

CHAPTER 10

ANIMAL CONTROL

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ARTICLE I

DEFINITIONS

Section 10-1 Definitions

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 Animal Control Officer or any other person designated by the manager to perform the responsibilities assigned by this chapter to the administrator.

(2) Adequate Food: The provision in a sanitary manner **(a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to the extent practicable)** at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal.

(3) Adequate Shelter: A shelter or containment area that (i) will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal; (ii) is free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris; and (iii) provides a suitable method of drainage to eliminate accumulating excess water or moisture. **For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. The shelter shall include four walls, a roof and a solid floor raised up off the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, or the equivalent.** As applied to aquatic or semi-aquatic animals the term means a containment area that has an adequate amount of clean water to enable the animal to move about.

(4) Adequate Water: A constant access to a supply of clean, fresh water provided in a sanitary manner. In near or below freezing temperatures **the water must be changed frequently to prevent freezing.**

(5) Animal: Any live, vertebrate creature specifically including but not limited to dogs, cats, livestock, birds, fish and reptiles.

(6) Animal Shelter: A place provided and operated by Carrboro directly or by contractual agreement, whether jointly with other governmental agencies or independently, for the restraint, care, adoption and disposition of animals.

(7) Competent Person: A person of suitable age who is physically and mentally capable of keeping an animal under sufficient restraint and control in order to prevent harm to the animal, to persons and other animals.

(8) Cruel Treatment: Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted. Such acts or omissions shall include, but not be limited to, kicking, beating, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water, exercise and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulations of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, and lawful activities for sport.

(9) Display: Display shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fights, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups or institutions or individuals. "Displayed" means to be the subject thereof.

(10) Domestic Animal: A domesticated or tame animal that is kept principally as a pet, except that livestock (other than rabbits kept as pets and not for productive purposes) and wild animals shall not be regarded as domestic animals.

(11) Educational Purposes: Teaching and instructing with the intent and effect of imparting knowledge to others.

(12) Exposed to Rabies: An animal has been exposed to rabies within the meaning of this ordinance if it has been bitten by, or otherwise come into contact with the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis.

(13) Harbor: An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for seventy-two (72) consecutive hours or more.

(14) Keeper: A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person, whether or not that person literally "owns" the animal. Every person 18 years or older residing in the dwelling unit where a pet is harbored and/or kept shall be deemed a keeper for purposes of this ordinance.

(15) Livestock: Animals raised for the production of meat, milk, eggs, fiber or used for draft or equestrian purposes, including but not limited to horses, mules, cows, pigs, goats, llamas, ostriches, 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.

(16) Leash-free Area: An area of Town owned property within the Town Limits of Carrboro designated by the Board of Aldermen upon which animals may be permitted to go free from physical restraint.

(17) Owner: Any person who owns any animal.

(18) Person: Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

(19) Restraint: An animal is under restraint if its movement is physically controlled by use of a leash, lead, cage, or bridle, ~~or similar effective device~~ which restrains and controls the animal, or if it is within a vehicle from which it cannot escape without assistance.

(20) Running at Large: Any animal shall be deemed to be running at large when it is off the real property of its owner or its keeper, and not under the restraint of a competent person. **For purposes of this definition, the term "real property of its owner or keeper" shall include any property owned or occupied by the owner or keeper of such animal but shall not include any of the common areas (including without limitation, walks, drives, recreation and open space areas, etc.) within any subdivision or multifamily residential development.**

(21) Secure Enclosure: An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner or keeper. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Animal Control Administrator based on breed, age, height, weight, temperament, and history of the animal.

(22) Suspected of having Rabies: An animal which has bitten a person or another animal.

(23) Wild or Exotic Animal: An animal (other than livestock) that typically is found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous or for any other substantial reason, poses a potential danger to persons, other animals or property, including, without limitation, **any of the following, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species:**

(a) Non-human primates and prosimians (~~such as chimpanzees, monkeys, excluding monkeys under 25 pounds~~);

(b) Felids, except domesticated cats;

(c) Canids, including wolf hybrids, except domesticated dogs;

(d) Ursids (bears);

(e) Elephants;

- (f) Marine mammals (such as whales, seals, sea lions, dolphins and others);
- (g) Crocodilians (such as alligators and crocodiles);
- (h) Marsupials (such as kangaroos and opossums);
- (i) Snakes and reptiles (poisonous, giant and crushing);
- (j) Ungulates (such as hippopotamus, rhinoceros, giraffe, zebra, deer);
- (k) Hyenas;
- (l) Mustelids (such as skunks, weasels, otters and badgers);
- (m) Procyonids (such as raccoons and coatis);
- (n) Endentates (such as anteaters, sloth and armadillos);
- (o) Viverrids (such as mongooses, civets and genets); and
- (p) Camels.

ARTICLE II

TAXATION AND TAGS

Section 10-2 Privilege Tax on Dogs and Cats.

(a) The owner of every dog or cat over four (4) months of age that is kept within the town shall annually pay to the town (through Orange County Animal Control) a tax on the privilege of keeping such animal within the town.

(b) The amount of the tax shall be established annually as part of the annual budget ordinance adoption process.

(c) In order to further the goal of controlling animal population, the tax on unspayed or un-neutered dogs and cats shall be higher than that of spayed or neutered animals.

Section 10-3 Tax Administration:

(a) The town shall contract with Orange County to administer the tax provided for in this article.

(b) The owner of every dog and cat over four months of age that is kept within the town shall, within thirty (30) days after such animal is located within the town or reaches the designated age, register such animal with ~~the~~ Orange County Animal Control.

(c) The tax year for purposes of the tax levied under this article shall be a twelve (12) month period ~~[that varies depending upon when the animal is first registered with]~~ **determined by Orange County.**

(d) The tax shall be paid within the period of time specified in the tax notice sent by Orange County.

~~(e) Orange County shall send annually to the owner of an animal for which a tax is paid under this article, an identifications tag that will enable a person examining the tag to determine (by contacting Orange County or otherwise) the owner's name and address.~~

Section 10-4 Rabies and Identification Tags:

(a) In accordance with 130A-185, the owners and keepers of all dogs and cats over four (4) months of age shall have the animal vaccinated against rabies.

(b) In accordance with G.S. 130A-190 **and G.S. 130A-192**, the owners and keepers of all dogs shall cause such animals to wear a valid rabies tag. Cats shall not be required to wear the rabies tag.

(c) The owners or keepers of all dogs shall additionally cause such animals to wear an identification tag indicating the owner or keeper's name, current address and telephone number.—~~If tags are issued by Orange County as a result of the provisions of Section 10-3, such tags shall be sufficient for purposes of this subsection.~~ **In addition, microchips are valid for identification purposes.**

(d) The owners or keepers of all cats shall cause such animals to wear a collar indicating the owner or keeper's name and telephone number or a collar with an identification tag including, but not limited to, the owner or keeper's name and telephone number, or a valid rabies tag. In addition, microchips are valid for identification purposes.

