

CHAPTER 3: ANIMALS

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ARTICLE I: GENERAL PROVISIONS

§ 3-1 PURPOSE.

Pursuant to the authority granted by the General Statutes of North Carolina and the general police power of the town, this chapter is enacted to protect and promote the health, safety, and welfare of its citizens, and, without limiting the generality of the foregoing purpose, to specifically:

- A. Regulate, restrict, and/or prohibit, if necessary, animals;
- B. Protect the public from unvaccinated, diseased, stray, roaming, feral, nuisance, dangerous, aggressive, wild, and/or exotic animals;
- C. Prohibit and make unlawful animals or acts of animals that interfere with or threaten the health, safety, or welfare of the public, and/or which interfere with the enjoyment of property or the peace of the community;
- D. Protect animals from abuse or neglect, or conditions which are otherwise harmful to their well-being; and
- E. Provide for certain remedies and enforcement mechanisms to carry out and/or implement such purposes.

§ 3-2 ENFORCEMENT.

The Madison Police Department and Madison Animal Control Officer shall be charged with enforcement of this ordinance with all offences penalized in accordance with §1-14 of this ordinance unless otherwise stated.

§ 3-3 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply:

ANIMAL CONTROL OFFICER. such person(s) appointed by the town, or any person designated or authorized to act within the town pursuant to inter-local agreement, to implement and enforce the provisions of this chapter and related applicable state laws, and discharging such other duties and functions related to animals as may be authorized from time to time by the town council.

ANIMAL CRUELTY. any act, omission, or neglect which causes or permits unjustifiable physical pain, suffering, or death to an animal.

ANIMAL SHELTER. Any premises designated by the Town for the purpose of impounding and caring for animals found running at large or otherwise subject to impounding in accordance with the provisions of this chapter.

AT LARGE. Any animal shall be deemed at large when it is off the property of its owner or not under restraint.

DANGEROUS ANIMAL. any animal, other than a working police dog, which has been specifically trained or taught to attack humans or other animals, or to engage in fights with other animals, or which has, without provocation, exhibited aggressive behavior toward humans or other animals by attacking, biting, threatening, terrorizing, injuring, or otherwise causing physical harm or reasonable fear of such harm while not on its owner's property, as hereinafter defined, or which has been otherwise determined by the animal control officer to be potentially dangerous due to propensities or tendencies exhibited by the animal which, under the totality of the circumstances, create a reasonable fear that there is a risk of such behaviors, as well as any animal which is found to be rabid or diseased.

DOMESTIC ANIMAL. Animals, including but not limited to domestic cats, domestic dogs, domestic ferrets, caged birds, and such other animals which are kept as household pets and are dependent upon humans for food and shelter and do not meet the definition for livestock, fowl or poultry.

EXPOSED TO RABIES. Introduction of the saliva or nervous tissue of a proven rabid animal or an animal reasonably suspected of having rabies into a person or animal through a bite, scratch, open wound, mucous membranes or lick by any other animal known or reasonably suspected to be infected with rabies.

FOWL/POULTRY. Any domesticated bird used for food or eggs including but not limited to chicken turkey, goose, duck, Rock Cornish hens, and game birds such as pheasant, squab and guinea fowl and large fowls such as ostrich, emu and rhea.

LIVESTOCK. All domesticated animals ordinarily and customarily kept and raised in an agricultural setting to produce labor and commodities such as meat, eggs, milk, fur, leather, and wool including but not limited to cattle and bovine animals, sheep, horses, goats, bees, fowl, poultry, llamas, and swine.

NUISANCES ANIMAL. For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning. An animal or group of animals shall be considered a NUISANCE if it:

- A. Damages, soils, or defiles private or public property;
- B. Interferes with, molests, or attacks persons or other animals;
- C. Causes unsanitary, dangerous, or offensive conditions, including fouling of the air by odors;
- D. Is repeatedly at large;
- E. Chases, snaps at, harasses, or impedes pedestrians, joggers, bicyclists, or vehicles;
- F. By virtue of number or type, is offensive or dangerous to the public health, safety, or welfare;
- G. Is diseased or dangerous to the public health; and/or

H. Habitually or repeatedly disturbs, interferes or causes serious annoyance to neighboring residents and hinders the reasonable use and enjoyment of premises occupied by the residents by barking, howling, whining, or like animal noises

OWNER. Any person who keeps, harbors, shelters, or otherwise cares for any animal or who otherwise has a possessory property right in an animal, or has possession, charge, custody, or control of an animal.

OWNER'S PROPERTY. Any real property owned, leased, or occupied by the owner of an animal, over which real property the owner of the animal exerts control and has a right of exclusive possession, and specifically excludes any public or common areas.

