

Archer Lodge, NC Animal Control Ordinance

CHAPTER 91: ANIMALS

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GENERAL PROVISIONS

§ 91.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGRESSIVE DOG. Any dog that is determined by an Animal Control Officer to constitute a physical threat to human beings or other animals by virtue of either:

- (1) Unprovoked, threatening behavior by the dog; or
- (2) An attack, or attacks, by the dog that cause reasonable apprehension, property damage or physical injury.

ANIMAL AT LARGE. Any animal off the premises of his owner and not under sufficient physical restraint such as a leash, cage, bridle, or similarly effective device to allow the animal to be controlled.

ANIMAL CONTROL OFFICER. A person designated as such to perform duties described by this chapter.

ANIMAL CONTROL SHELTER. Any holding or other facility designated by the Town Council for the detention of animals.

ANIMAL UNDER RESTRAINT. Any animal confined within a vehicle, confined within the real property limits of its owner, or secured by leash or lead.

ANTI-CLIMBER. A device consisting of angled metal braces and barbed wire, which wire is stretched between each angled metal brace, all of which is attached to the top of a fence. The wire shall be at least three strands, separated evenly, the furthest being no less than 18 inches from the top of the fence. It shall extend inwards at an angle of not less than 45 degrees, nor more than 90 degrees, measured from perpendicular or, in lieu of barbed wire, an electrically charged wire attached to the top of the fence.

CATTERY. A commercial establishment wherein any person, for profit, buys, sells, boards, breeds, or grooms cats.

DOMESTICATED ANIMAL. An animal such as is accustomed to living in or about the habitation of humans including, but not limited to, cats, cows, dogs, fowl, horses, and domesticated wild animals.

ELECTRIC UNDERGROUND FENCE. Any restraining device that is installed underground and uses a special collar and an electrical field around the perimeter of the owner's property for purposes of training a dog to remain on the property.

HOLDING FACILITY. Any pet shop, kennel, cattery, or combination thereof.

KENNEL. A commercial establishment wherein any person, for profit, buys, sells, boards, breeds, grooms, lets for hire, or trains for a fee dogs. This shall include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition, or guarding or protection of the owner's property; provided, all dogs trained or sold for attack and security shall be trained by a trainer licensed pursuant to § 91.69.

OWNER. Any person owning, keeping, harboring, possessing, or acting as custodian, however temporarily, of an animal. However, a person having temporary custody or possession of an animal for the sole purpose of turning over the animal to a member of the Animal Control Division or other peace officer shall not be deemed the **OWNER** of the animal.

PET. A domesticated animal kept for pleasure rather than utility. **PETS** include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals, and other animals associated with man's environment.

PET SHOP. A commercial establishment which offers for sale two or more species of live animals

with the intent that they be kept as pets.

PUBLIC NUISANCE ANIMAL. Any animal which:

- (1) By frequent howling, yelping, barking, or making of other noises shall disturb the neighborhood;
- (2) Chases, snaps at, or impedes a pedestrian, bicycle rider or vehicle;
- (3) Damages, soils, or defiles private or public property;
- (4) Interferes with, molests, or attacks persons or other animals;
- (5) Causes unsanitary, dangerous, or offensive conditions to the public health, safety and welfare;
- (6) Is repeatedly at large against the instruction of the Animal Control Officer.

TRAINER. Any individual who holds himself available to the general public for the purpose of training attack and security dogs. This does not include individuals who are in the business of obedience training only.

VACCINATION or VACCINATION AGAINST RABIES. The vaccination or inoculation of a dog or cat with an anti-rabies vaccine approved by the United States Bureau of Animal Industry, the North Carolina State Department of Agriculture and the North Carolina State Board of Health or the local health director, as defined in G.S. § 130(A)-184(7).

VICIOUS ANIMAL. Any animal which constitutes a physical threat to human beings or other animals by virtue of the severity of an unprovoked attack or attacks of such number and severity as to cause property damage or physical injury.

§ 91.02 RUNNING AT LARGE.

It shall be unlawful for the owner of any domesticated animal to allow such animal to be at large within the corporate limits of the town with the exception of cats.

§ 91.03 ANIMALS CAUSING PUBLIC NUISANCE; VICIOUS ANIMALS.

(A) It shall be unlawful to own, keep, or harbor a public nuisance animal within the town. However, it shall not be unlawful to own or keep a dog of vicious tendencies for the protection of persons or property if the dog is securely confined in a manner not to expose it to the general public. This exception for dogs of vicious tendencies does not extend to dogs which excessively make disturbing noises.