ARTICLE III

LIVESTOCK AND WILD ANIMALS

Section 10-5 Permits:

(a) No person may keep **or display** within the town any wild **or exotic** animal as defined in 10-1(23) of the Town Code. **(See Section 10-25(n)).**

(b) No person may keep within the town any permissible livestock over four (4) months of age except in accordance with a permit issued pursuant to subsection (c).

(c) Subject to subsections (d) and (e), no permit may be issued for any livestock unless the applicant for the permit demonstrates that the livestock will be kept on a tract of land that satisfies each of the following conditions:

- (1) The tract shall consist of at least 40,000 square feet of land under single ownership or control.
- (2) There shall be at least 20,000 square feet of land per animal.
- (3) No fence, coral, or other similar enclosure shall be erected ~~or maintained~~ within 15 feet of any property line.
- (4) No barn, stable or similar structure used for the keeping of livestock other than rabbits or fowl shall be erected or maintained within 50 feet of any property line or street-right-of-way.
- (5) No barn, cage, pen, or similar structure used for the keeping of rabbits or fowl shall be erected or maintained within 15 feet of any property line or street right-of-way line.

(d) The provisions of subsection (c)(3), (4) and (5) shall not preclude the establishment, with the consent of the affected adjoining property owners, of a commonly owned or used fence, barn or other enclosure, all of which is located along or near a common property line.

(e) The provisions set forth above in (c)(1) and (c)(2) shall not apply to rabbits and fowl. However, no permit may be issued for rabbits or fowl unless the provisions of (c)(3) and (c)(4) are complied with and unless the permit applicant demonstrates compliance with the following conditions:

- (1) The tract where such livestock are kept shall consist of at least 10,000 square feet.
- (2) Such livestock may be kept only on a lot used for residential purposes and only for the consumption of persons who reside at that lot. Such livestock may not be kept for commercial purposes.

(f) After compliance with subsection (g), the administrator shall issue the permit required by this section unless he finds that:

- (1) The applicant has failed to comply with subsection (c);
- (2) The animal for which the permit is requested poses a substantial danger of harm to any person, animal, or property.

- (3) The animal for which the permit is requested is likely to or does interfere with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons.
- (4) The animal for which the license is requested otherwise constitutes a threat to the public health or safety.

(g) Before issuing a permit under this section, the administrator shall notify the applicant and the applicant's immediate neighbors by any convenient means of a date and time when they may be heard on the question of whether a permit should be issued. After the hearing, the administrator shall set forth in writing his reasons for the issuance or denial of the permit and shall furnish a copy thereof to any person requesting the same.

Section 10-6 Applicability:

(a) The provision of this article shall not apply to any livestock present within the town (or present on property that is subsequently annexed) on the effective date of this ordinance, or to replacements for such livestock, or to animals born to such livestock. However, additional livestock may not be added unless all of the provisions of this article are complied with.

(b) The provisions of this article are subject to the provisions of G.S. 106-701.

Section 10-7 Revocation of Permit:

(a) A permit issued in accordance with this section may be revoked by the administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance.

(b) If the administrator denies or revokes a permit in accordance with this section, he shall notify the owner of the animal of his right to appeal such decision in accordance with Section 10-38.

ARTICLE IV

ANIMAL CONTROL PROGRAM – ORGANIZATION, POWERS, DUTIES

Section 10-8 Animal Control Program:

The Carrboro Animal Control Program, as herein described and as otherwise described in other town ordinances related to animals and as otherwise described under the laws of North Carolina, shall be administered by the animal control officer or other persons designated by the manager to perform the responsibilities assigned by this chapter to the administrator. Such person or persons are referred to in this ordinance as the administrator.

Section 10-9 Animal Control Officer(s):

The administrator shall:

- (1) Enforce all laws of North Carolina and all ordinances of the Town of Carrboro pertaining to animals and cooperate with all animal control officers and law enforcement officers within Orange County in fulfilling this duty.
- (2) Cooperate with all agencies within Orange County and the towns therein and assist in the enforcement of the laws of the State with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.
- (3) Investigate reported or observed animal cruelty or animal abuse.
- (4) Investigate public nuisance complaints involving animals.
- (5) Investigate reports of observed harassment or attacks by dogs or other animals against livestock and assist in locating those persons owning or harboring the attacking animals.
- (6) Investigate all reported animal bites, in order to comply with the provisions of Section 10-12 and Article VI of this chapter.
- (7) Keep, or cause to be kept, accurate and detailed records as determined by the manager.
- (8) Be trained to standards to be established by the manager, which training shall include but not be limited to, training in animal first aid taught by a licensed veterinarian.

Section 10-10 Interference with Administrator:

It shall be unlawful for any person to interfere with, hinder, or molest the administrator or any police officer while in the performance of any duty authorized by this ordinance, or to seek to release any animal in the custody of the administrator or other agent of the town, except in the manner herein provided.

ARTICLE V

REGULATION AND CONTROL

Section 10-11 Confinement and Running at Large:

(a) Subject to subsections (b) and (c), no owner or keeper of any animal may cause, permit, or allow the animal to stray or in any manner to (i) run at large or (ii) trespass upon the property of another.

(b) The provisions of subsection (a) shall not apply to cats.

(c) The provisions of subsection (a) shall not apply to any area of the town property designated by resolution of the board of aldermen as a "leash-free" area. **The administrator shall maintain a current list of approved leash free areas.**

Section 10-12 Animals Creating a Nuisance:

(a) Subject to subsection (e), no owner or keeper may have within the town, after receiving the notice of removal prescribed in subsection (c), any animal that:

- (1) Habitually or repeatedly, without provocation, chases, snaps at or attacks pedestrians, bicycles, **other animals being walked on a leash,** 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 **secure** enclosure. **For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.** ~~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 odor or ~~habitual barking, howling, crying, crowing, or other noise making~~ **excessive noise making.** **For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, crowing, or other noise making that (i) are audible on premises other than the premises where the noise making animal is located (including other dwelling units located on the same tract of land), and (ii) by reason of the time of day or night that they occur, their duration, and/or their frequency, would tend to annoy or disrupt the peace and tranquility of a person of reasonable sensibilities.**
- (3) Is a female animal that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.
- (4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees either by digging, **repeated** defecation or urination, or causing injury to domesticated livestock or pets.
- (5) Without provocation, 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 subsection (a), 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 and/or measures taken to prevent their recurrence within forty-eight (48) hours, 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) has, more than forty-eight (48) hours after service of the notice prescribed in subsection (b), continued to cause a nuisance as described in the subsection, 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 10-38.

