

- **CHAPTER 90: - ANIMALS**
- **GENERAL PROVISIONS**

- **§ 90.01 - OFFICE OF THE WAXHAW ANIMAL CONTROL.**

There is hereby created the office of Waxhaw Animal Control Officer. The Control Officer shall fall under the authority of the Chief of Police or his or her designee. It shall be the duty of the Animal Control Officer to see that the provisions of this chapter are strictly enforced within the police jurisdiction of the town. The Animal Control Officer shall be directly responsible to the Chief of Police or his or her designee. It shall be the duty of the Animal Control Officer to cooperate with the Union County animal control officers in any manner which will more efficiently and effectively carry out the terms of this chapter.

(Ord. passed 9-27-2011)

- **§ 90.02 - CHICKENS ALLOWED IN TOWN; PERMIT.**

(A)

(1)

Live chickens shall be allowed in the town's municipal limits with a valid permit, as provided herein.

(2)

An owner or possessor of the chicken(s) shall comply with the following divisions before a permit is issued.

(3)

The permit may be revoked upon violation of the terms and provisions of this section.

(4)

Permits shall not be issued and may be revoked if the chicken(s) is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

(B)

Chickens will be allowed upon issuance of a valid permit within the municipal limits of the town; provided that:

(1)

The chickens must be confined in a chicken coop not less than four square feet of floor area for each chicken. Chicken coops must not be lower than 24 inches from the ground or higher than 25 feet from the ground;

(2)

Chickens may be allowed outside their coops during daytime hours if temporary fencing is constructed to restrict the chickens from leaving the owner or possessor's property. The temporary fencing must be completely enclosed and removed when chickens are in coops. The temporary fencing must also have a top cover. In no such case shall the temporary fencing be left out over night. If the owner or possessor wishes to allow the chickens to roam freely, a more permanent fencing is required to prevent the chicken from leaving the subject property; (Refer to the town's Unified Development Ordinance for fencing requirements.)

(3)

The chicken coop and/or property shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors;

(4)

The chicken coop shall be a minimum of 30 feet from the nearest residence other than that of the owner and a minimum of five feet from the lot line;

(5)

No more than six chickens shall be kept or maintained on any individual lot. Chickens are prohibited on lots less than one-fourth acre (10,890 square feet) in size;

(6)

No male chickens/roosters shall be allowed;

(7)

The owner or possessor must pay an annual chicken permit fee in an amount established and/or modified by the town. Annual renewal fees must be paid on or before July 1;

(8)

If chickens are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a chicken permit for a minimum of one year from the date of removal;

(9)

No slaughter or sale of slaughtered chickens is allowed within the town, unless expressly permitted by the town's Unified Development Ordinance; and

(10)

It is recommended that the owner or possessor take an educational course on chicken care provided by the County Cooperative Extension Office.

(Ord. passed 9-8-2009; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.03 - HOG PENS.**

It shall be unlawful for any person to have or maintain any farm animals, such as, but not limited to, cows, pigs, hogs, turkeys, mules, donkeys, goats and sheep on his or her premises in the town, except horses meeting the standards of the town's Unified Development Ordinance. The farm animal prohibition shall not apply to bonafide farms of 20 acres or more (which 20 acres may include contiguous bonafide farmland outside the town limits). In addition, existing farm animals not on bonafide farms of 20 acres or more may remain, but shall not be replaced nor shall their numbers be increased.

(Prior Code, § 3-109) (Ord. passed 2-17-1994; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.04 - TYING ANIMALS ON STREETS OR SIDEWALKS.**

It shall be unlawful for any person to stake or tie any animal where it can get upon any public sidewalk or street in the town.

(Prior Code, § 3-108) (Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.05 - LIVESTOCK RUNNING AT LARGE.**

It shall be unlawful for any person to allow his or her horse, mule, cattle, swine or other livestock to run at large within the incorporated limits of the town.