(B) *Complaint and notice.* Upon receipt of a written detailed and signed complaint being made to the Animal Control Officer by any resident that any person is maintaining a public nuisance animal or vicious animal as defined in this chapter, the Animal Control Officer shall cause the owner of the animal in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and make a written report of his findings.

(C) *Abatement.* If the written findings of the Animal Control Officer indicate that the complaint is justified and can be abated, then the Animal Control Officer shall cause the owner or keeper of the animal in question to be so notified in writing by certified mail, return receipt requested, ordered to abate such nuisance within seven days after notification. Upon failure to abate the nuisance, the Animal Control Officer shall cause a citation or summons to be issued against the owner.

(D) *Impoundment upon failure to abate.* If any person receiving notice in the manner described above fails or refuses to abate the nuisance upon order of the Animal Control Officer within the specified time, the animal shall be apprehended and impounded in accordance with the provisions contained in this chapter. If extenuating circumstances exist, the owner may consult with the Animal Control Officer and request an extension of time in order to remove the nuisance or correct the facilities for maintaining the animal in accordance with this chapter.

(E) *Right of appeal.* Within the seven day period mentioned in division (C) above, the owner of the

nuisance animal may appeal the findings of the Animal Control Officer to the Appeals Board.

(F) *Redemption; destruction.* If the owner shall so request, the animal may be redeemed pursuant to the provisions hereinafter set forth, and upon further condition that the owner execute a written agreement to comply with the abatement order. If no redemption and execution is made by the owner within the time specified, then the animal shall be disposed of in accordance with the provisions of this chapter.

(G) *Impoundment based upon finding of vicious animal.* If the written findings of the Animal Control Officer indicate that the animal in question is a vicious animal as defined in § 91.01, then the Animal Control Officer may immediately apprehend and impound the animal in accordance with the provisions contained in this chapter, provided that the Animal Control Officer provides the owner with written notice of the impoundment. Within seven days of receiving such notice, the owner of the animal may appeal the findings and actions of the Animal Control Officer to the Appeals Board. However, the animal shall remain impounded during the pendency of the appeal. If no appeal is made by the owner within the time specified or if the Appeals Board determines on appeal that the animal is a vicious animal as defined in § 91.01, then the animal shall be disposed of in accordance with the provisions of this chapter.

§ 91.04 STRAY ANIMALS; DISPOSITION.

Whenever the Town Animal Control Officer or County Animal Warden or a police officer encounters a stray animal suffering pain, he shall take the animal to a veterinarian, where the cost of any care or treatment shall be borne by the owner. If ownership of the animal cannot be determined, the Animal Control Officer shall deliver the animal to the Clayton Animal Shelter.

§ 91.05 [RESERVED]

§ 91.06 [RESERVED]

DOGS, CATS AND OTHER ANIMALS

§ 91.20 RUNNING AT LARGE.

(A) It shall be unlawful for a dog owner to permit his dog to run at large. A dog owner must keep a dog owned, controlled, sheltered, or harbored by him on his property, or else the dog must be accompanied by a person who has the dog firmly restrained.

(B) A dog owner may utilize an electric underground fence to confine his dog within the real property limits of the dog owner provided, however, that:

(1) The electric underground fence utilized by the dog owner is approved for purposes of confining a dog by Underwriters Laboratory or any other testing laboratory approved by the state;

(2) The dog owner clearly displays a sign at least seven inches in width and nine inches in height that warns the public that the dog owner is utilizing an electric underground fence to restrain a dog;

(3) The failure of an electric underground fence to confine a dog within the real property limits of the dog owner shall constitute a violation of this section; and

(4) An electric underground fence may not be used to confine or control an aggressive dog and any attempt to do so shall constitute a violation of this section.

§ 91.21 KEEPING STRAY ANIMALS.

(A) It shall be unlawful for any person in the town knowingly and intentionally to harbor, feed, or

keep in possession, by confinement or otherwise, any animal which does not belong to him, unless he has, within 24 hours from the time the animal came into his possession, notified the Animal Control Officer. Upon receiving this notice, the Animal Control Officer shall take such dog and place it in the animal shelter and shall deal with it as provided in § 91.50.

(B) It shall be unlawful for any person to refuse to surrender any stray animal to the Animal Control Officer upon demand.

**§ 91.22 NUMBER OF DOGS, CATS AND OTHER ANIMALS PERMITTED ON PREMISES.
[RESERVED]**

§ 91.23 CONFINEMENT OF FEMALE ANIMALS IN HEAT.