(d) The owner of any animal removed pursuant to this section shall, within five (5) days after removal, inform the administrator in writing of the animal's present location, including the name, address and telephone number of the animal's owner or keeper. If the animal has been destroyed, the administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

(e) The provisions of subsections (a) through (d) of this section shall not apply to cats. However, cats shall be subject to the following requirements:

(1) If a cat engages in any of the activity described in this subsection, then the administrator shall in writing inform the cat's owner of the nature of these actions and shall indicate that unless these activities are corrected and/or measures, such as a bell, are taken to prevent their recurrence, the owner shall be required to confine the cat on the owner's premises. A person who fails to abide by the direction of the administrator to confine a cat pursuant to this subsection shall be subject to the civil penalties described in Section 10-39. This process shall apply to any cat, that, off the premises of its owner or keeper:

- (a) Habitually or repeatedly defecates or urinates in children's sandboxes, **gardens, flower beds or other private property without the permission of the property owner;**
- (b) Habitually or repeatedly injures or kills animals or birds, whether domesticated or not;
- (c) Is a female in heat not confined in a building or secure enclosure in such a manner as to prevent contact with another cat;
- (d) Habitually or repeatedly, without provocation, chases or attacks pedestrians, bicyclists **or other animals being walked on a leash;**

- (e) Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its howling, whining, crying, or other noise making;
 - (f) Without provocation, 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.
 - (g) **Habitually or repeatedly walks or sleeps on or damages vehicles owned by another.**
- (2) If a cat engages in any of the activities described in section (1) of this subsection, and the administrator is otherwise unable to determine the identity of the owner or keeper of the cat, the administrator may impound the animal. If the owner or keeper can thereafter be identified, the cat shall be returned to such owner or keeper and the notification procedures of subdivision (1) of this subsection shall be followed. If the owner or keeper cannot after reasonable effort be identified or located, the administrator shall deliver the cat to the animal control shelter.

Section 10-13 Dangerous Dogs:

- (a) The provisions of this section are derived from G.S. 67-4.1 through 67-4.5.
- (b) As used in this section, unless the context clearly requires otherwise and except as modified in subsection (c), the following words shall have the meaning indicated when used in this section.
 - (1) **Dangerous Dog:** A dog that (i) without provocation has killed or inflicted severe injury on a person; (ii) is determined by the administrator to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subsection (2); or (iii) any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.
 - (2) **Potentially Dangerous Dog:** A dog that the administrator determines to have (i) inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; (ii) killed or inflicted serious injury upon a domestic animal when not on the owner's real property; or (iii) approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.
 - (3) **Owner's Real Property:** Any real property owned or leased by the owner of the dog, but does not include any public right-of-ways or a common area of a condominium, apartment complex, or townhouse development.

- (4) Severe Injury: Any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

(c) The provisions of this section shall not apply to:

- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
- (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 was 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 the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(d) The administrator shall be responsible for determining when a dog is a "potentially dangerous dog." The administrator must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this section. The owner may appeal the determination by filing written objections with the Board of Appeals within three (3) days of notification. The Board of Appeals shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of the Board of Appeals shall be taken to the superior court by filing a notice of appeal and a petition for review within ten (10) days of the final decision of the Board of Appeals. Appeals from rulings of the Board of Appeals shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in Orange County.

(e) No person may (i) 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 adequately restrain the dog; or (ii) permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(f) 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 a written notice **within 5 days of the date of transfer** to (i) the administrator, stating the name and address of the new owner or possessor of the dog, and (ii) the person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(g) In accordance with G.S. 67-4.2, violation of this section is a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100.00) or imprisonment for not more than 30 days or both.

(h) In accordance with G.S. 67-4.3, the owner of a dangerous dog that attacks a person and causes physical injuries requiring medial treatment in excess of one hundred dollars (\$100.00) shall be guilty of a misdemeanor punishable by a fine of up to five thousand dollars (\$5,000.00), imprisonment up to two years, or both.

(i) In accordance with G.S. 67-4.4, 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 property, or other animal.

Section 10-14 Security Dogs:

(a) For purposes of this section, the term security dog shall mean any dog on the premises of its owner or keeper that (i) is trained or conditioned to attack or otherwise respond aggressively, but only upon command from its owner or keeper (patrol dog), or (ii) is trained or conditioned to attack or otherwise respond aggressively without command (sentry dog).

(b) All persons owning security dogs shall register such animals with the Carrboro Police Department and Orange County Animal Control ~~Officer~~.

(c) The owner or keeper of any dog that is classified as a security dog under this ordinance shall place signs or placards on his premises noting "Premises Patrolled By Security Dog" or other information noting the presence of a security dog(s). Such signs shall be prominently displayed in points of probable entry to the premises so as to provide reasonable notice of the presence of such security dogs. Signs noting "Beware of Dog" shall not be sufficient notice of a security dog trained to attack or otherwise respond aggressively without command (sentry dogs).

Section 10-15 Location and Maintenance of Animal Pens and Enclosures:

(a) All livestock shall be kept within a pen, coop, fence or other secure enclosure, according to specifications outlined in Section 10-5.

(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 10-16 Stray Animals:

(a) No person may, without the consent of its owner or keeper, knowingly or intentionally harbor, feed or keep in possession by confinement or otherwise, any animal bearing identification tags or otherwise known by the person to belong to a specific individual, other than to restrain the animal pending notification of its owner or the administrator.

(b) Any person coming into the possession of an animal bearing identification or otherwise known to belong to a specific individual shall make reasonable efforts to notify the owner or keeper, the administrator, **and/or the animal shelter** within twenty-four (24) hours.

(c) Any person who feeds or keeps in his possession any animal whose owner or keeper is unknown to such person is obligated within seventy-two (72) hours from the time such animal comes into his possession to notify the administrator.

Section 10-17 Dogs Prohibited Within Farmers Market:

No owner or keeper or other person in possession of any dog may allow such animal to go upon the premises operated by or for the town as a farmers market during any period when the market is in operation.

ARTICLE VI

RABIES

Section 10-18 Administrator to Cooperate in Vaccination Programs:

The administrator shall cooperate with and assist the **area animal control officers and public health officials** ~~{Orange County rabies inspectors}~~ in their efforts to see that all animals are vaccinated against rabies in accordance with the provisions of G.S. 130A-184 through 130A-201.

Section 10-19 Quarantine of Biting Animals Suspected of Having Rabies:

(a) In accordance with G.S. 130A-**196 and** 198, every animal **(cat, dog, or ferret)** that has bitten any person ~~or other animal or that shows symptoms of rabies~~ shall be securely confined for a period of at least ten (10) days **from the time of the bite at a place and location chosen by the local health director and/or his designee.** The biting animal shall not be released from such quarantine except by written permission of the administrator. **Any animal that shows symptoms of rabies shall be immediately and securely confined and notification made to the administrator, Animal Control Officer, or local health director.**

(b) The owner or keeper of an animal that has bitten any person or other animal or that shows symptoms of rabies shall report the same immediately to the administrator **or the Orange County Health Department.** Any person bitten by an animal shall immediately report the incident to the administrator.

(c) In accordance with G.S. 130A-196, a physician who attends a person bitten by an animal known to be a potential ~~[carrier of rabies]~~ **rabies vector species** shall report within 24 hours to the Orange County Health Director the name, age and sex of that person.

