

CHAPTER 10 - REGULATION, CONTROL, AND CARE OF ANIMALS

Article I - Definitions

Section 10-1 Definitions.

(A) Unless otherwise specifically provided or unless otherwise clearly required by the context, the following words and phrases shall have the meaning indicated when used in this chapter.

(1) ***Administrator.*** The person or persons authorized by the Board to perform the responsibilities assigned by this chapter to the administrator. Unless otherwise provided by the Board, the administrator for purposes of this ordinance shall mean the Police Chief or his designee. *[Amended June 9, 2009]*

(2) ***Livestock.*** Horses, mules, cows, pigs, goats, sheep, fowl (such as chickens, ducks, turkeys, etc.), rabbits and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

(3) ***Runs at Large.*** An animal runs at large when it is off the premises of the owner and is not on a leash or under the physical constraint of the owner or other competent person in charge of the animal. *[Amended June 9, 2009]*

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Article II - Regulation and Control

Section 10-2 Running at Large.

(A) No person owning or having possession, charge, custody, or control of any animal may cause, permit, or allow the animal to stray or in any manner to run at large upon any public street, sidewalk or other public property or to stray, run at large or otherwise trespass upon the private property of another.

(B) As provided in G.S. 67-2, no person owning or having any bitch may allow her to run at large while she is in heat, and as provided in G.S. 67-12, no person may allow his dog over six months old to run at large at night unaccompanied by the owner or some person acting on his behalf.

Section 10-3 Animals Creating a Nuisance.

(A) No person may have or keep within the town, after receiving the notice of removal in subsection (C), any animal that:

(1) Habitually or repeatedly without provocation, chases, snaps at or attacks pedestrians, bicycles or vehicles even if the animal never leaves the owner's property (except that this provision shall not apply if such animal is restrained by a pen, fence, or other enclosure) or does so only to transgress upon the adjacent right-of-way and then returns to its owner's property;

(2) Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its habitual barking, howling, whining, crying, crowing, or other noise making; or

(3) Without provocation, and off the premises of the animal's owner, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.

(B) If the administrator determines that any animal is creating a nuisance as described in (A)(1) or (A)(2), he shall in writing inform the animal's owner of the nature of the violation(s) and shall indicate that unless these violations are corrected, the owner shall be required to remove the animal from the town.

(C) If the administrator determines that any animal cited for a violation of subsection (A)(1), or (A)(2) has, within one year after service of the notice prescribed in subsection (B), continued to cause a nuisance as described in those subsections, or if the administrator at any time determines that an animal has caused a nuisance as described in (A)(3), then the administrator shall, in writing, notify the animal's owner that the animal must forthwith be removed from the town. The administrator shall also notify the owner of his right to appeal this determination in accordance with Section 10-4.

Section 10-3.01 Cleaning Up After Animal.

(A) No person owning or having possession, charge, custody or control of any animal may cause, permit, or allow said animal to defecate upon any public street, sidewalk, or other public property without

immediately cleaning up or restoring said public property. "Immediately" within the meaning of this Section shall be deemed to mean within five (5) minutes of the creation of said nuisance.

(B) The Town shall immediately cause signs to be posted on public property and public rights-of-way notifying all members of the public that animals must be curbed on public rights-of-way as required by Town Ordinance.

[Amended March 8, 1994]

[Editor's note: This section was previously numbered as Section 10-3A.]

Section 10-4 Appeals.

(A) The owner of any animal who is required to remove his animal from the town pursuant to Section 10-3 may appeal to the Board within 10 days after receiving the written notice of the determination appealed from. An appeal is taken by filing a written notice of appeal with the administrator and stays all enforcement efforts of the administrator until the appeal is disposed of.

(B) The Board shall consider the appeal at its next regular meeting if possible. The Board may uphold, reverse, or modify the determination appealed from, and the administrator shall thereafter continue or cease his enforcement efforts in accordance with the Board's decision.

Section 10-5 Vicious Animals.

(A) In accordance with G.S. 106-381, when an animal becomes vicious or a menace to the public health, the owner of such animal or person harboring such animal may not permit such animal to leave the premises on which kept unless on leash in the care of a responsible person.

(B) Notwithstanding any provision of this chapter, the provisions of Part II of Article V of Chapter 11 of the Town Code (dealing with the summary abatement of public health nuisances) are available to secure the immediate removal from the town of any animal or condition that is found to be dangerous or prejudicial to the public health or safety

Section 10-6 Location and Maintenance of Animal Pens and Enclosures.

(A) All livestock shall be kept within a pen, coop, fence, or other secure enclosure.

(B) Lots, pens, coops, and other enclosures where animals are kept or fed shall be located at such a distance from dwellings and places of concentrated human activity and at such distance from sources of water or food supply or food preparation as may be necessary to protect the public health.

(C) All such lots, pens, coops, and other enclosures shall be maintained at all times in a sufficiently clean and sanitary manner to protect adjacent properties from offensive odors or other nuisances.

Section 10-7 Impoundment, Release and Destruction.

(A) The administrator may impound any animal that:

- (1) Is found running at large.

(2) In accordance with Section 10-14, has bitten any person or is otherwise suspected of having rabies; or

(3) Is found to be without proper care because of the incapacitation or absence of its owner.