(Prior Code, § 3-111) (Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.06 - DOGS AND CATS AS NUISANCES.**

(A)

The actions of a dog or cat constitute a public nuisance when that animal disturbs the rights of, threatens the safety of, or damages a member of the general public or interferes with the ordinary use and enjoyment of property.

(B)

It shall be unlawful for any person to own, keep, possess or maintain a dog or cat in a manner so as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of a dog or cat are hereby declared to be a public nuisance and are therefore unlawful:

(1)

Allowing or permitting the dog or cat to damage the property of anyone other than its owner or keeper;

- (2) Maintaining a vicious dog or cat as described by the laws of the state;
- (3) Maintaining dogs or cats in an environment of unsanitary conditions or lack of cleanliness, including but not limited to, excessive animal waste inside the pen or kennel, stagnant water, rotting food, and the like, which may be determined to be dangerous to the dogs or cats or to the public health, welfare or safety;
- (4) Allowing or permitting the dog or cat to bark, whine or howl, in an excessive or continuous fashion or make noise in a manner or at times so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;
- (5) Maintaining a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles off the owner's property;
- (6) Failing to confine a female dog while in heat in a building or secure enclosure provided. This section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred;
- (7) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. This shall not apply to visually impaired persons who have charge, control or use of a guide and/or service trained assistance dog or dog working in conjunction with a law enforcement or public safety function; or
- (8) Maintaining an animal that is diseased to a point of being dangerous to the public health.

(Prior Code, § 10-102) (Ord. passed - -1987; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

- **DOMESTIC ANIMALS**

- **§ 90.19 - ANIMAL LICENSING.**

(A)

All dogs shall be required to be licensed by the town on an annual or multi-year basis with the licensing fee being structured in the town's annual fee structure and approved by the Board of Commissioners. The town reserves the right to establish a separate fee structure for spayed and neutered animals and those not spayed and neutered. In such case the town may require proof that the animal is in fact spayed or neutered. The town may also establish various incentives as part of its licensing program such as but not limited to microchipping and the like. The town reserves the right to offer multi-year licenses. Fees from the licensing programs will be used to support animal care and control.

- (1) It shall be unlawful for any person to use a registration tag for any dog other than for which the registration tag was issued.
- (2) It shall be unlawful for any owner to fail to provide a current registration tag as provided in this section. No registration or permit will be issued unless written proof of current rabies vaccination is shown at the time of application for registration.
- (3) It shall be unlawful for any owner of a dog to fail to provide said animal with a collar or harness to which a current registration tag issued under this section is securely attached. The collar or harness, with attached registration tag, must be worn by the animal at all times, except while the animal is participating in bona fide animal shows, obedience trials, tracking tests, field tests, training events or training schools, or other events sanctioned and supervised by a recognized organization, or except while the animal is involved in lawful hunting activities, provided that the animal's owner or keeper has the tag in their actual possession at these times.

Upon licensing an animal the owner must show proof that the animal is current on rabies vaccinations and has been spayed and/or neutered by a licensed veterinarian.

(B)

Owners of the following dogs shall complete an application for registration, but are exempt from paying the annual registration fee:

(1)

Service and/or trained assistance dog provided the dog is spayed or neutered.

(2)

An animal, which is a working member of a law enforcement or public safety agency, regardless whether the animal is fertile or infertile.

(C)

The amount of any license tax imposed by this chapter shall be deemed a debt to the town.

(Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.20 - NUMBER AND RESTRAINT OF ANIMALS.**

(A)

(1)

Effective January 1, 2012 it shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep the animal upon his or her own premises unless the animal is under sufficient physical restraint such as a pen, kennel, leash, fence, invisible fence, electric fence (which is posted as having an electric fence) and hot wire. The minimum outdoor enclosure for each animal shall be ten feet by ten feet for the first animal, with an addition five feet by five feet for each additional animal. Additional animals temporarily residing at a property for fewer than 14 days shall be exempt for the additional square footage. All structures used to confine dogs shall be secure to prevent reasonable escape from the pen or kennel.

