

## Chapter 6

### ANIMALS\*

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\* **Cross references**—Environment, ch. 22; health, ch. 30; regulations on dogs in parks, § 38-82; regulations on horses in parks and open space lands, § 38-83; animal control agency fund, § 50-361 et seq.

**State law reference**—Dogs and other companion animals, G.S. § 22-327 et seq.

## ANIMALS

### ARTICLE I. IN GENERAL

#### **Sec. 6-1. Purpose and intent of chapter.**

The purposes of this chapter are to promote the public health, safety, and general welfare of the citizens of the town by addressing the public nuisance caused by vicious and dangerous animals and to ensure that all animals receive adequate care. This chapter is intended to supplement and not supplant the provisions contained in G.S. § 22-339 et seq. regarding domestic animals. The animal control officer shall have the discretion as to whether to proceed pursuant to state or local law.  
(Ord. No. 1-99, § 1, 3-2-1999)

#### **Sec. 6-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

*Adult* means any individual 18 years of age or older.

*Animal* means any nonhuman animate being which is endowed with the power of voluntary motion, including fish and fowl.

*Animal control officer* means an employee or agent of the town to enforce the licensing, inspection and enforcement requirements contained within this chapter and state statutes.

*Animal nuisance* means any nuisance arising out of the keeping, maintaining or owning of, or failure to exercise sufficient control of, an animal.

*Animal shelter* means any facility operated by the town and shall also include any facility authorized by the animal control officer or his designee to impound, confine, detain, care for or destroy any animal.

*At large* means that an animal is off the premises of the owner and not on a leash or otherwise under the immediate control of a person capable of restraining the animal.

*Disposition* means adoption, sale, quarantine, voluntary or involuntary placement or euthanasia humanely administered to the animal.

*Farm* means a tract of land containing two acres or more, used in part or wholly for agricultural purposes for profit, which may include the raising and keeping of domestic or other animals.

*Guard or attack dog* means a dog trained to attack or apprehend on command to protect persons or property,

*Impoundment* means the taking into custody of an animal by an animal control officer, or any authorized representative thereof.

*Muzzle* means a device constructed of strong, soft material designed to fasten over the mouth of an animal to prevent it from biting any person or other animal.

*Owner or keeper* means any person having temporary or permanent custody of, sheltering or having charge of, harboring, exercising control over, or keeping or having property rights to, any animal covered by this chapter.

*Public nuisance* means any animal that endangers the life or health of persons or other animals, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term “public nuisance” shall include, but not be limited to any animal that:

- (1) Is repeatedly found running at large;
- (2) Is in any section of any park or open space land where animals are not permitted, or where permitted, is not on a leash or otherwise under the control of its owner or keeper;
- (3) Damages or defiles any property other than that of the owner, unless the owner or keeper immediately picks up after the animal;
- (4) Barks, whines, howls or makes any noise natural to its species in an excessive or continuous fashion so as to disturb the peace, except where such activity occurs on a farm;
- (5) Is in heat and is not confined or under the owner’s or keeper’s control so as to prevent attraction or contact with other animals;
- (6) Whether or not on the property of its owner, that without provocation molests, attacks, or otherwise unreasonably interferes with the freedom of movement of persons in a public right-of-way or on private property other than that of the animal’s owner;
- (7) Chases motor vehicles in a public right-of-way;
- (8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single residence and the inadequacy of the facilities and care; or

- (9) Attacks another animal off the property of the owner or keeper of the attacking animal.

*Under restraint* means that an animal is secured by a leash or is otherwise under the control of an individual who is mentally and physically capable of restraining the animal and obedient to that person's commands, or securely enclosed (e.g., appropriate fence) within the real property limits of the owner's premises.

*Vicious or dangerous animal* means an animal that has attacked, bitten, or physically injured human beings without adequate provocation. Any animal that without provocation has bitten or attacked a human being or has behaved so as to impose a threat of imminent bodily harm to a person conducting himself peacefully and lawfully shall be prima facie presumed vicious or dangerous. No animal may be declared vicious if an injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal or was teasing, tormenting, abusing or assaulting the animal or was committing or attempting to commit a crime. No animal may be declared vicious if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(Ord. No. 1-99, § 2, 3-2-1999)

**Cross reference**—Definitions generally, § 1-2.

**State law reference**—Definitions, G.S. § 22-327.

### **Sec. 6-3. Nuisance.**

It shall be unlawful for any person to keep any animal on any property located within the town when the keeping of such animal constitutes a public nuisance or menace to public health or safety.

(Ord. No. 1-99, § 3, 3-2-1999)

### **Sec. 6-4. Adequacy of facilities and care.**

Every owner shall provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather; veterinary care when needed to prevent suffering; humane care and treatment; and maintain them in a secure enclosure.

