

## CHAPTER 90: ANIMALS

### Section

- 90.01 Animal control
- 90.02 Bird sanctuary
- 90.03 Purpose
- 90.04 Jurisdiction
- 90.05 Definitions
- 90.06 Administration and enforcement
- 90.07 Provisions
- 90.08 Violations

### **§90.01 ANIMAL CONTROL**

The City has adopted the Interlocal Undertaking Agreement adopting Gaston County's animal control ordinance and related provisions contained therein and have authorized the Mayor and City Clerk to execute the contract that was presented by the Council. Copies of the ordinance are on file in the office of the City Clerk.

(Res. Passed 6-12-90)

#### ***Editor's note:***

This section was not repealed by Ord. 95-24 but the editor has reason to believe that is superseded by the provisions contained in said ordinance which are in this Code as §§ 90.03 through 90.08.

### **§ 90.02 BIRD SANCTUARY**

- (A) The territory within the corporate limits of the City shall be and hereby is declared a bird sanctuary.
- (B) It shall be unlawful for any person to kill, trap or otherwise take any bird within the corporate limits of the City.  
( '67 Code, Ch. O, Art. III, §, 1,2) Penalty, see § 10.99

### **§90.03 PURPOSE**

Pursuant to authority granted by the North Carolina General Assembly, this animal control chapter is enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, or wild animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; and to carry out any other lawful duties authorized by state laws and applicable ordinances.

(Ord.95-24, passed 11-07-95)

### **§90.04 JURISDICTION**

This chapter shall be applicable within the corporate limits of the City of Belmont.  
(Ord.95-24, passed 11-07-95)

## **§90.05 DEFINITIONS**

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

**ANIMAL.** Every vertebrate nonhuman species of animal, wild or domestic, male or female, including but not limited to; dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish.

**ANIMAL CONTROL OFFICERS.** Persons appointed by the county to enforce all sections of this chapter and applicable state laws and who are responsible for discharging such other duties and functions as may be prescribed by the Board of Commissioners of Gaston County and the Belmont City Council as set forward by this or any other applicable ordinance or state law or pursuant to interlocal agreements.

**CAT.** A domestic feline of either sex.

**CHICKEN.** The common domestic fowl or its young. Where ever the word chicken appears in this chapter, it shall also mean fowl.

**CITY.** The City of Belmont, North Carolina.

**CODE.** City of Belmont Code.

**CODE ENFORCEMENT OFFICER.** Any employee of the City of Belmont charged with the interpretation and/or enforcement of the City of Belmont Code.

**COUNTY.** The County of Gaston, North Carolina.

**COUNTY DOG WARDEN.** The superintendent of the Gaston County Office of Animal Control shall be the county dog warden and shall have all powers conferred by state law upon the county dog warden or by this chapter upon animal control officers.

**DANGEROUS.** Any animal whose behavior constitutes a reasonable risk of injuring a human or animal or damaging personal or real property. That behavior includes, but is not limited to, an animal's biting or attacking or attempting to attack a human or another animal. However, this definition shall not apply to any animal that has been subject to provocation or if the victim has been trespassing, as defined herein, upon the animal owner's premises.

**DIVISION or DEPARTMENT.** The Gaston County Office of Animal Control. Where ever the word Division appears in this chapter, it shall mean department. Whenever the word department shall appear, it shall mean the animal control department.

**DOG.** A domestic canine of either sex.

**DOMESTICATED.** Those species of animals that are indigenous to Gaston County and normally and customarily share human habitat in Gaston County and are normally dependent on humans for food and shelter in Gaston County, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep and goats.

**EXPOSED to RABIES.** Any animal or human bitten by or exposed to any animal known or suspected to have been infected with rabies.

**HARBORING AN ANIMAL.** An animal shall be deemed to be harbored if it is fed or sheltered seven days or more, unless the animal is being boarded for a fee.

**HEALTH DIRECTOR.** The director of the Gaston County Health Department.

**IMPOUNDED.** An animal which is received into custody by any employee of the division.

**INOCULATION.** The vaccination of a dog or cat with antirabic vaccine approved by the United States Bureau of Animal Industry, the North Carolina Department of Agriculture and the North Carolina State Board of Health at such time or times as shall be required by state law or as amended thereafter.

**NEUTERED MALE.** Any male dog or cat which has been rendered sterile by a surgical procedure (orchiectomy).

**OWNER.** Any person, group of persons, firm, organization, association, society, club, lodge, partnership, syndicate, trustee or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal for seven or more consecutive days, unless the animal is boarded for a fee. If a commercial kennel is involved for breeding, then ownership shall be indicated by the kennel operator by showing the registration of the animal in the name of the actual owner of the animal.