(2)

The pen or kennel should be constructed in such a manner to prevent dogs from jumping over the fence and the area should be regularly maintained to prevent the tunneling by the dog in order to escape. All structures erected to house dogs shall comply with all zoning and buildings regulations of the town. All such structures shall be adequately ventilated, kept in a clean and sanitary condition, and having fresh food available as appropriate. Clean water should be available to the animal at all times.

(B)

It shall be unlawful for any person to locate, keep or maintain more than five dogs per acre or portion thereof. This provision shall not apply to dogs under four months of age. Any person having more than five dogs per acre or portion thereof on the effective date of this ordinance will be allowed to keep them on their property provided that all other requirements of the town's animal control ordinance are in compliance and all excess dogs that are removed from the premises upon death or other means are not replaced. This provision shall not apply to registered and approved professional breeders or animal rescuers, as defined in [§ 90.22](#). In cases of special circumstances, the property owner(s) (or the owner(s) of the dogs with the property owner(s)'s written consent) may appeal in writing to the Animal Control Officer requesting to keep in excess of five dogs. The Animal Control Officer shall file a written answer within 15 business days of receipt of the request. In the event that the request is denied the person may appeal to the Town Manager within five business days of receipt of the denial and the Town Manager shall file an answer within ten business days of the receipt of the appeal.

(C)

Effective January 1, 2012, the chaining or tethering of a dog is allowed on a temporary basis when the dog is chained or tethered to an animate or inanimate object such as outdoor patio type furniture and the dog is monitored by the dog's owner or responsible person responsible for the care of the dog.

It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal, excluding cats, to keep the animal off his or her premises unless the animal is under sufficient physical restraint of a leash (maximum 10 feet long), cage bridle or similar effective device which restrains and controls the animal, or within a vehicle (not more than 15 minutes). Electronic collars are not allowed for off owner property use.

(D)

The dog's owner shall be responsible for insuring that anyone having possession over the animal while off the owner's property shall maintain control over the animal's behavior. Control shall include, but is not limited to, having the animal follow commands given, properly restraining the animal, and the like.

(E)

It shall be unlawful for any person to locate, construct, reconstruct, alter, maintain any kennel, pen or similar structure for the purposes of keeping any animal over four months of age unless such kennel, pen or similar structure is 50 feet or great from the adjoining property owner's inhabited structure.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.21 - ABUSE OF ANIMALS.**

It shall be unlawful to abuse an animal. Abuse may include but is not limited to beating, ill treatment through lack of food and/or water, denying reasonable medical care, intentionally mutilating, encouraging the fighting of animals, maintaining a location for the demonstration or show of fighting animals, or containing an animal in a closed vehicle greater than ten minutes or as otherwise defined by N.C. General Statutes.

(Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.22 - BREEDERS AND ANIMAL RESCUE.**

(A)

Persons desiring to serve as a professional breeder or animal rescuer shall register with the town's Animal Control Officer. The town's Animal Control Officer may reject a professional breeder or animal rescuer registration if the facilities or conditions for the animals fail to comply with the terms and provisions of this chapter. In cases of denial an appeal may be filed in writing to the Town Manager within five business days of the receipt of the denial. The Town Manager shall file an answer within ten business days of the receipt of the appeal.

(B)

As used in this chapter, the following definitions shall apply:

PROFESSIONAL BREEDER. Shall mean and refer to a person or entity engaged in the business of selling or breeding dogs or cats:

1.

Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer 31 or more dogs or cats in a 12-month period beginning on April 1 of each year;

2.

Who owns or harbors four or more dogs or cats, intended for breeding, in a 12-month period beginning on April 1 of each year;

3.

Whose dogs or cats produce a total of four or more litters within a 12-month period beginning on April 1 of each year; or

4.

Who knowingly sells, exchanges, or leases dogs or cats for later retail sale or brokered trading.

