

CHAPTER 91: ANIMALS

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§ 91.01 DEFINITIONS.

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

ANIMAL. Every living creature, domestic or non-domestic, but does not include humans.

ANIMAL SHELTER. Any premises designated by the town for the purpose of impounding and caring for animals.

AT LARGE. An animal shall be deemed to be at large when it is off the property of its owner or keeper and not under physical restraint.

IMPOUNDMENT. Any animal in custody of a person or animal shelter duly authorized by the Board of Aldermen of the town.

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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.

NUISANCE. An animal or group of animals shall be considered a nuisance if it:

- (1) Damages, soils or defiles private or public property;
- (2) Interferes with, molests or attacks persons or other animals;
- (3) Is repeatedly at large;
- (4) Causes unsanitary, dangerous or offensive conditions including fouling of the air by odors;
- (5) Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles;
- (6) By virtue of number or type is offensive or dangerous to the public health, safety or welfare; or
- (7) Is diseased or dangerous to the public health.

OWNER. A person having the right of property in an animal.

PERSON. Any individual, corporation, partnership, organization or any institution commonly recognized by law as a unit.

RESTRAINT. Any animal shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead, or confined.

STRAY. Any domestic animal not under restraint and found off the property of its owner or keeper.
(Ord. passed 1-28-94)

§ 91.02 AUTHORITY AND RESPONSIBILITY.

(A) The Board of Aldermen does hereby establish an animal control program and shall employ animal control officers and such other employees or contract with such other agencies as may be determined necessary to effectuate an animal control program.

(B) The employees or contractors of the animal control program shall:

(1) Have responsibility, along with law enforcement agencies, to enforce all laws of the State of North Carolina and all ordinances of the town pertaining to animals and shall cooperate with all law enforcement officers within the town in fulfilling this duty.

(2) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the town involved in a violation of this chapter or state law.

(3) Be empowered to issue notices of violation of this chapter.
(Ord. passed 1-28-94)

§ 91.03 ANIMALS CREATING NUISANCE PROHIBITED.

(A) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance or to maintain a nuisance created by an animal or animals. Compliance shall be required as follows:

(1) When an animal control officer, law enforcement officer or person authorized by the Board of Aldermen observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from the time of the notification to abate the nuisance.

(2) Upon receipt of a written, detailed and signed complaint being made to the town about any person or persons to the effect that any other person is maintaining a nuisance as defined in this chapter, an animal control officer, a law enforcement officer or a person duly authorized by the Board of Aldermen shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.

(3) If the written findings indicate that the complaint is justified then the animal control officer, law enforcement officer or person designated by the Board of Aldermen shall cause the owner or keeper of the animal or animals in question to be so notified in writing and ordered to abate such nuisance within 48 hours.

(4) Any notice required to be given hereunder may, in the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, be provided along with a general description of the animal or animals by posting the same for 48 hours at the county courthouse and at the place where the nuisance is occurring.

(B) It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this chapter.
(Ord. passed 1-28-94) Penalty, see § 91.99

AMENDMENT TO TOWN ORDINANCES

Section 91.03 of the Town of Bryson City Code of Ordinances is hereby amended to add the following subsection:

(C) Following receipt of a Notice of Violation(s) by an animal's owner or keeper, any additional or repeated violations of this Chapter shall be construed as a failure or refusal to abate the nuisance as required by §91.03(B). These additional or repeated violations shall subject the owner or keeper to any and all penalties set out in §91.99.

Section 91.99 of the town of Bryson City Code of Ordinances is hereby amended to add the following subsection:

(C)(3) The civil penalty for the initial violation of this Chapter is \$25.00. Additional or repeated violations of this Chapter shall subject the offender to a civil penalty of \$75.00 per violation. The civil penalty shall be paid within 72 hours from and after the issuance of the Notice referenced above.

PASSED AND ADOPTED by unanimous vote of the Board of Aldermen of the Town of Bryson City on this the 10th day of February, 2006.

[Signature]
Mayor

[Signature]
Alderman

[Signature]
Alderman

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Alderman

Attest
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Alderman

Town Clerk

§ 91.04 IMPOUNDMENT.

(A) Any animal which appears to be lost, stray or unwanted may be seized, impounded and confined in a humane manner in an animal shelter.

(B) Impoundment of such animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter.

(Ord. passed 1-28-94)

§ 91.05 NOTICE TO OWNER OR KEEPER.

(A) Upon impounding an animal, notice of such impoundment shall be posted for a minimum of 72 hours beginning with the time the animal enters the animal shelter and prior to the time the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.