Every female animal, while in heat, shall be confined in a building or secure enclosure in such manner that it will not be in contact with another animal, nor create a nuisance by attracting other animals. 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 being bred.

§ 91.24 BARKING DOG.

It shall be unlawful for any dog owner to keep or have within the town a dog that habitually or repeatedly barks in such manner or to such extent that it is a public nuisance, as defined in § 91.01.

§ 91.25 [RESERVED]

§ 91.26 HUMANE SHELTER AND ADEQUATE CARE REQUIRED.

The owners of animals shall provide humane shelter from heat, cold, rain, wind, and snow, and shall provide food and water. All animals must be given opportunity for vigorous daily exercise. All animals must be provided by their owners with veterinary care when needed to prevent suffering.

(A) *Food.* The food shall be wholesome, palatable, and free from contamination. Food shall be of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of animal. Animals shall be fed at least once a day except as directed by hibernation, normal fast, or veterinary treatment.

(B) *Water.* Fresh, clean water should be provided at all times in adequate amounts. Owners should take into consideration the age and size of the animal or animals and the temperature, to ensure the uses of a large enough container. An exception would be if a veterinarian ordered a temporary fast for medical reasons. All water receptacles shall be kept clean and sanitary, within easy reach of a restrained animal and stabilized in a manner that cannot be overturned. During summer months, water containers should be kept in a shaded area to maintain a drinkable temperature.

(C) *Outdoor storage.* Every person having custody of domestic animals which are kept outdoors or in an unheated enclosure shall provide such an animal or animals with the following minimum standards of shelter:

(1) The shelter for a dog or any species of similar size shall include a moisture proof and wind-proof structure of suitable size to accommodate the animal and allow retention of body heat and shall be made of durable material. Such structures shall be provided with a sufficient quantity of suitable bedding material, consisting of hay, straw, cedar shavings or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat. When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(D) *Space requirements.* Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical conditioning. The animal should be able to sit, stand, turn, and lie without obstruction. Adequate space for food and water containers must be provided. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavioral patterns. Animals shall not be tied, chained, fastened, or otherwise tethered to any stationary or inanimate object as a means of confinement or restraint to property, but must be in an approved enclosure.

(E) *Sanitation.* Both indoor and outdoor enclosures shall receive periodic cleanings to remove excreta and other waste material, dirt and trash so as to minimize disease, hazards and to reduce odors. These periodic cleanings shall not exceed a five-day period. If, however, more than one animal is held in one enclosure, these cleanings shall not exceed two days.

§ 91.27 POISONING, MAIMING, OR ABANDONING DOGS PROHIBITED.

No person shall poison or maim an animal, nor may an animal be abandoned.

§ 91.28 ANIMAL BITES.

(A) Any dog, cat or other animal which bites a person shall be immediately quarantined at a place and in a manner determined by the Animal Control Officer for the purpose of determining whether the animal has been infected with the rabies virus. If it is determined that the animal has the rabies virus, it shall be destroyed in a humane manner. If it is determined that the animal does not have the rabies virus, the animal may be returned to the owner the animal has received an inoculation for the rabies virus. If the animal is returned to the owner, it shall be returned subject to the provisions in division (B) below.

(B) All fierce, dangerous or vicious animals, including dogs and cats which have a history of unlawful biting of humans, shall be confined by the owner within a building or secure enclosure or by the Animal Control Officer in the animal shelter. Such animals shall not be released from confinement unless securely muzzled.

§ 91.29 ANIMAL OWNER RESPONSIBILITY.

The owner or custodian of any dog or cat shall be responsible for repairing damage caused by said dog or cat, including the cleaning up of dog or dropping, deposited on any sidewalk, street, walkway or park in the town. In addition, the owner or custodian of any dog or cat shall prevent said dog from trespassing on private property and shall not allow said dog or cat to deposit droppings or otherwise damage private property without permission. Dog and cat owners shall be responsible for clean-up or repair to private property due to droppings or damage caused by trespassing dogs.

IMPOUNDMENT AND DISPOSITION

§ 91.50 IMPOUNDMENT; NOTICE TO OWNER.

(A) Domesticated animals may be impounded when found at large with the exception of cats. Cats may still be subject to the provisions contained in § 91.03 referencing animals causing a nuisance.

(B) Upon impounding an animal with an identification tag, the Animal Control Officer shall cause a prompt and reasonable effort to be made to locate and notify the animal's owner.