ANIMAL RESCUER. Shall mean and refer to a person, entity or group of persons who hold themselves out as an animal rescue, that accept, or solicit for dogs or cats with the intention of finding permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats.

(Ord. passed 9-27-2011)

- **§ 90.23 - DANGEROUS DOGS.**

(A)

(1)

It shall be unlawful for any person to own, possess or have a dangerous dog in the town limits.

(2)

As used herein, a *DANGEROUS DOG* shall mean and refer to:

(a)

Any dog owned or harbored for the purpose of dog fighting;

(b)

A dog that has:

1.

Without provocation, killed or severely injured a person;

2.

Approached a person when not on the owner's property in a vicious or terrorizing manner in what is deemed to be a dangerous or threatening manner; or

3.

Killed or inflicted severe injury upon a domestic animal when not on the owner's property.

(3)

The Animal Control Officer's classification of a dog as dangerous may be appealed by filing a written objection with the Town Clerk within five days of the classification. The Board of Commissioners shall hear the appeal within ten days of receipt of an objection. If either the owner fails to appeal the classification or the Board of Commissioners confirms such classification, the dog may be euthanized.

(4)

Any dangerous dog, as defined herein, that is properly licensed and registered with the town on the date hereof shall be exempt from the provisions hereof except for the behavioral provisions of division (A)(2)(b) above.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed - -2004; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

- **§ 90.24 - AUTHORITY OF ANIMAL CONTROL OFFICERS.**

Animal Control Officers shall have the authority provided by law (including all authority granted under G.S. § 160A-186) to seize any animal, excluding cats, allowed to run at large in violation of this subchapter. This shall include the authority in carrying out and performing their lawful duties, to enter upon private property, not including entry into a dwelling unit or other similar building, when the Animal Control Officer has observed that animal running at large in violation of this section and entry upon private property shall not be deemed to be a trespass.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed 9-27-2011)

- **§ 90.25 - INTERFERENCE WITH DUTIES.**

It shall be unlawful for any person to interfere, to threaten or otherwise prevent an Animal Control Officer from carrying out and performing his or her lawful duties, as described above, under this subchapter.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

- **§ 90.26 - IMPOUNDMENT.**

(A)

If any animal shall be found to be running at large in violation of this subchapter, it shall be taken up and impounded and shall not be released, except upon the approval of the Animal Control Officer, and after payment of the fees provided for in this subchapter; provided that, if any dangerous, fierce or vicious animal so found running at large

cannot be safely taken up and impounded, the animal may, in the sole and absolute discretion of the Animal Control Officer, be disposed of by the humane destruction of the animal.

(B)

It shall be the duty of the Animal Control Officer to apprehend any dog found running at large contrary to the provisions of this subchapter and if unable to locate the owner, impound the dog in the County Animal Shelter. The county shall be responsible for notifying the owner in accordance with county regulations and the animal will be held no longer than 72 hours following impoundment in accordance with G.S. § 130A-192. To the extent not inconsistent with county regulations, but before any owner secures release of an animal from the County Animal Control authority, the owner shall furnish proof of any license then required and shall pay all applicable fees and expenses required by the authority. The owner of any dog subject to the provisions of [§ 90.27](#)(A) shall also furnish proof of vaccination.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed 9-27-2011)

• **§ 90.27 - RABIES VACCINATION; CONFINEMENT.**

(A)

It shall be unlawful for the owner of any dog over four months of age to keep or maintain the dog unless it shall have been vaccinated against rabies by a licensed veterinary surgeon or a person duly licensed for such purposes by the Commissioners of the county or the city or state agent in compliance with G.S. § 130A-185. Any person inoculating a dog against rabies shall deliver to the owner or person in possession of the dog a metal tag, serially numbered, which tag shall indicate inoculation against rabies and the year of the inoculation. This tag shall at all times be kept fastened to the collar of the dog.

