ATTACHMENT A

AN ORDINANCE AMENDING CHAPTER 10 OF THE CARRBORO TOWN CODE TO IMPOSE A CIVIL PENALTY OF $100.00 UPON A PERSON WHO, WHEN HIS OR HER ANIMAL BITES ANOTHER PERSON OR ANIMAL, FAILS TO REPORT IT OR FAILS TO CONFINE THE ANIMAL AS REQUIRED BY THE ORDINANCE

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. The fourth sentence of Subsection 10-39(b) ("Penalties and Remedies") is amended to read as follows: "A violation of Subsections 10-4(a), 10-19(a), or 10-19(b) shall subject the offender to a civil penalty of $100.00."

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

MEMORANDUM

Memorandum to: Mayor and Board of Aldermen

From: Mike Brough

Subject: Amendment to Chapter 10 (Animals) of the Town Code

Date: September 7, 2005

This memorandum, and the attached ordinance, are provided in response to Alderman Chilton's request at the September 6, 2005 meeting to review the Town Code to determine whether penalties are provided if a person whose dog bites another person fails to report the incident and confine the dog.

Section 130A-196 of the N.C. General Statutes provides that"[w]hen a person has been bitten by a dog or cat, the ... person owning the animal or in control or possession of the animal shall notify the local health director immediately and give the name and address of the person bitten and the owner of the animal." The statute goes on to require that such animals "shall be immediately confined for 10 days in a place designated by the local health director." The statute provides that a person who fails to confine the animal as required by the health director is guilty of a Class 2 misdemeanor. The statute does not specifically make it a misdemeanor to fail to report the incident. However, my understanding is that, under the common law, and failure to abide by a statutory mandate constitutes a misdemeanor. *State v. Bloodworth*, 94 N.C. 918 (1886).

Subsection 10-19(b) of the Town Code similarly provides that "[t]he owner or keeper of an animal that has bitten any person or other animal or that shows symptoms of rabies shall report the same immediately to the [Animal Control Officer] or the Orange County Health Department." In addition, Subsection 10-19(a) requires that an animal that has bitten any person be confined at the direction of the health director. However, the "Penalties and Remedies" section of this chapter does not provide for enforcement of this mandates by either a criminal remedy or a civil penalty. Since the failure to report a dog bite or to confine the animal are already made criminal offenses by state statute, the Town cannot also impose a criminal remedy. Therefore, the attached ordinance amends the Town code to provide for a civil penalty of $100.00 for a violation of Subsections 10-19(a) and (b).

Section 10-19 Quarantine of Biting Animals Suspected of Having Rabies:

(a) In accordance with G.S. 130A-196 and 198, every animal (cat, dog, or ferret) that has bitten any person shall be securely confined for a period of at least ten (10) days from the time of the bite at a place and location chosen by the local health director and/or his designee. The biting animal shall not be released from such quarantine except by written permission of the administrator. Any animal that shows symptoms of rabies shall be immediately and securely confined and notification made to the administrator, Animal Control Officer, or local health director.

(b) The owner or keeper of an animal that has bitten any person or other animal or that shows symptoms of rabies shall report the same immediately to the administrator or the Orange County Health Department. Any person bitten by an animal shall immediately report the incident to the administrator.