POTENTIALLY DANGEROUS DOG. A dog that the person or board designated by the county or municipal authority responsible for animal control determines to have:

- A. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalizations;
- B. Killed or inflicted severe injury upon a domestic animal when not on owner's real property;
- C. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or
- D. Exhibited any other behavior that the municipal official responsible for animal control may deem as potentially dangerous.

PROPER ENCLOSURE. A building or other enclosure from which an animal cannot escape, or an outside area enclosed by a fence of sufficient design and height to prevent the escape of the particular type(s) of animal to be contained, or suitable electric or invisible fencing such that the animal cannot leave the area enclosed by the fence.

SERVICE, SUPPORT AND THERAPEUTIC ANIMAL. Shall be defined as per the Americans with Disabilities Act and the State of North Carolina.

SEVERE INJURY. Any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization

UNDER RESTRAINT (DOG).

- A. Secured by a leash or lead. Chaining or tethering a dog to an inanimate object is specifically excluded as a sole means of restraint. Chaining or tethering a dog may only be used in conjunction with an additional means of restraint;
- B. Fenced in or otherwise confined on the property of its owner. The fencing requirement shall be a minimum of 150 square feet; or
- C. Under the immediate and effective control of a responsible person.

§ 3-4 NUISANCES ANIMALS PROHIBITED.

It shall be unlawful for an owner to permit any animal(s), domestic, livestock, fowl or like to create a nuisance or to maintain a nuisance created by an animal or animals.

- A. Complaints; investigation and abatement.
 - 1. Any person complaining of a nuisance under this section shall file a written and signed complaint with the Town Police Department. It shall be the duty of the Police Department

and/or Animal Control Officer to investigate the complaint. If the investigation reveals reasonable grounds or factual basis for the complaint of the nuisance under this section, the Police Department and/or Animal Control Officer shall notify the owner of the animal and the owner of the premises, in writing, to abate the nuisance within 24 hours

2. Each day's violation after the 24-hour notification shall constitute a separate offense.

§ 3-5 CRUELTY TO ANIMALS.

A. It shall be unlawful for any person to molest, torture, torment; deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon, or subject to conditions detrimental to its health or general welfare any animal or cause or procure such action. The words "torture," "torment," or "cruelly beat" shall be held to include every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but shall not be construed to prohibit an animal control officer or designee, or veterinarian from destroying vicious, unwanted, impounded or injured animals in a humane manner.

B. It shall be unlawful for any person to keep animals under unsanitary or inhumane conditions; to fail to provide proper food and water daily, shelter from the weather, reasonably clean quarters, and proper medical attention for sick, diseased, or injured animals, as well as adequate inoculation against disease.

State Law reference— Abuse, G.S. 160A-182; animal protection, G.S. 19A-1 et seq.; cruelty, G.S. 14-360 et seq.

C. No person shall bait, cause, instigate or permit any dogfight, cockfight, bullfight or other combat between animals or between an animal and a human. It shall be unlawful for any person to maintain own or possess facilities or equipment for the purpose of training an animal, including a cock, with the intent that the animal be used in fighting or baiting of that animal or any other animal. Treadmills, log pulls, break sticks, hanging devices or cockspurs, or other equipment possessed with the intent to violate this section shall be contraband, and such material shall be seized whenever found and shall be destroyed, upon conviction of the possessor or owner under this section. This section does not prohibit the possession of facilities or equipment for the training of animals by kennels or animal obedience schools, if such kennels or schools are registered with the state department of agriculture. It shall be unlawful for any person to transport an animal, including a cock, with the intent that the animal be used in fighting or baiting of that animal or any other animal. It shall be unlawful for any person to buy, sell, give, transfer, or deliver an animal to another with the intent that the animal be used in fighting or baiting of that animal or any other animal.

D. Any animal which is found to have been treated in such manner as is declared unlawful by this section may be taken up and impounded by the animal control officer or designee. Redemption of such animal may be made by the owner thereof upon compliance with the requirements of section 3-10; provided, however, that the animal control officer may impose such other requirements for redemption as are appropriate to assure treatment of such animal that complies with this section.

ARTICLE II: LIVESTOCK AND FOWL

§ 3-9 RUNNING AT LARGE.

It shall be unlawful for any person to permit livestock or fowl to roam at large within the Town. Any animal found running at large shall be seized and impounded at the Rockingham County Animal Shelter or other shelter, veterinary office or like facility designated by the Board of Aldermen.