(d) Animals **(dogs, cats, or ferrets)** quarantined in accordance with this section shall be confined in a veterinary hospital or the animal shelter at the owner's expense, unless the administrator determines that **(i)** the owner has adequate confinement facilities upon his own premises and, **(ii)** the animal has a current rabies vaccination, **and (iii) only when the animal is confined due to biting any person but does not show any symptoms of rabies.** For purposes of this subsection, adequate confinement facilities mean a fenced in area that has no entrances or exits that are not locked, or a similar area providing equivalent security.

(e) When the administrator or local health director reasonably suspects that a dog or cat has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis, the dog or cat shall be considered to have been exposed to rabies. The dog or cat shall be destroyed immediately in a humane way by its owner, the administrator or a police officer unless the dog or cat has been vaccinated against rabies in accordance with applicable statutes and regulations more than three weeks prior to being exposed, and is given a booster dose of rabies vaccine within three days of the exposure. As an alternative to destruction, the dog or cat may be quarantined at a facility approved by the local health director for a period up to six months, and under conditions imposed by the administrator or local health director.

Section 10-20 Disposition of Rabid Animals:

(a) In accordance with G.S. 130A-199, every rabid animal, after rabies has been diagnosed by a licensed veterinarian, shall be ~~[killed]~~ **euthanized** 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 veterinarian until the death of the animal.]~~ **Notification to the administrator of the animal's euthanization shall occur immediately.**

(b) In accordance with G.S. 130A-197, every animal known to have been bitten by another animal that is known or proved to be rabid shall be ~~[killed]~~ **euthanized** by the administrator or at his direction, unless the animal has been properly **and currently** vaccinated against rabies **and revaccinated within 72 hours according to state law, whereupon the provisions of § 10-19(e) shall apply.** ~~In this event, the animal shall be closely confined for 90 days. If during this period, the animal shows symptoms of rabies the provisions of Section 10-19 shall apply. At the end of the period, that animal may be released from confinement if declared free from rabies by a licensed veterinarian.~~

Section 10-21 Rabies Tag:

Applicable requirements for the wearing of rabies tags are set forth in subsection 10-4(a) of this chapter.

ARTICLE VII

IMPOUNDMENT, RELEASE AND DESTRUCTION

Section 10-22 Impoundment: Notice to Owner:

(a) The administrator may impound any animal that:

(1) Is found running at large in violation of Section 10-11; or

(2) In accordance with Article VI, has bitten any person or is otherwise suspected of having rabies.

(b) Whenever an animal is impounded, or whenever an animal otherwise lawfully comes into the possession of the administrator, the administrator shall **(except as otherwise provided in Article VI)** either return the animal to its owner or keeper or take the animal to the animal shelter, where the animal shall be kept until released or destroyed in accordance with the provisions of this article.

(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 or the impoundment, and advise him of the conditions under which the animal may be reclaimed, if any.

Section 10-23 Release to Owner:

(a) Subject to subsection (b), an owner of an impounded animal may reclaim the animal after it is impounded, upon compliance with the requirements of this section and in accordance with the requirements established by the animal shelter.

(b) Notwithstanding any other provision of this Chapter, the administrator may refuse to release any animal that: (i) is subject to an order of removal pursuant to subsection 10-12(c); (ii) is the subject of proceedings brought in accordance with Chapter 11, Article V, Part 2 of the Town Code; or (iii) is being held ~~for ten (10) days~~ pursuant to G.S. 130A-198 and **Article VI** ~~Section 10-19~~ of this Chapter.

Section 10-24 Adoption and Destruction:

Whenever the ownership of an animal cannot be determined with reasonable effort, or whenever the owner fails to reclaim the animal as provided in Section 10-23, the animal may be adopted or otherwise disposed of in accordance with the procedures of the animal shelter.

ARTICLE VIII

CARE AND PROTECTION

Section 10-25 Cruelty to Animals:

(a) In accordance with G.S. 14-360 and 14-361, no person may **intentionally or maliciously** ~~{willfully}~~ subject any animal to cruel treatment, including but not limited to the following: overdrive, overload, wound, injure, torture, cruelly beat, needlessly mutilate or kill ~~{any animal}~~ or deprive any animal of adequate food, water, shelter or veterinary care, or cause or procure the same.

(b) In accordance with G.S. 14-**362, 362.1 and 362.2** no person may conduct, promote, attend, or otherwise participate in animal fighting or cock fighting.

(c) No person may possess any paraphernalia for the purposes of dog, cock, or other animal fighting, including but not limited to gaffs, **treadmills, spurs, spring poles, wheels, etc..**

(d) In accordance with G.S. 14-363.1, no person may sell or offer for sale, barter, or give away within the town, baby chickens, baby ducklings, or other fowl or rabbits under eight (8) weeks of age as pets, toys, premiums, or novelties.

(e) No person may color, dye, stain, or otherwise change the natural color of baby chickens or other fowl or rabbits.

(f) No person may tether any fowl.

(g) No person may restrain any animal except in a humane fashion. If any unattended animal is restrained by a chain, leash or similar restraint, it shall be designed and placed to prevent choking and strangulation. Such restraint shall be not less than fifteen (15) feet in length and ~~{either on a swivel or on a chain run,}~~ **designed** and located in such a fashion to prevent entanglement with obstacles.

(h) No person may use for the purpose of trapping animals, any type of steel jaw trap (except commercially available mice and rat traps). A steel jaw trap is defined as any spring-powered device designed to capture or hold an animal by exerting a lateral force with fix-mounted jaws on the leg, paw, or any other part of an animal's body.

(i) No person may entice or lure any animal out of an enclosure or off the property of its owner or keeper, or seize, molest, or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property or its owner or keeper.

(j) In accordance with G.S. 14-363, no person may carry or cause to be carried in or upon any vehicle or other conveyance, any animal in a cruel or inhumane manner.

(k) No person may transport without adequate ventilation an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature outside the vehicle or trailer is greater than or equal to 70 degrees Fahrenheit. **For purposes of this section, "transport" refers to a vehicle or trailer whether in motion or stationary and "closed compartment" refers to a vehicle or trailer whether or not the windows or other openings are closed, open or partially open, and "adequate ventilation" refers to sufficient circulation of air and/or control of temperature such that the animal's health and safety is not adversely affected.**

(l) No person may commit any of those acts made unlawful under the provisions of G.S. 14-362, 14-362.1, **14-362.2, and 14-362.3** or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting.

(m) In accordance with G.S. 14-361.1, no person may abandon or forsake any animal within the town.

(n) No person may display or sponsor a display of wild or exotic animals on any public or private property within the town.

Section 10-26 Notice in Case of Injury:

Any person who, as the operator of a motor vehicle or bicycle, causes injury to any domestic animal or livestock is obliged to stop at once and render such assistance as may be possible and shall immediately notify at least one of the following:

- (1) the owner(s) or keeper(s) of the animal (if known or ascertained with reasonable efforts);
- (2) an animal control officer;
- (3) the police department; or
- (4) the animal shelter.

