
Coates' Canons Blog: Mandates in animal control: What MUST local governments do?

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I am often asked, what animal control services MUST local governments provide? The question may come from local officials who are in the process of evaluating their options. Perhaps money is tight and they are considering dropping some animal control services, consolidating services with another jurisdiction or otherwise streamlining animal-related functions. Or the question may come from the media or members of the public, often because they are frustrated that local officials are not responding to an animal-related issue. For example, an article on urban coyotes in Sunday's Charlotte Observer (11/22/2009) explained that despite the growing coyote population and the public's expressed concerns, "county animal control doesn't respond to coyote calls, referring residents to state officials and private contractors who trap wildlife for a fee." So, what is the answer?

The short answer is *very few*. State law *authorizes* local governments to provide quite a few animal control services but *requires* only a handful of services.

State law mandates local government action in three main areas: rabies control, animal adoption and dangerous dogs. Some of these mandates are actually new, stemming from the recently enacted legislation discussed in an earlier blog post.

Rabies control

State law requires that an "animal control officer" – defined as a city or county employee whose responsibility includes animal control – canvass the jurisdiction to determine if there are dogs, cats or ferrets not wearing rabies vaccination tags (G.S. 130A-192, as amended by 2009-327). If such an animal is found, the law directs the officer to follow up with the animal's owner, if known (i.e., animal wearing a tag or microchipped). If the owner is not known, the officer is *authorized* but not *required* to impound the animal.

If the animal is impounded, additional mandates are triggered. The amendments to G.S. 130A-192 in S.L. 2009-304 require that most impounded animals (1) be made available to the public for viewing for a minimum period of time and (2) be made available for adoption before being sold (presumably for research purposes) or euthanized. Note that the rabies law does not require every city and county to have an animal control officer that performs these functions – but the implication is that every jurisdiction will be served by one. Many municipalities, for example, rely on the county to perform this function for them while others have their own officers.

The rabies and communicable disease control laws also impose duties on local health directors to respond to reported animal bites, manage potential human exposure to rabies, and organize at least one rabies vaccination clinic per year. Local health departments often take the lead on these responsibilities but in some jurisdictions, a close partnership with local animal control officials results in some or all of this authority being delegated outside the health department (see G.S. 130A-6; delegation of authority).

Animal holding and adoption

While local governments are not required to have animal shelters (see G.S. 153A-442 and 160A-493; authorizing county and city expenditures in support of shelters), the mandates in the rabies law related to confinement of cats and dogs that bite can be read to imply that local governments who participate in rabies control functions should have an arrangement with some type of animal holding facility. Some local governments address this need by operating their own shelter while others have agreements with neighboring jurisdictions, private shelters, boarding facilities or veterinary offices.

With the passage of S.L. 2009-304, state law imposes several new sheltering-related mandates on local governments. All

animals that are “taken into custody for violation of statutes or ordinances not related to rabies control” and animals surrendered to a shelter by an owner must be held for a minimum of 72 hours, subject to limited exceptions. In addition, as mentioned above, before any animal held by a shelter can be sold or put to death, it must be made available for adoption as provided in the revised law. It is important to remember that the law does not *require* that these animals be “taken into custody,” but if they are the additional mandates kick in.

Dangerous dogs

Several basic state statutes governing dangerous dogs are found in Chapter 67, Article 1A. The statutes define some key terms and outline consequences related to actions of dangerous or potentially dangerous dogs and their owners. Many local governments have also adopted their own dangerous dog ordinances to supplement the state law (see G.S. 153A-131 and 160A-187; authorizing counties and cities to regulate possession or ownership of dangerous animals). The state law imposes only one express mandate on local governments and it is procedural in nature. G.S. 67-4.1(c) requires that county or municipal authorities responsible for animal control designate (1) a person or a Board to determine when a dog is potentially dangerous and (2) a separate Board to hear appeals from such designations. The law further outlines procedures that govern such determinations and appeals, but the bottom line is that the state law assumes local government officials will be playing a role in dangerous dog regulation and enforcement.

In talking with officials over the years, it seems that many of them see the rabies and dangerous dog enforcement activities as non-negotiable services because they are related to public health and safety. They seem comfortable with the notion that they need to ensure that there is some mechanism for responding to these types of concerns within their jurisdictions, regardless of resource implications. But once we step outside of these two areas, the response is often mixed. Some perceive the public demand for local government responsiveness to issues such as animal cruelty, nuisance animals, barking dogs, or exotic animals as authoritative to the point of becoming a “mandate” from the citizens rather than the state. Others conclude that the limited resources of their local government should not be allocated to these types of “optional” services. As another trying budget year faces our state, it will be interesting to see how many animal-related services are dropped by local governments and how many new initiatives are launched.

Links

- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_130A/GS_130A-184.pdf
- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_130A/GS_130A-192.pdf
- www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S674v7.pdf
- www.ncleg.net/Sessions/2009/Bills/Senate/PDF/S467v7.pdf
- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_130A/GS_130A-6.pdf
- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_153A/GS_153A-442.pdf
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