

Section: 90. ~~01~~-90.99
ORD: 2018006



Chapter 90-ANIMALS

AN ORDINANCE REGULATING ANIMALS

In pursuance of authority conferred by G.S. " 160A-174, 160A-175, 160A-186, 160A-187 and 67-4.1, et seq. and for the purpose of protecting the health, safety or welfare of the people and animals, the Board of Commissioners of the Town of Waxhaw finds and determines as follows.

Now, therefore, the Board of Commissioners of the Town of Waxhaw does ordain that Section 90 Animals of the Code of Ordinances, Waxhaw, North Carolina is hereby amended as follows:

Section 90-Animals

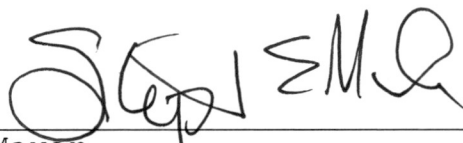
Is hereby amended by replacing Section 90-Animals in its entirety with "Exhibit A" attached hereto.

Effective Date: This ordinance shall be effective on this 27th day of February 2018.



Town Clerk





Mayor

EXHIBIT A

§ 90.01 - OFFICE OF THE WAXHAW ANIMAL CONTROL.

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

§ 90.02 - CHICKENS ALLOWED IN TOWN; PERMIT.

- (A) (1) Live chickens shall be allowed in the town's municipal limits with a valid permit, as provided herein.
- (B) The applicant for a chicken permit shall comply with the following provisions before a permit is issued:
- (1) The chickens must be confined in a chicken coop not less than four square feet of floor area for each chicken. Chicken coops must not be lower than 24 inches from the ground or higher than 25 feet from the ground;
 - (2) Chickens may be allowed outside their coops during daytime hours if temporary fencing is constructed to restrict the chickens from leaving the owner or possessor's property. The temporary fencing must be completely enclosed and removed when chickens are in coops. The temporary fencing must also have a top cover. In no such case shall the temporary fencing be left out over night. If the owner or possessor wishes to allow the chickens to roam freely, a more permanent fencing is required to prevent the chicken from leaving the subject property; (Refer to the town's Unified Development Ordinance for fencing requirements.)
 - (3) The chicken coop and/or property shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors;
 - (4) The chicken coop shall be a minimum of 30 feet from the nearest residence other than that of the owner and a minimum of five feet from the lot line;
 - (5) No more than six chickens shall be kept or maintained on any individual lot. Chickens are prohibited on lots less than one-fourth acre (10,890 square feet) in size;
 - (6) No male chickens/roosters shall be allowed;
 - (7) The owner or possessor must pay an annual chicken permit fee in an amount established and/or modified by the town. Annual renewal fees must be paid on or before July 1;
 - (8) If chickens are removed from the premises for a violation of this section or other applicable law, the owner or possessor is not allowed to obtain a chicken permit for a minimum of one year from the date of removal;
 - (9) No slaughter or sale of slaughtered chickens is allowed within the town, unless expressly permitted by the town's Unified Development Ordinance; and
 - (10) It is recommended that the owner or possessor take an educational course on chicken care provided by the County Cooperative Extension Office.
- (C) The permit may be revoked upon violation of the terms and provisions of this section.

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

§ 90.03 - HOG PENS.

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

§ 90.04 - LIVESTOCK RUNNING AT LARGE.

It shall be unlawful for any person to allow his or her horse, mule, cattle, swine or other livestock to run at large within the incorporated limits of the town. For this chapter, "run or running at large" means off the premises of the owner and not under the control of the owner, immediate family member or agent, by leash, cord, chain or otherwise.

§ 90.05 - DOGS AND CATS AS NUISANCES.

- (A) The actions of a dog or cat constitute a public nuisance when that animal disturbs the rights of, threatens the safety of, or damages a member of the general public or interferes with the ordinary use and enjoyment of property.
- (B) It shall be unlawful for any person to own, keep, possess or maintain a dog or cat in a manner so as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of a dog or cat are hereby declared to be a public nuisance and are therefore unlawful:
 - (1) Allowing or permitting the dog or cat to damage the property of anyone other than its owner or keeper;
 - (2) Maintaining dogs or cats in an environment of unsanitary conditions or lack of cleanliness, including but not limited to, excessive animal waste, stagnant water, rotting food, and the like, which may be determined to be dangerous to the dogs or cats or to the public health, welfare or safety;
 - (3) Allowing or permitting the dog or cat to bark, whine or howl, in an excessive or continuous fashion or make noise in a manner or at times so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises;
 - (4) Maintaining a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles off the owner's property;
 - (5) Failing to confine a female dog while in heat in a building or secure enclosure provided. This section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal which is being bred;
 - (6) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. This shall not apply to visually impaired persons who have charge, control or use of a guide and/or service trained assistance dog or dog working in conjunction with a law enforcement or public safety function; or
 - (7) Maintaining an animal that is diseased to a point of being dangerous to the public health.