ARTICLE IX

KENNELS AND PET SHOPS

Section 10-27 Applicability to Veterinarians:

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Ordinance except for the provisions relating to cruelty to animals and rabies control.

Section 10-28 Class I Kennels:

(a) For purposes of this section, the term Class I Kennels shall mean an establishment where animals (excluding livestock) are kept for the purpose of showing, competition, hunting or sport, and which establishment maintains more than six (6) but less than nineteen (19) animals.

(b) The owners or operators of all Class I Kennels shall, in addition to other requirements of this ordinance, comply with the following minimum standards of this subsection.

- (1) All enclosures housing animals must provide adequate shelter.
- (2) All animals shall be provided adequate food.
- (3) All animals shall be provided adequate water.
- (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
- (5) All areas housing animals shall be free of accumulated or standing water.
- (6) All animals housed shall be provided with proper veterinary care to promote good health.

Section 10-29 Class II Kennels:

(a) For the purposes of this section, Class II Kennels shall mean an establishment where (i) animals (excluding livestock) are kept regularly for the purposes of breeding, buying, selling, or boarding or for the training of security dogs; or (ii) 20 or more animals (excluding livestock) each of which is four months of age or older, are regularly kept.

(b) No person may own or operate a Class II Kennel within the town unless and until such person satisfies the requirements of this section and has been issued a privilege license under subchapter I of Chapter 8 of the Carrboro Town Code. A permit issued in accordance with this section may be revoked by the administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance. If the administrator denies or revokes a permit in accordance with this section, he shall notify the owner or operator of his right to appeal such decision in accordance with Section 10-38.

(c) All Class II Kennels shall, in addition to the other requirements of this ordinance, comply with the minimum standards of this subsection. Facilities shall be subject to inspection during reasonable hours by the administrator upon request. No person may operate a Class II Kennel unless the premises meet the following standards and animals receive the following minimum care:

- (1) Buildings or enclosures must be provided which shall allow adequate protection against extreme weather conditions. Floors of buildings and runs, and walls shall be of a nonporous material or otherwise constructed so as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
- (2) Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around, and stretch out to its full length without touching the sides or tops of the cage, kennel, or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cages, kennels and run floors of concrete shall have resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry, and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in good repair to protect animals from potential injury, contain the animals, and restrict the entrance to other animals and people.
- (3) Animals shall not be placed in cages, kennels, or runs unless such cages, kennels, or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.
- (4) Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
- (5) Each animal shall be given the opportunity for vigorous daily exercise as appropriate.
- (6) Litter boxes shall be provided for cats and kittens.
- (7) All animals shall be provided adequate food.
- (8) Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (9) All animals shall be provided adequate water. Water containers shall be of removable type and be mounted or secured so that the animals cannot readily tip it over or defecate or urinate in them.
- (10) All food and water containers shall be cleaned and disinfected daily.
- (11) All animals must be fed and watered, cages and kennels cleaned each day, including Sundays and holidays and disinfected weekly or more frequently if the kennel is exposed to an infectious disease.

- (12) Adequate veterinary care shall be provided as needed for each animal.
- (13) Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- (14) Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and of animal food and water containers.
- (15) Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents, or air conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.
- (16) Facilities for animals shall have ample light by natural or artificial means or both, of good quality and well distributed and as appropriate for each animal's health and well being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosure shall be so placed as to protect the animals from excessive illumination.
- (17) Every person maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses, and telephone number of persons responsible for the facility where they may be contacted during any hour of the day or night.

Section 10-30 Pet Shops:

(a) For purposes of this section, the term Pet Shop shall mean an establishment wherein animals bred by others are held for sale or exchange or for the purpose of cleaning and grooming.

(b) No person may own or operate a pet shop within the town unless and until such person satisfies the requirements of this section and has been issued a privilege license pursuant to subchapter I of Chapter 8 of the Carrboro Town Code. A permit issued in accordance with this section may be revoked by the administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance. If the administrator denies or revokes a permit in accordance with this section, he shall notify the owner or operator of his right to appeal such decision in accordance with Section 10-38.

(c) All pet shops, as defined herein, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this ordinance, comply with the minimum standards of this section. Failure to meet these standards shall be grounds for issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this ordinance. Facilities shall be subject to

inspection by an administrator at any time during normal business hours and without prior notice. No person may own or operate a pet shop unless the premises meet the following standards and animals are given the following minimum care:

- (1) Purchase or sale of puppies or kittens under eight weeks of age is prohibited.
- (2) All animals on premises of the pet shop will have received, prior to procurement, all requisite vaccines and standard medical attention.
- (3) There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
- (4) Adequate water shall be accessible to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.
- (5) The temperature of the area around the animal enclosure in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
- (6) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, and lie down. Floors of the enclosure must be of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the floor material.
- (7) All animals shall be provided adequate food. All animals under three (3) months of age are to be fed at least two (2) times per twenty-four (24) hours. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over and be of the removable type.
- (8) Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
- (9) There shall be sufficient, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to assure the enclosure is maintained in a clean and sanitary manner.
- (10) All animals must be fed, watered, and all cages cleaned every day, including Sundays and holidays.

ARTICLE X

ANIMAL COLLECTION

Section 10-31 License and Permit Required:

(a) No person may engage in the collection of dogs and cats for sale unless such person obtains a privilege license pursuant to subchapter I of Chapter 8 of the Carrboro Town Code. A permit must be obtained from the administrator, as provided in this Article, before a license may be issued.

(b) A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in Carrboro in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a fee set by the Board of Aldermen and demonstration by the applicant that the requirements of this article shall be met. A permit issued in accordance with this article may be revoked by the administrator after notice and a hearing, for any reasons that would have justified denial of the permit in the first instance. If the administrator denies or revokes a permit in accordance with this article, he shall notify the person affected of his right to appeal such decision in accordance with Section 10-38.

Section 10-32 Permit Procedure:

(a) An application for a collection permit shall be made by each and every individual involved in the collecting of dogs and/or cats in Carrboro for the purpose of sale ~~for other disposal~~. Any such application for the above-mentioned purpose shall be made to the administrator on a form prescribed by the administrator.

(b) An investigation may then be conducted by the administrator, which may include inspection of the premises where the animals are to be kept and any vehicles in which they are to be transported.

(c) Upon the determination by the administrator that the requirements of these regulations have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one (1) year shall be issued, upon payment of applicable fees, to the individual applicant only for the specific individual applicant, premises, and vehicles listed on the application.

(d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than thirty (30) days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a penalty fee.

Section 10-33 Minimum Information Required for Permit Application:

The following information shall be provided on or with the application for a collecting permit and no individual shall be issued a permit without disclosing the following:

- (1) The name, address, and telephone number(s) of the applicant;
- (2) U.S. Department of Agriculture and/or N.C. Department of Agriculture license number under which the applicant operates;
- (3) A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping animals, and all arrests or convictions involving any matter or law in any way pertaining to animals;
- (4) A complete description, including vehicle identification number and vehicle license number of each and every vehicle which will be used to collect and/or transport animals; and
- (5) The address and location where the animals will be kept or maintained for five (5) days after collection.

