II~~ III of this ordinance.

Section VIII: Destruction of Wounded or Diseased Animals

Notwithstanding any other provision of this article, any animal impounded which is badly wounded or diseased (not a rabies suspect) shall be destroyed humanely, only after consultation by the Office of Animal Control with a veterinarian licensed to practice in the State of North Carolina. This consultation will include a physical review of the animal by a licensed veterinarian and agreement by said veterinarian that the animal is suffering and should be euthanized. If the animal has identification, the Office of Animal Control shall attempt to notify the owner before consulting with a licensed veterinarian and euthanizing the animal.

ARTICLE V - Imposition of Penalties for Violations of the Ordinance

- A. Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of ~~one hundred twenty-five~~ dollars (~~\$100.00~~) (\$25.00) which shall be paid in full within ~~seventy-two (72) hours~~ ~~five (5) business days~~ of the service of the citation by a representative of the Caldwell County Animal Control Office or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ~~the seventy-two (72) hour period~~ ~~five (5) business days~~, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt.

~~Each subsequent violation of any of the provisions of this ordinance shall subject the violator to the imposition by citation of a civil penalty in the amount of one hundred dollars (\$100.00) which shall be paid in full within five (5) business days of the service of the citation. If the offender does not pay the penalty within five (5) business days, the~~

County may recover said penalty plus court costs and attorney fees in a civil action in the nature of the debt.

Failure to make payment in full and correct the violation or violations within ~~the seventy-two (72) hour period~~ five (5) business days will result in an additional penalty of twenty-five dollars (\$25.00) per violation per day until the violation is corrected and citation is paid. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the Caldwell County Animal Shelter.

- B. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1) shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a three hundred dollar (\$300.00) civil penalty and, after a ten (10) day waiting period, exclusive of Sundays and holidays, said dog shall be destroyed by the Office of Animal Control.
- C. If any dangerous ~~animal or dangerous~~ dog ~~as defined in North Carolina General Statutes 67-4.1)~~ shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any domestic animal or pet, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of four hundred dollars (\$400.00).~~
- D. If ~~the owner of~~ any animal or dangerous dog is found in violation of Article ~~I II~~ Section ~~VII V~~, Article ~~I II~~ Section ~~VIII VI~~ and/or Article ~~I II~~ Section ~~X VII~~ of this ordinance, the owner of said animal or dog shall pay a one hundred fifty dollar (\$150.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of three hundred dollars (\$300.00).~~
- E. Any person in possession of or keeping an inherently dangerous mammal within the county shall be in violation of this ordinance and shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of three hundred dollars (\$300.00) which shall be paid in full within ~~seventy-two (72) hours~~ five business days of the service of the citation by a representative of the Caldwell County Office of Animal Control or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ~~the seventy-two (72) hour period~~ five business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt. Failure to make payment in full and correct the violation or violations within ~~the seventy-two (72) hour period~~ five business days will result in an additional penalty of six hundred dollars (\$600) per violation per day until the violation is corrected. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the Caldwell County Animal Shelter.

- F. Violation of this ordinance may subject the violator to criminal as well as civil action. Violation of this chapter shall be a misdemeanor for which a criminal summons may be issued. Any person convicted of such violation shall be punishable as provided in N.C.G.S. 14.4. Each day's violation of this section is a separate offense.
- G. In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

Summary of Proposed Amendments Caldwell County Animal Control Ordinance

ARTICLE I - GENERAL

Section I: Definitions

Nuisance: The acts or actions by a cat or dog shall be considered a nuisance if any of the following occurs:

- (1) Turns over garbage containers or removes garbage from them.
- (2) Damages gardens, foliage or other real or personal property.
- (3) Defecates or urinates on property other than the owners.
- (4) Is maintained in an unsanitary condition which results in offensive odors or is dangerous to public health.
- (5) Chases, harasses or otherwise molests other animals, pedestrians, bicyclist, or vehicles.

ARTICLE II - PROHIBITED ACTIVITIES

Section XI: Animals Creating a Nuisance

Pursuant to N.C.G.S. 153A-121, a county may by ordinance define, regulate, prohibit or abate acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances.

Nothing in this article shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his property resulting from an animal being a public nuisance.

Section XII: Exclusion for Hunting Dogs

This ordinance shall not be interpreted as restricting persons owning specially trained hunting/working dogs from actually using their dogs for hunting/working said dogs in the presence of the owner or an agent of the owner, and are actually lawfully being used for hunting or training in compliance with applicable statutes, regulations, or ordinances of the State of North Carolina and Caldwell County.

Section XIII: Nuisances Prohibited

It shall be unlawful for any owner to permit a dog or cat to create a nuisance as defined by this ordinance.