§ 90.19 - ANIMAL LICENSING.

- (A) All dogs and cats shall be required to be licensed by the town on an annual basis with the licensing fee being \$20.00 per year per cat and dog and \$15.00 per year per cat and dog that has been spayed or neutered. The town may require proof that the animal is in fact spayed or neutered. The town may also establish various incentives as part of its licensing program such as but not limited to microchipping and the like. Fees from the licensing programs will be used to support animal care and control.
- (1) It shall be unlawful for any person to use a registration tag for any dog or cat other than for which the registration tag was issued.
 - (2) It shall be unlawful for any owner to fail to provide a current registration tag as provided in this section. No registration or permit will be issued unless written proof of current rabies vaccination is shown at the time of application for registration.
 - (3) It shall be unlawful for any owner of a dog to fail to provide said animal with a collar or harness to which a current registration tag issued under this section is securely attached. The collar or harness, with attached registration tag, must be worn by the animal at all times, except while the animal is participating in bona fide animal shows, obedience trails, tracking tests, field tests, training events or training schools, or other events sanctioned and supervised by a recognized organization, or except while the animal is involved in lawful hunting activities, provided that the animal's owner or keeper has the tag in their actual possession at these times.

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

- (B) Owners of the following dogs shall complete an application for registration, but are exempt from paying the annual registration fee:
- (1) Service and/or trained assistance dog.
 - (2) An animal, which is a working member of a law enforcement or public safety agency, regardless whether the animal is fertile or infertile.
- (C) The amount of any license tax imposed by this chapter shall be deemed a debt to the town.

§ 90.20 - NUMBER AND RESTRAINT OF ANIMALS.

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

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

- (B) It shall be unlawful for any person to locate, keep or maintain more than a cumulative total of five dogs and/or cats per acre or portion thereof. This provision shall not apply to dogs under four months of age. Any person having more than a cumulative total of five dogs and/or cats per acre or portion thereof on the effective date of this ordinance will be allowed to keep them on their property provided that all other requirements of the town's animal control ordinance are in compliance and all excess

dogs and/or cats that are removed from the premises upon death or other means are not replaced. This provision shall not apply to registered and approved professional breeders or animal rescuers, as defined in § 90.22. In cases of special circumstances, the property owner(s) (or the owner(s) of the dogs and/or cats with the property owner(s)'s written consent) may appeal in writing to the Animal Control Officer requesting to keep in excess cumulative total of five dogs and/or cats. The Animal Control Officer shall file a written answer within 15 business days of receipt of the request. In the event that the request is denied the person may appeal to the Town Manager within five business days of receipt of the denial and the Town Manager shall file an answer within ten business days of the receipt of the appeal.

- (C) It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal, excluding cats, to keep the animal off his or her premises unless the animal is under sufficient physical restraint of a leash (maximum ten feet long), cage bridle or similar effective device which restrains and controls the animal. Electronic collars are not allowed for off owner property use.
- (D) It shall be unlawful for any person to locate, construct, reconstruct, alter, and maintain any kennel, pen or similar structure for the purposes of keeping any animal over four months of age unless such kennel, pen or similar structure is 50 feet or great from the adjoining property owner's inhabited structure.
- (E) The chaining or tethering of a dog is allowed on a temporary basis when the dog is chained or tethered to a fixed object and the dog is monitored by the dog's owner or person responsible for the care of the dog. The maximum time for a dog to be tethered or chained in this manner is two hours in a 24-hour period.

§ 90.21 - ABUSE OF ANIMALS; LEAVING ANIMALS IN VEHICLES.

It shall be unlawful to abuse an animal. Abuse may include but is not limited to beating, ill treatment through lack of food and/or water, lack of shelter, denying reasonable medical care, intentionally mutilating, encouraging the fighting of animals, maintaining a location for the demonstration or show of fighting animals, or contain an animal in a closed vehicle greater than twenty (20) minutes or as otherwise defined by N.C. General Statutes.

§ 90.22 - BREEDERS AND ANIMAL RESCUE.

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

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

1. Who sells, exchanges, leases, or in any way transfers or offers to sell, exchange, lease, or transfer 31 or more dogs or cats in a 12-month period beginning on April 1 of each year;
2. Who owns or harbors four or more dogs or cats, intended for breeding, in a 12-month period beginning on April 1 of each year;
3. Whose dogs or cats produce a total of four or more litters within a 12-month period beginning on April 1 of each year; or
4. Who knowingly sells, exchanges, or leases dogs or cats for later retail sale or brokered trading.