(B) Whenever an animal is impounded, or whenever an animal otherwise lawfully comes into the possession of the administrator, that animal shall be taken to the county animal control shelter. Thereafter, such animal may be reclaimed by the owner, adopted by others or destroyed in accordance with the policies and procedures adopted by the county for the administration of the animal control shelter.

(C) Whenever an animal is impounded or otherwise comes into the possession of the administrator, the administrator shall make reasonable efforts to identify the owner, notify him of the impoundment, and advise him of the conditions under which the animal may be reclaimed.

Section 10-8 Interference with Administrator.

(A) No person may obstruct, interfere with, hinder or molest the administrator in the lawful performance of any duty authorized by this chapter.

(B) No person may release or attempt to release any animal that is in custody of the administrator.

Sections 10-9 through 10-12 Reserved.

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Article III - Rabies

Section 10-13 Administrator to Cooperate in Vaccination Program.

The administrator shall cooperate with and assist the Watauga County rabies inspectors in their efforts to see that all animals are vaccinated against rabies in accordance with the provisions of G.S. 106-364 through 106-387.

Section 10-14 Quarantine of Animals Suspected of Having Rabies.

(A) Every animal that has bitten any person or that shows symptoms of rabies shall be securely confined for a period of at least ten days and shall not be released from such quarantine except by written permission of the administrator.

(B) The owner of an animal that has bitten any person or that shows symptoms of rabies shall report the same immediately to the administrator. Any person bitten by an animal shall immediately report the incident to the administrator.

(C) Animals quarantined in accordance with this section shall be confined in a veterinary hospital or the county animal shelter at the owner's expense, unless the administrator determines that the owner has adequate confinement facilities upon his own premises. For purposes of this subsection, adequate confinement facilities means a fenced-in area that has no entrances or exits that are not locked, or a similar area providing equivalent security.

(D) If rabies does not develop during the period of confinement, the administrator shall authorize the release of the animal. If rabies does develop, the animal shall be disposed of as provided in Section 10-15.

Section 10-15 Disposition of Rabid Animals.

(A) In accordance with G.S. 106-379, every rabid animal, after rabies has been diagnosed by a licensed graduate veterinarian, shall be killed at once in a humane manner by the administrator, or at his direction, except that, if the animal has bitten a human being, such animal shall be confined under the supervision of a licensed graduate until death of an animal. The remains of the animal shall be disposed of as provided in G.S. 106-379.

(B) In accordance with G.S. 106-377, every animal known to have been bitten by another animal that is known or proved to be rabid shall be killed by the administrator or at his direction, unless the animal has been properly vaccinated against rabies. In that event, the animal shall be closely confined for 90 days. If, during this period, the animal shows symptoms of rabies the provisions of Section 10-14 shall apply. At the end of this period, the animal may be released from confinement if declared free from rabies by a licensed veterinarian or a rabies inspector appointed in accordance with G.S. 106-366.

Sections 10-16 and 10-17 Reserved.

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Article IV - Care and Protection

Section 10-18 Care Required; Abandonment Prohibited.

(A) No owner shall fail to provide his animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, and veterinary care when needed to prevent suffering.

(B) No owner of an animal shall abandon such animal.

Section 10-19 Cruelty to Animals.

In accordance with G.S. 14-360, no person shall willfully overdrive, overload, wound, injure, torture, cruelly beat, needlessly mutilate or kill any animal or cause or procure the same.

Section 10-20 Responsibility of Person Injuring Animal.

Any person who, as the operator of a motor vehicle or bicycle, strikes and injures a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report the incident to the animal's owner. If the owner cannot be ascertained or located with reasonable effort, the operator shall notify the administrator by contacting the town police department.

Sections 10-21 and 10-22 Reserved.

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Article V - Penalties and Remedies

Section 10-23 Penalties and Remedies.

(A) A violation of any of the provisions of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$100.00 or imprisonment for not more than 30 days, or both. *[Amended July 13, 1993]*

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$10.00. The penalty for a second violation of subsection 10-2(A) shall be \$15.00 and for a third violation and subsequent violations the penalty shall be \$25.00. If the offender fails to pay this penalty within fifteen (15) calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(C) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (A) and (B) shall constitute a separate offense.

(D) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(E) The town may enforce this chapter by any one or any combination of the foregoing remedies.

Section 10-23.01 Penalties and Remedies.

(A) Notwithstanding *Section 10-23 Penalties and Remedies*, a violation of any of the provisions of *Sections 10-2 Running at Large* and *10-3.01 Cleaning Up After Animal* shall subject the offender to a civil penalty of one hundred dollars (\$100.00) for the first offense, two hundred and fifty dollars (\$250.00) for the second offense, and five hundred dollars (\$500.00) for the third and subsequent offenses. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(B) A violation of any of the provisions of this section may constitute a misdemeanor, punishable as provided in G.S. 14-4.

(C) The town may seek to enforce this section through any appropriate equitable action.

(D) Each violation after the offender has been notified of the violation shall also constitute a separate offense. In these instances, the civil penalty shall escalate to the next level, not to exceed \$500.00.

(E) The town may seek to enforce this section by using any one or a combination of the foregoing remedies.

(F) Any appeal to this section shall be heard by the Board of Commissioners.
[Amended June 9, 2009]