(Ord. No. 1-99, § 4, 3-2-1999)

### **Sec. 6-5. Administrative sanctions and remedies.**

As part of any order issued in writing and by certified mail, pursuant to this chapter, the animal control officer shall have the authority to order the following administrative sanctions and remedies if there is no compliance after seven days from the date of issue:

- (1) Obedience training for the animal in question;
- (2) Muzzling of a dog or animal while off the property of the owner;

- (3) Confinement of an animal indoors, unless the animal is under the direct control of a responsible adult;
  - (4) Confinement of an animal in a secure enclosure;
  - (5) Reduction of the number of animals kept at any one location;
  - (6) Removal of an animal from the custody of the animal's owner or keeper in cases of neglect or cruelty;
  - (7) The sterilization of an animal;
  - (8) A ban on maintaining other animals in the town;
  - (9) The euthanizing of an animal; and
  - (10) Any other measure or sanction designed to eliminate a violation, prevent future violations, or protect the health and safety of the public.
- (Ord. No. 1-99, § 11, 3-2-1999)

**Sec. 6-6. Enforcement of chapter provisions.**

The animal control officer or his designees shall be the enforcement officials for this chapter. These officials, along with police officers, shall have the authority to act on behalf of the town in investigating complaints, impounding and destroying animals, issuing citations, and taking other lawful actions as required to enforce the provisions of this chapter. The animal control officer shall fully investigate all complaints made pursuant to this chapter and shall take all statements under oath. The owner or keeper of such animal shall be given an opportunity to make a statement under oath. It shall be a violation of this chapter to interfere with any animal control officer or other enforcement official in the performance of his duties.

(Ord. No. 1-99, § 12, 3-2-1999)

**Sec. 6-7. Penalties for violation of chapter.**

- (a) It shall be a violation of this chapter to:
- (1) Fail to comply with any provision of this chapter;
  - (2) Fail to pay any fines, civil penalties or costs imposed by the animal control officer within 15 days of the imposition of such fines or costs, unless payment thereof is lawfully stayed; or
  - (3) Make any false statements, under oath, with respect to this chapter.

- (b) Any person who fails to comply with a written citation issued by the animal control officer or his designee within seven days shall be deemed guilty of a municipal infraction and shall be subject to a fine of \$100.00. If a violation continues after such written notice, each day's violation shall be deemed to be a separate offense.

(Ord. No. 1-99, § 13, 3-2-1999)

**Sec. 6-8. Appeals procedure.**

Any provision of this chapter may be appealed to the town manager within 30 days of the issuance of the citation. The citation holder can appeal the decision of the town manager to the superior court.

(Ord. No. 1-99, § 14, 3-2-1999)

**Secs. 6-9—6-40. Reserved.**

**ARTICLE II. DOGS**

**DIVISION 1. GENERALLY**

**Sec. 6-41. Restraint generally.**

- (a) It shall be unlawful for the owner or keeper of any dog to fail to keep his dog under restraint or to permit his dog to run at large upon the streets and public ways of the town or upon property other than that of such owner or keeper.
- (b) No owner, keeper or custodian of any animal shall fail to exercise proper care and control of such animal to prevent the animal from becoming a public nuisance.

(Ord. No. 1-99, § 5, 3-2-1999)

**Sec. 6-42. Restraint of guard or attack dogs.**

- (a) Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a secured fence or enclosure that is appropriate to confine such dogs and shall be approved by the animal control officer.
- (b) The areas of confinement shall have gates and entrances thereto securely closed and locked, and all fences shall be properly maintained and escape-proof.
- (c) When outside the enclosure on the owner's or keeper's property, all guard or attack dogs shall be under the direct and immediate control of a responsible adult who can fully control the dog at all times.
- (d) When off the property of the owner or keeper, all guard or attack dogs shall be under restraint of a responsible adult at all times.

(e) The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies while in the course of their official duties. (Ord. No. 1-99, § 6, 3-2-1999)

**Sec. 6-43. Feces Removal.**

(a) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Dog* means any member of the canine species, male or female.

*Keep* means possessing, controlling, exercising or allowing a dog to run at large.

*Owner* means any person possessing, keeping, harboring or having custody of a dog.

(b) *Required; provision of disposal containers.* It shall be unlawful for any person owning, keeping, walking or in control of any dog to allow or permit such animal to defecate upon any private property owned by another person, condominium common elements, street, sidewalk, gutter or other public area unless such person shall remove all feces so deposited by such dog before leaving the immediate premises; provided, however, that the town shall provide excrement disposal containers in all public parks into which a person may deposit any feces instead of removing such feces from the park premises.