§ 3-10 IMPOUNDMENT; NOTICE; REDEMPTION; DISPOSAL OF UNREDEEMED. LIVESTOCK AND FOWL; FEES

- A. Livestock and fowl found running at large or abandoned will be seized and impounded by any Police Officer or Animal Control Officer
- B. If the livestock or fowl has identifying tags or if the owner may by any other reasonable means be identified and located, the town shall make all reasonable efforts to notify the owner of the livestock or fowls impoundment.
- C. If the livestock or fowl are not redeemed by the owner within four business days after impoundment, the livestock or fowl may be disposed of in one of the following ways, but in no other way:
 - 1. Euthanasia, using a method approved by the Humane Society of the United States; or
 - 2. Release for adoption by a new owner who shows evidence of ability and intention to provide the livestock or fowl with an appropriate home and humane care.
 - 3. An owner redeeming livestock or fowl from impoundment shall, before release, pay an impoundment fee based on the schedule which is on file in the Town Clerk's office, plus a boarding charge equal to the exact cost of caring for the animal for each 24 hours or fraction thereof that the livestock or fowl has been impounded.
 - 4. The intent of this division is to require livestock and fowl owners to comply with the law, not merely to operate an impoundment program. Police officers shall therefore place primary emphasis upon apprehending and initiating prosecution of violators of this division.

Cross reference: Statutory reference: Regulation of domestic animals authorized, see G.S. § 160A-186

§ 3-11 KEEPING, RAISING AND MAINTAINING LIVESTOCK AND FOWL.

- A. No livestock shall be kept, maintained, stabled, pastured or like in the corporate limits of the Town on any lot with less than one acre. Livestock shall be fenced so that they are completely contained with the fence no closer than 150 feet from an adjacent dwelling
- B. Livestock shall only be kept by owner occupied parcels or on parcels occupied by renters except multi-family dwellings and commercial property.
- D. Livestock shall not be kept on undeveloped parcels
- E. Livestock shall not be kept in the front yard.
- F. Fowl are specifically prohibited in the Corporate Limits of the Town.

§ 3-12 CLEANLINESS AND MAINTENANCE OF PENS, STABLES, LOTS, ETC.

- A. Every person permitted by §3-11 to own livestock and fowl shall at all times maintain pens, stables, lots, etc. in a sanitary and humane manner.
- B. All pens, stables, lots, etc. shall be cleaned with all waste regularly and properly disposed of in such a manner to prevent offensive odors.

§ 3-13 STAKING OR GRAZING ANIMALS.

It shall be unlawful for any owner to stake or graze any livestock or fowl in any park, cemetery, or other public place in the town, near any sidewalk or to tether any livestock or fowl to permit to graze or stand within 150 feet of any residence.

§ 3-14 SALES OF LIVESTOCK AND FOWL UNDER TWO MONTHS OF AGE.

It shall be unlawful for any person to sell or to offer for sale as household pets within the town any live chickens, rabbits, ducks, or birds under the age of two months.

ARTICLE III: DOGS

DIVISION 1: GENERAL PROVISIONS

§ 3-20 RUNNING AT LARGE.

A. No dog owner shall permit his dog to run at large on the streets or sidewalks of the Town or upon private property unless it is under restraint as defined in § 3-3 of this Chapter.

B. Any dog found running at large shall be seized and impounded at the Rockingham County Animal Shelter or other shelter, veterinary office or like designated by the Board of Aldermen.

§ 3-21 IMPOUNDMENT; NOTICE; REDEMPTION; DISPOSAL OF UNREDEEMED DOGS; FEES.

A. Dogs found not under restraint or abandoned will be seized and impounded by any Police Officer or Animal Control Officer

B. If the dog wears a tag identifying its owner or if the owner may by any other reasonable means be identified and located, the town shall make all reasonable efforts to notify the owner of the dog's impoundment. This should include a letter mailed to the owner on the next business day following impoundment.

C. If a dog is not redeemed by the owner within four business days after impoundment, the dog may be disposed of in one of the following ways, but in no other way:

1. Euthanasia, using a method approved by the Humane Society of the United States; or
2. Release for adoption by a new owner who shows evidence of ability and intention to provide the dog with an appropriate home and humane care. No unclaimed dog may be released for adoption without being sterilized or without a written agreement from the adopter guaranteeing that the animal will be sterilized.

3. An owner redeeming a dog from impoundment shall, before release, pay an impoundment fee based on the schedule which is on file in the Town Clerk's office, plus a boarding charge equal to the exact cost of caring for the dog for each 24 hours or fraction thereof that the dog has been impounded.

4. The intent of this division is to require dog owners to comply with the law, not merely to operate an impoundment program. Police officers shall therefore place primary emphasis upon apprehending and initiating prosecution of violators of this division.