**PASTURE.** An auxiliary fenced area with sufficient grass for grazing.

**PIG.** Any of various mammals of the family Suidae, which includes the domesticated pig as well as wild species, as the boar and wart hog. Wherever the word pig appears in this chapter it shall also mean hog and swine. (Exception: a single miniature domesticated pig shall be permitted as a pet).

**PREMISES.** A definite portion of real estate, including land with its appurtenances, a building or part of a building.

**PROVOCATION.** Provocation shall not include any actions on the part of an individual that pertain to reasonable efforts of self-defense, and provocation must be clearly established.

**SHELTER.** Any facility designated by the City or County for the purpose of sheltering any animal lawfully impounded by the division.

**SPAYED FEMALE.** A female dog or cat which has been rendered sterile by surgical means (ovario-hysterectomy).

**SUPERINTENDENT.** The Superintendent of the Gaston County Office of Animal Control. Wherever the word Superintendent appears in this chapter, it shall mean director and refer to the Director of the Animal Control Department. Such person shall have all powers conferred by state law upon animal control officers or by any other applicable means.

**TRESPASS.** The victim has wrongfully involved invaded the property of the owner. The cause of the individual to be on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred. A child under the age of seven shall not be deemed to be a trespasser.

(Ord. 95-24, passed 11-07-95)

#### **§90.06 ADMINISTRATION AND ENFORCEMENT**

The City hereby authorized Gaston County's Animal Shelter Superintendent and Animal Control Officers to enforce the provisions of this chapter within the corporate limits of the City. The City is hereby authorized to enter into an agreement with Gaston County for enforcement of this chapter.

(Ord. 95-24, passed 11-07-95)

#### **§90-07 PROVISIONS**

- (A) Dogs and Cats. A permit shall be required for more than four dogs or cats, four months or older, kept outside.
- (1) It shall be unlawful for any person to own, or keep custody of or to take care or more than four dogs, more than four cats or any combination of dogs or cats numbering greater than four animals, four months or older, who are frequently outside on the premises, unless the person has a special permit issued by the City.
  - (2) If a person has more than four dogs or cats frequently outside on the premises, then the Code Enforcement Officer must make the following five findings in order to issue a special permit:
    - (a) Noise from the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
    - (b) Any odor or unsanitary conditions caused by the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
    - (c) More than four dog runs or other dog-related structures or any combination thereof shall not be permitted if the structures can be seen from an abutting occupant's property in a residentially zoned district.
    - (d) There is no evidence that the dogs or cats pose any health problem or disease exposure for abutting occupants.

(e) The dogs or cats do not interfere in some other manner with the peaceful use and enjoyment of abutting property.

(B) Livestock or other Domestic Animals.

- (1) A permit, to be issued by the Planning and Zoning Department of the City, must be obtained to keep any pigs, sheep, horses, mules, or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock within City limits.
- (2) No person shall keep any pigs, sheep, horses, mules, or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock on any lot or parcel of land on which a residence, industry, or business is located unless said lot or parcel of land shall contain two acres or more, or within 300 feet of any residence, place of business or public street, or within 100 feet of any property line, whichever is greater, nor within a pen or other enclosure which provides less than 900 square feet of space for each animal or fowl without a permit from the Codes Enforcement Officer. The Codes Enforcement Officer shall issue a permit only when in his or her sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health.
- (3) All pigs and chickens within City limits must be kept in a pen or coop constructed in a manner satisfactory to the Codes Enforcement Officer. All chicken coops must be constructed in such a manner that they are elevated not less than one foot above the ground. When animals or fowl are kept within corporate limits, the building, structure, corral, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. Excrement should be removed regularly from the living space of a penned or chained animal adequate to the sanitation of quarters and the health of the animal.
- (4) This section shall not apply to, and no permit shall be required for, any agricultural operation within G.S. 106-700, "Nuisance Liability of Agricultural Operation."  
(Ord. 95-24, passed 11-07-95)

**§ 0.08 VIOLATIONS**

- (A) It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner as to constitute a public nuisance to neighbors. By way of example and not of limitation, the following acts or actions of an owner, harbinger, or possessor of an animal are hereby declared to be a public nuisance and are, therefore, unlawful:
- (1) Having an animal that 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 their property; or
  - (2) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage

containers or damaging gardens, flowers or vegetables, or defecating upon the property of another; or

- (3) Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare and safety, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
  - (4) Maintaining property that is offensive, annoying or dangerous to public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; or
  - (5) Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or
  - (6) Maintaining an animal that is diseased and dangerous to the public health; or
  - (7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles.
- (B) The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas, or private property.
- (Ord. 95-24. [passed 11-07-95])