(B) Such notice shall be prominently displayed on a bulletin board at the animal shelter and the time and place of the taking of such animal together with the time and date of posting the notice shall be stated therein.

(Ord. passed 1-28-94)

§ 91.06 REDEMPTION BY OWNER OR KEEPER GENERALLY.

(A) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 hours after notice of impoundment is posted as required by this chapter and complying with all applicable provisions of this chapter and by paying such fees as may from time to time be established by the Board of Aldermen.

(B) No owner or keeper may be permitted to adopt his own animal under the provisions of this ordinance, but he must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to this chapter.

(Ord. passed 1-28-94)

§ 91.07 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMAL GENERALLY.

(A) If an impounded animal is not redeemed by the owner or keeper within the period prescribed above, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this chapter.

(B) Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be given a "proof of rabies vaccination notice" at the time of the redemption or adoption. This notice shall state a date by which the animal redeemed or adopted must be vaccinated for rabies. The date so stated shall be not less than 72 hours from the date of the adoption or redemption, exclusive of weekends and holidays. In the event the "proof of rabies vaccination notice" is not returned by the animal owner or keeper to the animal shelter completed by a veterinarian with the date of vaccination, then and in that event the animal shelter shall report the failure to the Swain County Health Department and to any law enforcement officer who may be charged with the responsibility of enforcing the laws of the State of North Carolina relating vaccination against rabies.

(Ord. passed 1-28-94)

§ 91.08 COMPLIANCE WITH RABIES LAWS; VACCINATION.

(A) *Compliance with state rabies laws.*

(1) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(2) It is the purpose of this chapter to supplement the state law by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(B) *Vaccination of dogs, cats and other pets.*

(1) It shall be unlawful for the owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four months of age or older.

(2) A rabies vaccination shall be deemed "current" if two vaccinations have been given one year apart and booster doses of rabies vaccine administered every three years thereafter.

(C) *Vaccination tag and certificate.*

(1) Upon compliance with the provisions of the foregoing section of this chapter, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate.

(2) It shall be unlawful for any dog or cat owner or keeper to fail to provide to fail the dog or cat with a collar or harness to which a current rabies tag issued under this section is securely attached. The collar or harness, with attached tag, must be worn at all times.

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(3) In addition to all other penalties prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter if the dog or cat is found not to be wearing a currently valid rabies tag.

(4) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

(Ord. passed 1-28-94) Penalty, see § 91.99

§ 91.09 NON-DOMESTIC ANIMALS.

No person shall possess or harbor any non-domestic animal or animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section does not apply to bonafide circuses, petting zoos and other traveling commercial animal exhibitions of limited duration.

(Ord. passed 1-28-94) Penalty, see § 91.99

§ 91.10 BIRD SANCTUARY.

The entire area within the corporate limits of the town shall be, and the same is hereby designated and established as a bird sanctuary. No person shall hunt, kill, trap or decoy birds or rob their nests of eggs or young in the town. It shall also be unlawful for any person to shoot at any bird with a gun, pistol, "BB" gun, air rifle, slingshot, or other instrument of the like or kind, or strike or throw any object at a bird.

('92 Code, § 81.07) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Violation of any provision of this shall be a misdemeanor and any person convicted of such violation is punishable as provided in G.S. § 14-4. Each days' violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes or fees imposed under this chapter.

(B) In addition, enforcement of this chapter may be made by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. § 160A-175(d) and (e).

(C) In addition to and not in lieu of the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth.

(1) Such penalties may be recovered by the town in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice of such violation.

(2) Such notice shall, among other things:

(a) State upon its face the amount of the penalty if such penalty be paid within 72 hours from and after the issuance of the notice and the late fee if paid more than 72 hours after its issuance;

(b) Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$25 together with the costs of the action to be taxed by the court;

(c) Further provide that such offender may answer the notice by mailing the notice and stated penalty to the Board of Aldermen or by making payment to the town and that upon payment, such case or claim and right of action will be deemed compromised and settled;

(d) That such penalties must be paid within 72 hours from the issuance of such notice. Such notice shall further state that if such notice of violation is not paid within the 72-hour period, court action by the filing of a civil complaint for collection of such penalty may be taken.

(3) The civil penalty for violation of this chapter is \$25. The civil penalty shall be paid within 72 hours from and after the issuance of the notice referred to above.

(4) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person or may be mailed to the person at his last known address.
(Ord. passed 1-28-94)