(B)

If a dog shall be believed to have rabies or if the dog shall have been bitten by a dog suspected of having rabies, the dog shall be confined by penning or otherwise securing and actually isolating the dog from other animals and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks from his or her confinement. The owner shall notify the Town Clerk of the fact that his or her dog has been exposed to rabies. At his or her discretion, the Animal Control Officer is empowered to have the dog removed from the owner's premises to a veterinary hospital and there placed under observation for two weeks at the expense of the owner. It shall be unlawful for any person knowing or suspecting a dog to have rabies to allow the dog to be taken off his or her premises or beyond the limits of the town without the written permission of the Animal Control Officer. Upon ascertaining that a dog is rabid, every owner or other person shall immediately notify the County Animal Shelter or an Animal Control Officer, who shall either remove the dog to the Shelter or humanely destroy it.

(Prior Code, § 10-101) (Ord. passed - - ; Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.28 - PROHIBITION OF ANIMALS AT TOWN-SPONSORED EVENTS.**

(A)

Prohibited. It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to take that animal, whether on a leash or not on a leash, enter into the boundaries of any town-sponsored public event or allow the animal to approach within 100 feet of the event, unless such event is specifically designated as exempt from this section as set forth in division (C). The boundaries of a town-sponsored event shall consist of any area that is part of the event including any public open space, parking area, street, sidewalk or other publicly controlled, owned or maintained area.

(B)

Town-sponsored event. As used herein, **TOWN-SPONSORED EVENT** shall mean and refer to any specific event sponsored (full or partial through financial or in-kind contributions) by the town and open to the public utilizing property that is controlled, owned or maintained by the town.

(C)

Exceptions. This section shall not apply to the following:

(1)

Those animals that are part of an authorized event or exhibit. The event coordinator or designee shall have the authority to specify the conditions for having such animals for the protection of the public and for the well-being of the animals.

(2)

Service dogs.

(Ord. passed 7-27-2010; Ord. passed 9-27-2011)

• **§ 90.29 - EXOTIC OR WILD ANIMALS.**

(A)

As used herein, *EXOTIC OR WILD ANIMALS* shall mean and refer to an animal that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country or one that is a species of animal not indigenous to the United States or to North America, or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm and the latter includes but is not limited to: monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animal. Such animals are further defined as those mammals or non-venomous reptiles weighing over 50 pounds at maturity, which are known at law as ferae nature. *EXOTIC OR WILD ANIMALS* specifically do not include animals of a species customarily used in North Carolina as ordinary household pets, animals of a species customarily used in North Carolina as a domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects.

(B)

No person, firm, or corporation shall keep, maintain, possess or have within the town any venomous reptile or any other wild or exotic animal. It is unlawful to keep or harbor or breed or sell or trade any wild or exotic animal as a pet, for display or for exhibition purposes, whether gratuitously or for a fee. Exemptions to this rule include lawfully operated pet shops, zoos, veterinarians, wildlife rehabilitators with proper permits and scientific research facilities.

(Ord. passed 9-27-2011)

Cross reference— Penalty, see [§ 90.99](#)

• **§ 90.30 - BEEKEEPING.**

Beekeeping shall be permitted as long as all hives and related areas are located at least 30 feet from any property or street line.

(Ord. passed 9-27-2011)

• **§ 90.99 - PENALTY.**

(A)

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to [§ 10.99](#).

(B)

(1)

In addition to the dangerous dog and impoundment provisions set forth herein, violators shall be subject to a civil fine. The maximum civil fine for violations of this chapter shall be as follows:

(a)

First offense: \$100.

(b)

Second offense: \$200.

(c)

Third offense: \$300.

(d)

Fourth offense: \$400.

(e)

Fifth offense: \$500 and seizure of animal.

(2)

Violations accumulate per owner, not per animal. Second and subsequent offenses are based on offenses within any 12-month period. Each day's continuing violation shall constitute a separate offense.

(Ord. passed - -; Ord. passed - -1987; Ord. passed 2-17-1994; Ord. passed - -2004; Ord. passed 9-27-2011)