Section 10-34 Minimum Requirements for Vehicles, Premises and Care In Transit:

(a) No permit shall be issued or remain valid unless the administrator or his designee is satisfied that both the vehicles in which the animals will be collected and transported and the premises where the animals will be housed meet the following requirements:

(b) Premises. All premises shall meet the same standards as set for Class II commercial kennels in Section 10-31 of this ordinance.

(c) Vehicles:

- (1) Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.
- (2) The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.
- (3) The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.

(d) Enclosures In or On Vehicles:

- (1) Enclosures (including compartments, cages, cartons, or crates) used to transport animals are to be well constructed, well ventilated, and designed in such a way as to protect the health and insure the safety of the animals.
- (2) These enclosures must be constructed or placed on the vehicles so that:
 - a. Every animal in the vehicle has sufficient fresh air for normal breathing;
 - b. The openings of these enclosures must be easily accessible for emergency removal at all times;
 - c. The animals must be adequately protected from the elements, including heat and cold;
 - d. The animals must be adequately protected from one another.

(3) Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six (6) months of age shall not be transported in the same enclosure with adult animals, other than their mother.

(4) Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.

(5) Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.

(6) All enclosures used to transport animals shall be disinfected after each use and as needed.

(e) Care in Transit:

- (1) The attendant or driver shall be responsible for inspecting the animals frequently enough to assure the health and comfort of the animals and to determine if emergency care is needed and to obtain said emergency care if needed.
- (2) If any animal is in a vehicle for more than three (3) hours, it shall be provided fresh, drinkable water, and food as appropriate.
- (3) Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

Section 10-35 Records:

(a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:

- (1) The number of animals received by the collector;
- (2) The sex, breed, a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal;
- (3) The name, address and telephone number of the location to which the animal will be taken for the following five (5) days;
- (4) The name, address and telephone number of the collector;
- (5) The name, address and telephone number of the person surrendering the animal.

(b) A written report containing the above information shall be delivered by the person collecting the animals to the administrator within twenty-four (24) hours of the surrender of the animal.

(c) A record shall be kept of the disposition of every animal which is collected.

(d) Every collector shall maintain a copy of all receipts and disposition records for one (1) year.

Section 10-36 Administration:

(a) A quality assurance program to ensure adherence to these standards shall be carried out by the administrator.

(b) The administrator shall be responsible for the full and proper application of this policy. Questions concerning the applicability or interpretation of this policy shall be the responsibility of the administrator.

ARTICLE XII

ENFORCEMENT, APPEALS AND PENALTIES

Section 10-37 Enforcement Administration:

Primary responsibility for enforcing the provisions of this chapter may be assigned to one or more individuals by the town manager. The term “administrator” is used in this chapter to refer to the person or persons assigned these responsibilities, including but not limited to the Animal Control Officer.

Section 10-38 Appeals:

(a) The owner of any animal who (i) is required to remove his animal from the town pursuant to Section 10-12, (ii) who has been assessed and has paid a civil penalty, or (iii) whose permit is denied or revoked pursuant to articles III, IX, and X, or (iv) whose animal is declared a “dangerous dog”, may appeal to the Animal Control Board of Appeals. **An appeal shall be taken within ten (10) days after receiving the written notice of the determination appealed from except that appeals from a determination that a dog is a dangerous or potentially dangerous dog shall be taken within 3 days of notification.** 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. **An appeal from an order to pay civil penalties (Section 10-38(a)(ii) shall first be reviewed by the Captain of the Patrol Division who shall have the authority to affirm, revise or modify the order. If the owner is unsatisfied with the first civil penalty review, the owner may then appeal to the Animal Control Board of Appeals within ten (10) days of the Captain’s decision.**

(b) The Animal Control Board of Appeals shall consist of three (3) members and one (1) alternate appointed by the board of aldermen. The board of aldermen shall designate one member as chairman. The members shall serve three-year staggered terms. The alternate shall also serve a three-year term and shall be appointed initially for a term of three (3) years.

(c) The board shall meet within twenty (20) days after notice of appeal is filed. A quorum of the board shall consist of three (3) members, and all decisions shall be made by majority vote. The board may uphold, reverse, or modify the determination appealed from, and the administrator shall thereafter continue, modify or cease his enforcement efforts in accordance with the board’s decision.

(d) The burden of justifying the administrator’s determination shall be on the administrator. Strict rules of evidence need not be followed, but the board may consider only what a witness knows of his own knowledge, and no decision may be based upon hearsay alone.

(e) The board shall reach a decision as expeditiously as possible and shall provide the appellant and the administrator with a written decision, stating the reasons therefore.

Section 10-39 Penalties and Remedies:

(a) A violation of any of the following provisions of this chapter shall constitute a misdemeanor punishable as provided in G.S. 14-4:

10-10, 10-12(a), 10-14(b), 10-17, 10-25

(b) A violation of any of the provisions cited in subsection (a) **[except 10-25(n)]** as well as Sections **[10-2,] [10-4]**, 10-4(b), 10-4(c), 10-4(d), 10-5(a), 10-5(b), 10-11(a), 10-12(e), 10-15, 10-21, 10-28(b), 10-29(b), 10-29(c), 10-30(c), 10-31(a), 10-34, and 10-35 shall subject the offender to a civil penalty of \$25.00. **A violation of Section 10-2 shall subject the offender to a civil penalty of \$50.00. A violation of Section 10-25(n) shall subject the offender to a civil penalty of \$50.00 per animal. A violation of Section 10-4(a) shall subject the offender to a civil penalty of \$100.00.** The penalty for a second violation of subsection 10-11(a) shall be **\$35.00** and for a third violation and for subsequent violations the penalty shall be **\$75.00**. **The penalty for second and subsequent violations of the same provisions of Section 10-12(a) shall be set forth in the following table:**

<u>Violation</u>	
<u>Second</u>	<u>\$ 50.00</u>
<u>Third</u>	<u>\$ 75.00</u>
<u>Fourth</u>	<u>\$100.00</u>
<u>Fifth</u>	<u>\$150.00</u>
<u>Sixth and subsequent</u>	<u>\$200.00</u>

If the offender fails to pay any 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.

AN ORDINANCE AMENDING THE TOWN CODE TO CLARIFY THAT THE LIST OF PROHIBITED NOISES INCLUDES DOGS AND OTHER ANIMALS THAT ENGAGE IN REPEATED BARKING OR OTHER NOISE MAKING BETWEEN THE HOURS OF 11:00 P.M AND 7:00 A.M.

THE BOARD OF ALDERMEN OF THE TOWN OF CARRBORO ORDAINS:

Section 1. Section 5-12 of the Carrboro Town Code is amended by adding the following new subsection (5) to the list of particular noises that are prohibited:

- (5) The barking, howling, whining, crying, crowing, or other noise making of any animal that occurs essentially unabated for a period of at least five minutes on at least three occasions during the hours between 11:00 p.m. and 7:00 a.m.

Section 2. All provisions of any town ordinance in conflict with this ordinance are repealed.