§ 91.51 PERIODS OF IMPOUNDMENT.

Domesticated animals impounded pursuant to § 91.50, other than dogs, shall be impounded for no less than five weekdays. These animals shall be impounded in a humane manner.

§ 91.52 REDEMPTION OF IMPOUNDED ANIMALS.

(A) The owner of an impounded animal shall be entitled to redeem such animal, except as provided in this subchapter, upon the payment of all redemption fees, and upon furnishing proof of ownership. Any redeemed dog or cat which has not been inoculated against rabies shall be so inoculated within two weekdays of redemption, and failure of the owner of the dog or cat to cause the dog or cat to be inoculated shall be unlawful. If the dog or cat is not vaccinated, the owner shall show proof of vaccination within two weekdays to the Animal Control Officer or a Police Officer.

(B) Redemption fees as provided in this section shall be \$10 for each animal, plus the expenses incurred for feeding and sheltering the animal. The redemption fee for an animal which has once previously been impounded within the last six months shall be \$20, plus feeding and sheltering expenses. The redemption fee for an animal which has previously been impounded more than once within six months shall be \$50 plus feeding and sheltering expenses.

§ 91.53 DISPOSITION OF UNREDEEMED ANIMALS.

At the end of the minimum time period indicated in § 91.51, unclaimed animals shall be deemed abandoned and shall be disposed of in a humane manner.

§ 91.54 SUMMARY DESTRUCTION OF ANIMALS FOR HUMANE REASONS.

When, in the judgment of the Animal Control Officer, it is determined that any impounded animal should be destroyed for humane reasons, or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein.

ANIMAL ESTABLISHMENTS; STANDARDS AND LICENSING

§ 91.65 PET SHOPS. [RESERVED]

§ 91.66 KENNELS. [RESERVED]

§ 91.67 CATTERIES. [RESERVED]

§ 91.68 HOLDING FACILITIES; CONDITIONS.

Any animal in a holding facility which shows signs of illness or contagious disease shall be isolated in such manner as to prevent the spread of the illness or disease to other animals. All sick, diseased, or injured animals in holding facilities shall be provided appropriate veterinary care, and areas where these animals have been shall be decontaminated. All holding facilities shall, in addition to complying with other applicable provisions of this chapter, provide for healthy and comfortable temperatures, in accordance with the age and species of animals, in areas outside buildings where animals are kept.

§ 91.69 TRAINERS OF ATTACK AND SECURITY DOGS.

(A) All trainers, as defined in § 91.01, shall, in addition to the other requirements of this chapter, comply with the following standards whenever any dog is being or is to be trained as an attack and security dog.

- (1) *Fencing of runs.* Runs shall have at least six-foot high fences completely surrounding them.
- (2) *Locking of gates and entrances.* All gates and entrances to the runs, kennel, and training area shall be kept locked when not in use.
- (3) *Perimeter fences; anti-climbers.* A perimeter fence at least six feet high shall be installed to encircle the training and kennel areas to which are to be added anti-climbers. Fences shall be maintained in escape-proof condition.
- (4) *Confinement of dogs.* A dog in training as an attack and security dog shall at all times be confined to its kennel, run, or training or other confined area.

DIVISION OF ANIMAL CONTROL

§ 91.75 CREATED; COMPOSITION.

The presence of animals at large, stray animals, nuisance animals, and diseased animals within the corporate limits of the town is hereby declared to be a public nuisance. Such animals are a threat to the health of the community and to the safety of persons and property alike. In order to abate and control this nuisance, there is created an Animal Control Division, to be constituted and composed of personnel as the Town Council may determine.

§ 91.76 RESPONSIBILITIES.

The Animal Control Division shall be charged with the responsibility of:

- (A) Seeing that all dogs and cats in the town are adequately inoculated against rabies;
- (B) Cooperating with the County Health Director, county health officers, and County Animal Control personnel and assisting in the enforcement of state laws with regard to the control of animals and especially with regard to the vaccination of dogs and cats against rabies and the confinement of vicious dogs;
- (C) Investigating all complaints with regard to animals covered by this chapter;
- (D) Making such canvasses of the town, including the homes in the town, as it deems necessary and practical, for the purpose of ascertaining that all dogs and cats are vaccinated against rabies;
- (E) Enforcing within the town all of the state laws and town ordinances for the care, control, and custody of animals covered by this chapter.

§ 91.77 PERSONAL LIABILITY OF MUNICIPAL OFFICERS, AGENTS.

