Legislation – *What's Hot . . . .*

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Burke County, North Carolina –-- From Animal Services Reform Efforts to Mandatory Sterilization with Breeder Permit Proposal

After making multiple animal services reforms, Burke County is now considering requiring permits for any breeding of cats or dogs and other adverse provisions. The county is located in western North Carolina and includes part of the Hickory–Lenoir–Morganton, NC Metropolitan Statistical Area. Best Friends Animal Society (BFAS) focuses on this area as part of its effort to end "the killing of dogs and cats in U.S. shelters by the year 2025." According to BFAS, North Carolina is the third worst state "in the country for pet shelter deaths." While this designation can inspire workable reforms and better outcomes for pets in the shelter system, it can also open the door to coercive measures detrimental to fanciers and other pet owners. As a result, many changes have been made, including prior revisions of the animal code. Then in August 2020, Burke County Animal Services received an award from BFAS for being "one of three shelters with an animal intake between 2,001-6,000 to be recognized with the award for highest reduction in shelter killing" ("Burke County Animal Services receives prestigious award" The News Herald, August 27, 2020). Despite these strides, yet another substantial revision to the ordinance is now pending that would increase the size of the current ordinance from 25 pages to 49 if enacted.

In Burke County, Animal Control had been run by the Sheriff and the outdated shelter built in 1974. In 2017 and again in 2019, there were substantial revisions to the County animal ordinance that would both support the Sheriff's Office as the law enforcement arm of Animal Control and Animal Services as the civilian arm operating the shelter, working with rescue groups, fosters, and the public. Those revisions also created a 7-member Animal Advisory Board and other extensive provisions. Included were nuisance, at large, and dog tethering provisions but no new mandates to otherwise responsible owners such as mandatory sterilization and breeder permits. Along with these efforts was planning for a new shelter – what would be needed to reduce intakes and euthanasia at what costs? The Animal Advisory Board minutes reported that BAFS would be doing a Shelter Assessment but Animal Control did not respond to its correspondence. The Sheriff's office then requested transition of Animal Control to Animal Services, a step that requires revisions to the ordinance. The County proceeded with a professional shelter consultant's evaluation and Shelter Needs Assessment Study that was presented to the Commission in early 2020. The Study indicated that

the planned operations and capacity of the new shelter would require a substantial intake reduction to achieve the intended no kill initiatives and recommended:

> "More extensive preventative programs including low cost and subsidized spay/ neuter procedures, public education promoting responsible pet ownership, and developing progressive ordinances is part of the solution to reducing unwanted and stray animals. The underlying overpopulation of pets is caused by irresponsible pet ownership and uncontrolled breeding of pets. Although animal overpopulation is beginning to come down nationwide due to remedial programs, it can be countered by increasing human population and continued irresponsible pet ownership."

By April, a proposed ordinance revision appeared as Ord. No. 2020-04 with no redline version to indicate changes and is linked without explanation on the Animal Services webpage. The Animal Advisory Board formally recommended a [draft version](#) on August 13, 2020. The breeder permit section is obviously new, but generally changes are difficult to identify and the procedural recommendation is to "rescind and replace."

Section 6-79 contains the sterilization and breeder permit provisions. It provides that no one shall allow any cat or dog over six months to breed without obtaining a breeder's permit. There are two types of people that can get a permit. Those who intentionally or accidentally allow animals they own to breed or hobby breeders. In the draft ordinance, a hobby breeder is defined as "any person with knowledge of their specific breed(s) (i.e., health risks, canine obstetrics, genetics and will make informed decisions before considering a mating). A hobby breeder is one who breeds not more than once within a 12-month period while permitting consumers access to directly see the condition in which the dogs or cats are bred and raised, or can discuss with the breeder the conditions of the dogs or cats." Several mandates are required of breeder permit holders, including furnishing buyers with a warranty of health for a period of not less than one week. The breeder must also recommend the buyer have the animals examined by a licensed veterinarian.

The proposed ordinance also includes the pejorative terms backyard breeder and puppy mill (though the county attorney has questioned whether the latter should be limited to puppies). Emotionally charged and often ill-defined, these types of terms have no legitimate place in legislation. Although often used to simply categorize activities, they are often used to create new categories of offenses. Jurisdictions usually have laws codifying behavior not tolerated by society without the need for additional categorizations and offenses. For example, all owners would be required to provide a minimum standard of care for their pets. It is not just "puppy mills" that can run afoul of these ordinances. Yet, by including the failure to maintain minimum conditions in the definition, the alleged puppy miller may be subject to multiple offenses for the same act.

The Animal Advisory Board is in the process of holding public input meetings in August and September covering revisions to the tethering provision, breeder permits, and a new unaltered impound fine.