Section 3. This ordinance shall become effective upon adoption.

MEMORANDUM

TO: MAYOR AND BOARD OF ALDERMEN
FROM: AMANDA STIPE, CARRBORO ACO *AS*
SUBJECT: PIT BULLS
DATE: 8/6/02
CC: MIKE BROUGH, WILLIAM MORGAN, AND CHIEF CAROLYN HUTCHISON

Currently, the Animal Control Section of the Town Ordinance does not specifically address pit bull type dogs. "Pit bull" is a generic term used to describe a type of dog. A pit bull is not a breed of dog.

What does the Town Ordinance address?

1. Biting dogs

Must be quarantined for a period of 10 days. Then, depending on the situation and severity of the bite, the biting dog may be:

- i. Declared a nuisance,
- ii. And, or, declared a potentially dangerous or a dangerous dog.
- iii. Additionally, the dog may be declared as vicious under state law.

2. Loose dogs off their owner's property may be:

- a. Impounded at the Orange County Animal Shelter,
- b. Or, fined.

What is a Nuisance Dog? (Briefly) A dog that the administrator determines to:

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, unless restrained by a pen or fence.
2. Seriously interferes with reasonable use and enjoyment by neighboring residents of their property because of odor, or noise making.
3. Is a female in heat not in a building or secure enclosure.

4. Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging flora by digging, defecating, or urinating, or causing injury to domesticated livestock or pets.
5. Without provocation, 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.

What are the penalties for a nuisance dog?

1. The owner must correct the problem within 48 hours of notification by the Office of Animal Control that their dog is a nuisance.
2. Owner must prevent a recurrence after those 48 hours or the Office of Animal Control will issue a letter of removal of the nuisance dog. Removal of the dog can be by either taking the dog from the town or euthanizing the dog.
3. Owner may be charged with a misdemeanor under NCGS 14-4.
4. Owner may be fined \$25.00 for violation after notification of nuisance.
5. The Town of Carrboro may issue injunctions or orders of abatement.

What is a potentially dangerous dog? A dog that the administrator determines to have:

1. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
2. Killed or inflicted severe injury on a domestic animal when not on the owner's real property.
3. Or, approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

What is a dangerous dog? A dog that the administrator determines to have:

1. Without provocation has killed or inflicted severe injury on a person.
2. Engaged in one or more of the behaviors listed for a potentially dangerous dog.
3. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

Under this section, severe injury is defined as any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

However, the declaration of potentially dangerous and dangerous dogs does not apply when:

- 1) The dog is used by law enforcement to carry out official duties.
- 2) A dog being used in a lawful hunt.
- 3) A dog where the injury or damage inflicted was while the dog was working as a hunting, herding, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.
- 4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

What are the penalties for potentially dangerous and dangerous dogs?

Under the Town's Ordinance and NC Law, potentially dangerous and dangerous dogs have no distinctions between them.

No person may leave them 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 adequately restrain the dog. The dog cannot go beyond the owner's real property unless the dog is leashed and muzzled, or otherwise securely restrained and muzzled.

If the owner transfers possession or ownership of the dog, the owner shall provide written notice to the ACO and the new owner.

Violations of these requirements subject the owner to:

1. Misdemeanor charges punishable by fine not to exceed \$100.00 or imprisonment for not more than 30 days, or both.
2. If the potentially dangerous or dangerous dog attacks a person and causes physical injuries requiring medical treatment in excess of \$100.00, misdemeanor charges punishable by a fine of up to \$5,000, imprisonment up to 2 years, or both.
3. Liability for civil damages for any injuries or property damage the dog inflicts upon a person, property, or other animal.

What is a vicious dog? Under NC Statute 130A-200, a local health director deems a dog to be vicious and a menace to the public health when the animal has attacked a person causing bodily harm without being teased, molested, provoked, beaten, tortured or otherwise harmed.

What are the penalties for vicious dogs?

The animal must be confined to the owner's property. However, the animal may be permitted to leave its owner's property when accompanied by a responsible adult and restrained on a leash.

Violations of these requirements subject the owner to:

1. Impoundment of the animal at the owner's expense.
2. Misdemeanor charges.
3. Any other appropriate fines or citations relevant to the situation under Town Ordinance (ex. at large).

As the Animal Control Officer, I feel we should not have breed/type specific ordinances for the Town of Carrboro.

Why?

- 1) Difficulties with identification. Is it a hound mix, pit mix, or lab mix? How many different breeds and their crosses do you include? Do you analyze DNA and Pedigrees?
- 2) Difficulties with enforcement. Variable town limits and borders. Do you fine/cite visitors with these dogs for bringing these dogs to the area? Pet therapy dogs and Canine Good Citizens, if pit bull type dogs, would not be allowed into the town. Who has the authority to remove the dog from town? Notification procedures? What are the time limits for removal of the dog? Legal appeals.
- 3) Difficulties with the criminal element. Dog fighters and criminals ignore laws. Once a breed is banned, criminals who use these dogs to guard drugs or their houses will move to another type of dog or another species of animal.

What can we do?

We can strengthen our existing ordinance by:

1. Incorporating more stringent leash laws,
2. Increasing penalties for violations,
3. Increasing licensing fees for intact animals,
4. Establishing guidelines for responsible pet ownership,
5. And, educating dog owners about the financial and legal consequences for failing to follow them.

For additional information on the breed-specific topic, please review the following websites:

www.pbrc.net

www.cdc.gov/ncip/duip/dogbites.htm

MEMORANDUM

TO: Carrboro Mayor and Board of Aldermen

FROM: William C. Morgan, Jr.

RE: Breed Specific Dog Ban

DATE: August 7, 2002

This memo is in response to a question regarding banning or restricting certain breeds of dogs within the Town. Commonly referred to as "breed specific" bans, ordinances of this type have been adopted in a number of jurisdictions, and of course there have been court challenges to the bans. For the most part, carefully drafted breed specific bans and/or regulations have been upheld by the courts. Judicial decisions generally focus on whether the ordinance is unconstitutional due to vagueness. Within that inquiry, two issues emerge: (1) whether the law provides adequate notice to citizens of what is prohibited, and, (2) whether the ordinance provides adequate standards to prevent arbitrary enforcement. Two cases illustrate this inquiry.