ANIMAL RESCUER shall mean and refer to a person, entity or group of persons who hold themselves out as an animal rescue, that accept, or solicit for dogs or cats with the intention of finding

permanent adoptive homes or providing lifelong care for such dogs or cats, or who use foster homes as the primary means of housing dogs or cats.

§ 90.23 - DANGEROUS DOGS.

(A) Reference is made to N.C.G.S. Chapter 67 §§ 4.1 and 4.2 which are incorporated herein by reference. The Animal Control Officer of the Town is designated as the person responsible for determining when a dog is a dangerous/potentially dangerous dog as defined and provided in N.C.G.S. Chapter 67 § 4.1. The Animal Control Officer shall notify the owner of such determination in writing setting forth the reasons for the determination. Incidences involving the killing or severe injury on a person or subsequent violations of this ordinance may result in the Animal Control Officer declaring termination of ownership rights and disposing of the dog in a humane manner.

(B) The Town Board of Adjustment is designated to hear any appeal. The Animal Control Officer's classification for a dog as a dangerous/potentially dangerous dog (including any termination of ownership rights) may be appealed by filing a written objection with the Town Clerk within three (3) business days of the classification. The Board of Adjustment will schedule the appeal for a hearing within ten (10) days of the filing of the objection.

(1) The dog shall be impounded during the pendency of any appeal of such classification; provided, however, that the Animal Control Officer has the authority to authorize that the dog remain on the premises or elsewhere prior to the hearing if the Animal Control Officer is satisfied that the dog can be confined in an adequate manner to protect the public.

(C) A dangerous/potentially dangerous dog allowed to remain on the premises shall be kept, secured and restrained on the premises of the person owning or keeping such dog as follows:

(1) In a building with doors, windows, and other exits security fastened shut, and under the supervision and control of a responsible adult person capable of such supervision and control.

(2) Securely kept in a locked pen or enclosure which is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children. The pen or enclosure must be inspected and receive written approval from the Animal Control Officer. The provisions are in addition to the other requirements set forth in this chapter.

(3) The owner shall post at the entrance of the property where the dangerous/potentially dangerous dog is kept a sign clearly visible from the public right-of-way warning "Beware of Dog" or other information that a dangerous dog is kept on the property.

(D) No person owning, keeping or harboring such dangerous/potentially dangerous dog shall remove such dog from the premises where the dog resides except: (i) to bring such dog to a veterinarian or to the animal shelter; (ii) to remove such dog permanently from the Town of Waxhaw; or (iii) to provide bona fide exercise necessary for the dog's continued health. In the event of such removal, the dog shall be securely leashed with a leash no longer than four (4) feet in length in the hands and control of a responsible and competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.(E) If the owner of a dangerous/potentially dangerous dog transfers ownership or possession of such dog to another person, the transferring owner shall provide written notice to (i) the Animal Control Officer stating the name and address of the new owner or possessor of the dog and (ii) to the person taking ownership or possession of such dog specifying the dog's dangerous behavior and the Town's determination of such dog as dangerous/potentially dangerous.

§ 90.24 - IMPOUNDMENT.

It shall be the duty of the Animal Control Officer to apprehend any animal found running at large, contrary to the provisions of this chapter, and/or state statutes, and to impound the dog in the Union County Animal Shelter. The owner shall be notified in accordance with county regulations and disposition shall be in accordance with county regulations. In this chapter, "run or running at large" shall mean and refer to off the premises of the owner and not under the control of the owner, member of his immediate family or his properly designated agent, by leash, cord, chain or otherwise. The Town may temporarily house the impounded animal prior to transfer to the Union County Animal Shelter. During this time, the Town will only release such animal to the owner upon proof of ownership and compliance with all applicable rules and regulations.

§ 90.25 - PROHIBITION OF ANIMALS AT TOWN-SPONSORED EVENTS.

- (A) *Prohibited.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to take that animal, whether on a leash or not on a leash, enter into the boundaries of any town-sponsored public event or allow the animal to approach within 100 feet of the event, unless such event is specifically designated as exempt from this section as set forth in division (C). The boundaries of a town-sponsored event shall consist of any area that is part of the event including any public open space, parking area, street, sidewalk or other publicly controlled, owned or maintained area.
- (B) *Town-sponsored event.* As used herein, *Town-sponsored event* shall mean and refer to any specific event sponsored (full or partial through financial or in-kind contributions) by the town and open to the public utilizing property that is controlled, owned or maintained by the town.
- (C) *Exceptions.* This section shall not apply to the following:
 - (1) Those animals that are part of an authorized event or exhibit. The event coordinator or designee shall have the authority to specify the conditions for having such animals for the protection of the public and for the well-being of the animals.
 - (2) Service dogs.
 - (3) An animal which is a working member of a law enforcement or public safety unit.

§ 90.26 - EXOTIC OR WILD ANIMALS.