Except as may be otherwise provided by statute, local law, or ordinance, no officer, agent, or employee of the town charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

§ 91.78 MEMBERS TO HAVE POWER, AUTHORITY, AND IMMUNITY OF PEACE OFFICERS.

In the performance of their duties, members of the Animal Control Division shall have the power, authority, and immunity of peace officers as described in G.S. § 160A-285, but only in regard to enforcing the provisions of this code and state law which relate to the care, treatment, and impounding of animals. As members of the Animal Control Division shall only have that limited authority described in this section, a member shall not be considered a police officer.

§ 91.79 IDENTIFICATION; FIREARMS.

(A) Each member of the Animal Control Division, while performing his respective duties, shall carry proper identification.

(B) Notwithstanding division (A), members of the Animal Control Division shall not and are not authorized to carry on their persons any firearms of any kind unless specifically authorized by the Chief of Police. However, members of the Animal Control Division may store at animal shelters or carry in department vehicles firearms approved for use by the Chief of Police and use such firearms when necessary to enforce sections of this chapter or other applicable law for the control of wild, vicious, diseased, or potentially dangerous animals when the officer in charge of the Animal Control Division deems the action necessary.

§ 91.98 VIOLATIONS; NOTICE OF VIOLATIONS.

(A) Any person, firm or corporation who violates §§ 91.26, 91.28 or keeps, maintains or harbors an animal which has not been inoculated for rabies shall be fined in the amount of \$100 in addition to any other punishment or penalty provided for in this chapter. Further, the Animal Control Officer shall take possession of the animal and the animal shall not be redeemed by the owner until the animal has been properly licensed and the violation corrected. An impounded animal shall be released only pursuant to the provisions set out in § 91.52. Failure to comply with the vaccination requirement of § 91.52 shall constitute a separate offense and subject the person, firm or corporation to an additional fine and impoundment of the animal.

(B) If any provision of §§ 91.26 or 91.28 is violated, in addition to any other punishment or penalty, the animal shall be taken by the Animal Control Officer and destroyed in a humane manner. It shall also be unlawful for the person owning such destroyed animal to keep another animal in the town for a period of three years from the date of the violation.

(C) Any person owning, having, or keeping any animal who shall violate the provisions of this chapter, shall be liable to an action in the name of the town in any court of competent jurisdiction for the penalty imposed by and required by this chapter. Members of the Animal Control Division are authorized to cause a complaint to be filed against any person violating any of the provisions of this chapter and to cause an action to be brought against any person failing to pay any penalty required by the provisions of this chapter for the recovery of the penalty. Such action shall be cumulative and shall not be deemed as a bar to or a waiver of the right to institute any other civil or criminal proceeding for a violation of this chapter.

(D) In discharging their duties under this chapter, members of the Animal Control Division are authorized or empowered to present probable cause before a magistrate to any persons violating this chapter. Upon probable cause being found by a magistrate or court, a criminal summons or citation may be issued against the violator, said summons or citation to be delivered by a member of the Animal Control Division to the violator. The officer shall advise the violator of the charges against him and of the date and time he must appear in District Court.

(E) The Animal Control Officer shall cause the records with respect to the notice forms and the disposition of the same to be so maintained that all such forms shall be capable of being accounted for. The Town Finance Officer, or his representative, shall periodically investigate the records of the Animal Control Division for the purpose of determining the disposition of the notice forms, and shall report the result of the investigation to the Town Council. For the purpose of making this investigation, he shall have access to the necessary records of the division. The Finance Officer's reports to the Town Council shall be public records.

(F) If an alleged violator of any section of this chapter does not appear in response to the notice described in division (C) at or before the day and hour named in the notice, the officer in charge of the records division of the Animal Control Division shall send to the violator a notice informing him of the violation and warning him that he will be held responsible to appear in answer to the notice, and that in the event that the notice is disregarded for a period of five days from the date of mailing of this second notice, a complaint will be filed and a warrant of arrest issued. If a violator does not appear in response to the above described notices and citation, the Animal Control Division shall forthwith have a complaint entered against such person and secure and issue a warrant for his arrest.

§ 91.99 PENALTY. Unless a different fine or penalty is set out in a particular section of this chapter, a violation of any provision of this chapter shall subject the violator to a maximum civil penalty of \$50. If a higher fine or penalty is set out in any section, the highest fine or penalty shall apply.

This Ordinance shall be effective June 8, 2015.

Approved: 
Michael A. Gordon, Mayor

Attest: 
Jean Overton, Town Clerk

Approved as to form:

Chip Hewett, Town Attorney