In American Dog Owners Association, Inc., et al. v. City of Lynn, 404 Mass. 73, 533 N.E.2d 642, the City of Lynn passed an ordinance regulating the ownership of pit bulls, requiring the owners of pit bulls within the City to keep their pit bulls fenced in at all times on the property of the person to whom they were registered. A single violation resulted in a \$50.00 fine and banishment of the animal from the city. The ordinance was challenged as being void for vagueness. The plaintiffs alleged that the definition of pit bull was not specific enough to put owners of pit bulls on notice, or to allow people of average intelligence to know they were breaking the law, or to prohibit law enforcement officers from making arbitrary enforcement decisions. The ordinance offered two definitions of pit bull: (1) "American Staffordshire, American Staffordshire Pit Bull Terrier, Bull Terrier or any mixture thereof," or, (2) "pit bulls or dogs known as pit bulls...the term being employed to the full extent of its common understanding and usage." The court held that the definitions were too vague to be enforceable, stating: "There is no scientific means...to determine if a dog is a particular breed or mixture thereof." The court also found fault with the fact that the City's animal control officers used conflicting, subjective standards for ascertaining what animals qualified as pit bulls under the ordinance, due to the ordinance not providing them with ascertainable standards for enforcement. The court based its decision in part on the testimony of the city's animal control officers who indicated that they were forced to use very subjective standards to identify breeds. The officers indicated they would target dogs based on appearance, and owners who disputed the decision would have to procure certified letters from their veterinarian stating the breed of the dog in question. However, the City's veterinarian testified that when identifying breeds he relied solely on the owners' identification and "had no medical basis on which to dispute that identification." The court held that the ordinance depended on a dog officer's understanding of the ambiguous term "pit bull" unlike laws which prohibit ownership of vicious or dangerous dogs. The court said that this left owners to guess at what dog "look" was prohibited by the ordinance.

The case of American Dog Owners Association v. City of Yakima , 113 Wash. 2d. 213, 777 P.2d 1946 is illustrative of an ordinance that was upheld. In that case, faced with similar definitions, and utilizing the same analytical framework as the court in City of Lynn, the court upheld the ordinance. One difference however was that the Yakima animal control officers were provided with more detailed standards and illustrations to use, such that their discretion was not unbridled. It is clear from the decision however that the Yakima court relied at least in part on the general idea that since animals are already bound by so much regulation, any law affecting them which is rationally related to a public interest is valid. This line of thinking runs through most all of the cases I reviewed, the idea being that property interests in pets are strictly limited by public safety concerns.

Pit bulls seem to be the most regulated breed. Other breeds that have been banned in one or more municipalities include rottweilers and dobermans. Despite this trend, or perhaps in reaction to it, at least 12 states have passed legislation prohibiting breed ban ordinances, but have established dangerous and vicious dog rules instead. No state has passed state-wide breed bans, although some foreign countries have done so. North Carolina does not prohibit municipal breed ban regulations, but has passed a dangerous dog statute similar to the ones in states prohibiting breed bans. Carrboro's dangerous dog ordinance is based upon and authorized by the state statute. To our knowledge, no local government in North Carolina has enacted breed-ban legislation.

Even in states that prohibit breed bans, tighter restrictions on certain breeds are generally upheld. Examples include requiring a minimum amount of liability insurance (usually \$100,000.00), licensing requirements including higher license fees for certain breeds, and stricter leash and confinement laws for certain breeds.

Please let us know if you have any questions or if we can provide additional information.

Sarah C. Williamson

From: Pam Zornick [pammyz@nc.rr.com]
Sent: Monday, July 22, 2002 11:13 PM
To: Sarah C. Williamson
Subject: dog laws

I would like to express my interest in establishing a city law stating that dog owners are responsible for cleaning up after their dogs along city streets. I have been shocked at how many Carrboro residents feel that leaving their dog's mess along city sidewalks etc. is not offensive as well as unsanitary to the residents of our community. I have lived here for 1 year and came from a community where you were required to clean up after your dog. The amount of dog mess along the sidewalks is uncalled for. I think if Carrboro cares about establishing a clean and well cared for community this issue needs to be addressed. I am willing to take help in the process to place a city law in effect addressing this matter. Please advise me as to how I can start this.

Sincerely,
Pam Zornick
101 William White Ct.
Carrboro, NC 27510
960-5272

Office of Animal Control

Memo

To: Mayor and Board of Aldermen
From: Amanda Stipe, Carrboro ACO *AS*
CC: Chief Carolyn Hutchison, Robert Morgan, and Sarah Williamson
Date: 7/25/02
Re: Email pertaining to pooper-scooper laws

Ways to currently address lack of animal waste removal:

1. Chapter 10, Animal Control, Article V, Section 10-12(a)4 states that no person may have within the town after receiving the notice of removal any animal that "damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees either by digging, defecation or urination, or causing injury to domesticated livestock or pets."

Complainant informs Animal Control Officer of type of damage and date of incident. Complainant and ACO determine who/which animal is causing damage. Animal's owner is notified by certified letter to correct problem within 48 hours. If problem continues by this animal: 1) \$25.00 fine may be issued upon witness by Police Officer or ACO; 2) misdemeanor charges may be filed upon witness by Police Officer or ACO; and/or 3) notice of removal may be sent by certified mail. Dog owner can appeal citation and ACO removal determination by filing with the Animal Control Board of Appeals. Court appearance required for misdemeanor charges.

* A proposed revision of the Animal Control Ordinance states: "repeated defecation or urination".

2. Chapter 10, Animal Control, Article V, Section 10-11(a) states that no owner or keeper of any animal may cause, permit, or allow the animal to (i) run at large or (ii) trespass upon the property of another.

Complainant informs Animal Control Officer or Police Officer of trespass. Complainant informs trespasser in presence of Police Officer or ACO that they do not wish trespasser's dog on their property. Further trespasses result in a \$25.00 initial violation, \$35.00 second violation, and \$50.00 subsequent violation upon witness by Police Officer or ACO.

3. Chapter 11, Solid Wastes, Scrap Material, Abandoned Vehicle, Weeds, Article II, Section 11-3 states that no person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes on: (1) Any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles; or (2) Any property not owned by him without the consent of the owner, occupant, or lessee thereof.

Enforceable by Public Works Director or acting agent with: (1) misdemeanor charges, (2) \$25.00 fines, and/or (3) injunctive relief.

How do you enforce a "you must pick up dog fecal material" ordinance? Unfortunately various problems arise with this issue. I believe the best way to encourage compliance is through peer pressure and neighborly requests of dog walkers to remove waste not on their own property.

Some thoughts on the issue:

Does the Animal Control Officer (currently only one employed) ask every dog walker to produce a bag? If the dog walker refuses to produce a bag, do you issue a fine even though you haven't witnessed a violation? Does the ACO then follow the dog walker waiting for a violation to occur? Does a police officer conduct a police search for a bag?

How do you deal with disabled persons owning assistance dogs [or pets] who are unable to remove their animal's waste?

I believe that the current ordinance requirements and the proposed change are sufficient to address the issue.

Pooper-scooper ordinances for surrounding areas:

Alamance: none

Burlington: none

Chatham: none

Pittsboro: none

Durham: none

Orange: none except nuisance

Wake: none except nuisance

Cary: Adopted 1996, unenforceable. Complainant must sign a complaint and be willing to go to court if owner of dog fails to pay fine.

Garner: Unlawful to leave excrement on public streets, property, etc. or on property of another without permission of landowner. Doesn't apply to visually impaired. \$50 fine; unenforceable, ACO/law enforcement must witness.

Raleigh: Unable to speak with officer; appears to be enforced with written and signed complaint under nuisance section or enforced by solid waste department.