§ 3-22 PROPER CARE REQUIRED.

A. The owner of a dog shall provide it with humane shelter from heat, cold, rain, wind, and snow, and shall give it food and water adequate to keep the animal in good health and comfort.

B. Dog houses and kennels must be soundly constructed, dry, and provided in cold weather with clean bedding.

C. All dogs must be given opportunity for vigorous daily exercise and must be provided by their owners with veterinary care when needed to prevent suffering and to prevent the spread of disease with public health significance.

§ 3-23 CONFINEMENT OF FEMALES IN HEAT AND NURSING FEMALES.

- A. The owner shall confine any female dog in heat within a building, in the manner that the dog will not be accessible to other dogs except for planned breeding and will not attract male dogs.
- B. Any female dog nursing or caring for a puppy or puppies shall be physically confined in an enclosed structure.

§ 3-24 EXEMPTIONS.

Hospitals, clinics, and other facilities operated by licensed veterinarians for care and treatment of animals are exempt from all provisions of this division.

DIVISION 2: DANGEROUS DOGS

§ 3-28 PROCEDURES.

- A. The Board of Aldermen designates the Chief of Police to be responsible for determining when a dog is a POTENTIALLY DANGEROUS DOG. The Board of Aldermen shall hear any appeal. The person or board making the determination that a dog is a POTENTIALLY DANGEROUS DOG must notify the owner, giving the reasons for determination, before the dog may be considered potentially dangerous under this section. The owner may appeal the determination by filing written objections with the Appellate Board within three days. The Appellate Board shall schedule a hearing within ten days of the filing of the objections. Any appeal from the final decision of the Appellate Board shall be taken to the Superior Court by filing notice of appeal and petition for review within ten days of the final decision of the Appellate Board. Appeals from rulings of the Appellate Board shall be heard in the Superior Court Division. The appeal shall be heard de novo before a Superior Court judge sitting in the county in which the Appellate Board whose ruling is being appealed is located.
- B. The provisions of this section do not apply to:
 - 1. A dog being used by a law enforcement officer to carry out the law enforcement officer's official duty;
 - 2. A dog being used in a lawful hunt;
 - 3. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury as to a species or type of domestic animal appropriate to the work of the dog; or
 - 4. A dog where the injury inflicted by the dog was sustained by a person who, at the time of injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, has tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime

§ 3-29 PRECAUTIONS AGAINST ATTACKS BY DANGEROUS DOGS.

- A. It shall be unlawful for an owner to:
 - 1. Leave a dangerous dog unattended on the owner's real property, unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog; and/or
 - 2. Permit a dangerous dog to go beyond the owner's real property, unless the dog is leashed or muzzled or is otherwise securely restrained and muzzled.

- B. If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. § 12 3(6)), the owner shall provide written notice to:
1. The authority that made the determination under this section, stating the name and address of the new owner or possessor of the dog; and
 2. The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
- C. Violation of this section is a Class 3 misdemeanor.

§ 3-30 PENALTY FOR ATTACKS BY DANGEROUS DOGS.

The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of \$100 shall be guilty of a Class 1 misdemeanor. (Ord. 2005 01, passed 10 13 2005)

§ 3-31 STRICT LIABILITY.

The owner of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his or her property, or another animal.

ARTICLE IV: RABIES CONTROL

§ 3-36 VACCINATION REQUIRED.

It shall be unlawful for the owner of any dog or cat to keep or maintain such a dog or cat unless it is vaccinated by a licensed Doctor of Veterinary Medicine with an anti-rabies vaccine and its vaccinations are kept current.

§ 3-37 ANIMALS EXPOSED TO RABIES; CONFINEMENT.

Every animal exposed to rabies shall be immediately confined by the owner, who shall promptly notify a police officer or a humane officer. The owner shall, upon demand by the County Health Department, surrender any such animal for quarantine in the pound, a humane society animal shelter, or a licensed veterinary hospital; provided, that if the owner elects to place the animal in a hospital, he or she shall be responsible for all costs. The animal may be quarantined a maximum of two weeks but shall be released earlier if certified by a licensed veterinarian to be free of rabies.

§ 3-38 KILLING AND DISPOSING OF RABID OR EXPOSED ANIMALS.

- A. No person shall kill a rabid animal or an animal exposed to rabies nor remove such an animal from the town limits without permission from the County Health Department, except when it is necessary to kill the animal to prevent it from escaping or from biting any other animal or person.
- B. The body of any animal dead of rabies or having been or suspected of having been exposed to rabies prior to death shall be surrendered by the owner upon demand of the County Health Department. Statutory reference: Rabies, see G.S. § 130A-184 et seq.