- (A) As used herein, **EXOTIC OR WILD ANIMALS** shall mean and refer to an animal that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country or one that is a species of animal not indigenous to the United States or to North America, or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm and the latter includes but is not limited to: monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animal. Such animals are further defined as those mammals or non-venomous reptiles weighing over 50 pounds at maturity, which are known at law as *ferae naturae*. **EXOTIC OR WILD ANIMALS** specifically do not include animals of a species customarily used in North Carolina as ordinary household pets, animals of a species customarily used in North Carolina as a domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects.
- (B) No person, firm, or corporation shall keep, maintain, possess or have within the town any venomous reptile or any other wild or exotic animal. It is unlawful to keep or harbor or breed or sell or trade any wild or exotic animal as a pet, for display or for exhibition purposes, whether gratuitously or for a fee. Exemptions to this rule include lawfully operated pet shops, zoos, veterinarians, wildlife rehabilitators with proper permits and scientific research facilities.

§ 90.27 – STRAY ANIMALS

(A). No person shall knowingly and intentionally harbor, feed or keep in possession by confinement or otherwise any domesticated animal which does not belong to him, unless the person has, within seventy-two (72) hours from the time such animal come into his possession, notified the Waxhaw Police Department.

(B). It shall be unlawful to refuse to surrender any such stray to a Waxhaw Police or Animal Control Officer upon demand.

§ 90.28 – DESTRUCTION OF ANIMALS BY OFFICERS

In absence of the owner, at the request of an owner, or in the case of a wild animal, any Waxhaw Police or Animal Control Officer may, at his discretion for any human reason, immediately dispose of or destroy an animal. Further, if any dangerous, vicious or fierce animal cannot, in the discretion of a Waxhaw Police or Animal Control Officer, be safely taken up and impounded, such animal may be destroyed immediately. § 90.29 - BEEKEEPING.

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

(Ord. passed 9-27-2011)

§ 90.99 - PENALTY.

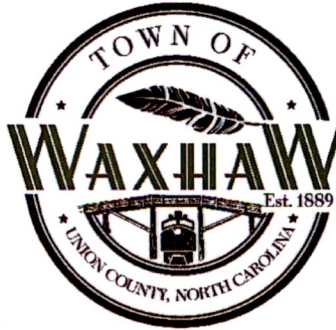
(A) In addition to the dangerous dog and impoundment provisions set forth herein, violators shall be subject to enforcement through the issuance of a citation. Citations may be delivered in person or sent by certified or registered mail to the violator at his or her last known address. The citation issued shall impose upon the violator a civil penalty as follows:

- (a) First offense: \$100.
- (b) Second offense: \$200.
- (c) Third offense: \$300.
- (d) Fourth offense: \$400.
- (e) Fifth offense: \$500 and seizure of animal.

The violator may pay the citation to the Town revenue collector at the address set forth on the citation within fourteen (14) days of the date of the citation in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees authorized by this chapter.

- (1) Violations accumulate per owner, not per animal. Second and subsequent offenses are based on offenses within any 12-month period. Each day's continuing violation shall constitute a separate offense. In the event that the owner or keeper of an animal is a minor, the parent or guardian of such minor shall be held liable for a violation of this chapter.
- (B) In the event that the violator does not appear in response to the described citation or the civil penalty is not paid with the period prescribed, a criminal summons may be issued against the violator for violation of this chapter and upon conviction, the violator shall be punished as provided by state law and subject to a fine of not more than five hundred (\$500) dollars or imprisonment for not more than thirty (30) days.

Section: 90.19(A)
ORD: 2018009



An Ordinance Amending and Regulating Animals

In pursuance of authority conferred by G.S. §§ 160A-174, 160A-175 and 160A-186, and for the purpose of protecting the health, safety or welfare of the people and animals, the Board of Commissioners of the Town of Waxhaw finds and determines as follows.

Now, therefore, the Board of Commissioners of the Town of Waxhaw does ordain that Section 90 Animals of the Code of Ordinances, Waxhaw, North Carolina is hereby amended as follows:

Section 90.19(A) - Animal Licensing

Is hereby amended by replacing subsection "A" and "A(1)" in its entirety by removing reference to cats as follows:

(A) All dogs shall be required to be licensed by the town on an annual basis with the licensing fee being \$20.00 per year per dog and \$15.00 per year per dog that has been spayed or neutered. The town may require proof that the animal is in fact spayed or neutered. The town may also establish various incentives as part of its licensing program such as but not limited to microchipping and the like. Fees from the licensing programs will be used to support animal care and control.

(1) It shall be unlawful for any person to use a registration tag for any dog other than for which the registration tag was issued.

Effective Date: This ordinance shall be effective on the 27th day of March, 2018.

Stephen E. Maher, Mayor

ATTEST:

Melody Shuler, Town Clerk