(c) *Exception.* The provisions of this section shall not apply to any visually impaired person walking in control of a guide dog or by any person who is physically unable to remove such feces.

(d) *Enforcement of section provisions.* For the purposes of enforcing the provisions of this section, tickets may be issued by any persons authorized to issue tickets for parking violations, the canine control officer of the town or his agent.

(e) *Appeal.* Any person issued a ticket for violating any of the provisions of this section may appeal the \$25.00 fine to the town manager and, if necessary, to the superior court. The town manager may, following a hearing on any such appeal, upon a showing of good cause, sustain the appeal and dismiss the ticketed violation.

(Ord. No. 2-93, §§ I—IV, 6-8-1993; Ord. No. 2-99, 3-2-1999)

**Secs. 6-44—6-70. Reserved.**

DIVISION 2. VICIOUS OR DANGEROUS DOGS

**Sec. 6-71. Restraint.**

Every animal established to be vicious or dangerous shall be confined by its owner or authorized agent of its owner within a building or secure enclosure as set forth in section 6-42 and, whenever outside the building or secure enclosure, shall be securely muzzled and restrained by a responsible adult with a chain having a minimum tensile strength of 300 pounds and not more than six feet in length, or caged. Every person harboring an animal established to be vicious or dangerous is charged with an affirmative duty to confine the animal in such a way as defined in section 6-42.

(Ord. No. 1-99, § 7, 3-2-1999)

**Sec. 6-72. Registration and insurance requirements.**

Every owner of an animal which has been established to be vicious or dangerous shall be subject to the following requirements:

- (1) The owner shall provide the town with written proof that the owner has procured liability insurance in an aggregate amount of not less than \$100,000.00 for damage or injury to persons or property. Policy cancellation shall constitute a violation of this section and subject the owner to the penalties provided in this chapter, unless the owner provides the town with written proof that the vicious or dangerous animal has been sold, given away, died, or otherwise disposed of.
- (2) The owner or keeper shall display a sign on the premises warning that there is a vicious or dangerous animal or guard or attack dog on the premises. Such sign shall be visible to anyone entering the main entrance to the premises where the animal is domiciled or kept. The sign shall include both an approved vicious animal logo and lettering so as to warn both children and adults.

(Ord. No. 1-99, § 9, 3-2-1999)

**Secs 6-73—6-100. Reserved.**

**ARTICLE III. IMPOUNDMENT\***

**Sec. 6-101. Issuance of citations; hearing procedure.**

- (a) In addition to any other remedies provided in this chapter and under state law, the animal control officer may seize, impound and humanely confine to an animal shelter or hospital, any of the following:
  - (1) Any dog without a valid license or identification tag when required by state law or town ordinance;
  - (2) Any dog at large;

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\* **State law reference**—Redemption of impounded dog, G.S. § 23-333.



- (3) Any dog or animal constituting a public nuisance or considered to be a vicious or dangerous animal;
- (4) Any dog or animal that is in violation of any quarantine or confinement order of the town's animal control officer;
- (5) Any unattended animal that is ill, injured or otherwise in need of care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies;
- (8) Any dog or animal which an animal control officer or the police has established is a threat to public health and safety;
- (9) Any dog or animal that an agency or court of competent jurisdiction has ordered impounded or destroyed; or
- (10) Any dog or animal that is considered unattended or abandoned, such as in situations where the owner is deceased or has been arrested, incarcerated, or evicted.

(b) The animal control officer may petition the superior court for such orders as required to enforce this article.

(Ord. No. 1-99, § 8, 3-2-1999)

**Sec. 6-102. Notice to owner and redemption.**

- (a) Upon impoundment of an animal, the animal control officer shall, within 24 hours, attempt to notify the owner by telephone or by certified mail. If the owner is unknown, the animal control officer shall advertise for one day in the lost and found column of a newspaper having a circulation in the town describing the animal, impounding number, and the phone number of the shelter.
- (b) An owner reclaiming an impounded animal shall pay a fee, as determined by the town council and published in the town revenue schedule, for impoundment, plus any advertising costs, plus board for each day the animal is impounded, plus veterinary costs incurred by the town.
- (c) It shall be the duty of the animal control officer to keep all impounded dogs for a period of seven days from the date of notice to the owner by telephone or certified mail, or publication of notice. Any animal not claimed by and released to its owner within seven days after publication or notice shall become the property of the town and shall be placed for adoption in a suitable home or euthanized in a manner prescribed by the local humane society.

(Ord. No. 1-99, § 10, 3-2-1999)

Chapters 7—9

**RESERVED**