Section XIV: Prohibition of Nuisances by Animals Running at Large

It shall be unlawful for any owner to permit or allow his animal(s) to enter upon public property unless the animal is under the direct control of its owner using a properly fitting collar and leash.

Section XV: Procedure for Complaint

Any citizen who personally witnesses a violation of this ordinance may file a complaint in the following manner:

- A. A citizen who witnesses a violation of this article may submit a written complaint to the Animal Control Department within 10 days of any alleged violation. The written complaint must be signed by the complaining witness and include a detailed explanation of the alleged violation(s). The written complaint must include a detailed description of the animal(s) and the name and address, if known, of the owner or keeper of the animal(s). Any evidence (i.e. photographs) should be attached to the complaint.
- B. Within a reasonable time considering the available resources of the Animal Care and Control Department, an Animal Control Officer will notify the owner of the complainant and conduct an investigation of the alleged violation. The Animal Control Officer will prepare a written report with findings of fact and a determination as to whether or not the alleged violation is true based upon a preponderance of the evidence.
- C. If the written findings indicate that a violation has occurred, the Animal Control Officer shall cause the owner of the animal(s) in question to be so notified in writing to take such steps within forty-eight (48) hours as may be necessary to prevent future violations.
- D. Subsequent violations of this article shall subject the owner of the animal(s) to civil and/or criminal penalties as provided by the State of North Carolina and this ordinance. Any person who has been convicted of a criminal violation of this ordinance shall restrain his/her animal(s) on his/her own premises.
- E. Any animal found off of the premises of its owner after having been convicted of a criminal violation of this ordinance shall be unlawful and may be impounded by the Animal Care and Control Department. A notice of impoundment shall be served upon the owner or affixed to the owner's premises.

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- A. Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of ~~one hundred~~ twenty-five dollars (~~\$100.00~~) (\$25.00) which shall be paid in full within ~~seventy two (72) hours~~ five (5) business days of the service of the citation by a representative of the Caldwell County Animal Control Office or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the

penalty within ~~the seventy-two (72) hour period~~ five (5) business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt.

Each subsequent violation of any of the provisions of this ordinance shall subject the violator to the imposition by citation of a civil penalty in the amount of one hundred dollars (\$100.00) which shall be paid in full within five (5) business days of the service of the citation. If the offender does not pay the penalty within five (5) business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of the debt.

Failure to make payment in full and correct the violation or violations within ~~the seventy-two (72) hour period~~ five (5) business days will result in an additional penalty of twenty-five dollars (\$25.00) per violation per day until the violation is corrected and citation is paid. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the Caldwell County Animal Shelter.

- B. If any dangerous animal or dangerous dog (as defined in North Carolina General Statutes 67-4.1) shall, when unprovoked, attack, assault, wound, bite or otherwise injure or kill a human being, the owner shall pay a three hundred dollar (\$300.00) civil penalty and, after a ten (10) day waiting period, exclusive of Sundays and holidays, said dog shall be destroyed by the Office of Animal Control.
- C. If any dangerous ~~animal or dangerous~~ dog ~~as defined in North Carolina General Statutes 67-4.1)~~ shall, when unprovoked, kill, wound, or worry or assist in killing or wounding any domestic animal or pet, the owner of said animal or dog shall pay a two hundred dollar (\$200.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of four hundred dollars (\$400.00).~~
- D. If the owner of any animal or dangerous dog is found in violation of Article ~~I~~ II Section ~~VH~~ V, Article ~~I~~ II Section ~~VIII~~ VI and/or Article ~~I~~ II Section ~~X~~ VII of this ordinance, the owner of said animal or dog shall pay a one hundred fifty dollar (\$150.00) civil penalty and the dog will be humanely euthanized by the Animal Control Department at the expiration of three (3) business days. ~~For each subsequent violation, the owner of said animal or dog shall pay a civil penalty of three hundred dollars (\$300.00).~~
- E. Any person in possession of or keeping an inherently dangerous mammal within the county shall be in violation of this ordinance and shall be subject to the imposition by citation of a civil penalty for each such violation in the amount of three hundred dollars (\$300.00) which shall be paid in full within ~~seventy-two (72) hours~~ five business days of the service of the citation by a representative of the Caldwell County Office of Animal Control or any law enforcement officer, or both in accordance with N.C.G.S. 153A-123. If the offender does not pay the penalty within ~~the seventy-two (72) hour period~~ five

business days, the County may recover said penalty plus court costs and attorney fees in a civil action in the nature of debt. Failure to make payment in full and correct the violation or violations within ~~the seventy two (72) hour period~~ five business days will result in an additional penalty of six hundred dollars (\$600) per violation per day until the violation is corrected. All funds derived from the civil penalties collected shall be used in the operation and maintenance of the Caldwell County Animal Shelter.