

## Chapter 4. ANIMALS\*

### ARTICLE I. IN GENERAL

#### Sec. 4-101. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned Animal:* Any animal that has been left alone for at least twenty four (24) continuous hours without having provided for it reasonable sustenance at regular intervals and has not had continuous access to potable water shall for the purposes of this chapter be considered abandoned.

*Abuse:* The intentional and willful physical or mental mistreatment of an animal by depriving it of adequate shelter and protection from the elements, failure to provide adequate food, and failure to provide adequate clean and fresh water. Intentionally and willfully subjecting the animal to unsanitary conditions by being surrounded by waste, debris, trash, or garbage.

*Adequate shelter:* An enclosure consisting of a solid floor, walls, a roof, that is so constructed as to remain dry inside, be structurally sound and in good repair, and promote the retention of body heat.

*Animal:* Shall include the male or female, neutered or sterilized. Animal, as used in this chapter, shall include all warm-blooded domesticated mammals.

*Animal owner:* Every person in possession of or who harbors any animal or who shall suffer any animal to remain about his premises for a period of five (5) days.

*Harboring:* The occupant of any premises on which an animal is kept or to which it customarily returns daily for food and care for a period of three (3) days is presumed to be harboring or keeping the animal within the meaning of this chapter.

*Neglect:* The omission, failure, or refusal to reasonably provide adequate shelter, food, water, and sanitary conditions as provided in this chapter.

*Rabies vaccination:* Shall mean the inoculation of a dog, cat or other animal with a rabies vaccine approved by the county department of health.

*Reasonable control:* Shall mean when an animal is accompanied by and under the supervision of its owner or by some member of the family or by some employee or agent of the owner.

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\* **Cross references**-Removal of dead animals, § 11-108; human and animal waste, dead animals, § 14-110; certain animals which emit loud noises prohibited, § 14-202; animals running at large in parks, § 16-205; persons riding animals to obey traffic regulations, § 20-303.

*Running at large:* Means to be off the premises of the owner and not under the reasonable control of the owner or of an authorized person, either by leash or otherwise, but an animal within the automobile or other vehicle of its owner shall be deemed to be upon the owner's premises.

*Vicious dog:* Any dog that inflicts unprovoked bites or attacks human beings or other animals either on public or private property, or in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places. See Sec. 4-113.

(Ord. No. 5-75, § 1, 5-5-75; Code 1976, § 11.8; amended Ord. No. 17-2008, 7-7-08; amended Ord. No. 9-2009, 4-6-09)

**Cross reference-**Definitions and rules of construction generally, § 1-102.

**Sec. 4-102. Animal control officer-Designation.**

The chief of police, or his or her designee, is hereby designated as the animal control officer for the town.

(Ord. No. 5-75, § 8.1, 5-5-75; Code 1976, § 11.33)

**Cross reference-**Officers and employees, § 2-401 et seq.

**Sec. 4-103. Same-Interference with.**

It shall be unlawful for any person to interfere with, molest, hinder, or prevent the town animal control officer or his authorized representatives in the discharge of their duties as prescribed in this chapter, or to violate any of the provisions of this chapter.

(Ord. No. 5-75, § 8.1, 5-5-75; Code 1976, § 11.33)

**Sec. 4-104. Restraining.**

(a) It shall be unlawful for any person owning or having charge of any dog or other animal except a domestic house cat to permit such animal to be off the owner's own premises and not under control either by a leash, cord, chain, or some other mechanical device whereby the dog or other animal is physically held under the immediate control of the owner or other responsible person as set forth in section 4-101.

(b) For the purpose of this article, a dog or other animal shall likewise be deemed not under reasonable control when:

(1) Such dog or other animal inflicts damage or injury (by biting, jumping upon, pollution of vegetation or by any other means whatsoever) to the person or property of anyone other than the owner, except in the defense of the owner, his family or property.

(2) Any un-spayed/un-neutered dog is not securely confined in the owner's yard, pen or other enclosure.

(Ord. No. 5-75, § 5.1, 5-5-75; Code 1976, § 11.23)

**Sec. 4-105. Nuisance.**

It shall be unlawful for any animal owner or keeper to harbor, maintain or permit on any lot, parcel of land or premises under his control, any dog or other animal which by any sound or cry shall disturb the peace and comfort of the inhabitants of the neighborhood or interfere, in any manner, with any person in the reasonable and comfortable enjoyment of life or property. (Ord. No. 5-75, § 5.2, 5-5-75; Code 1976, § 11.24; Ord. No. 12-94, 6-20-94)

**Cross reference**-Nuisances, Ch. 14.

**Sec. 4-106. Repealed.**

(Ord. No. 5-75, § 5.3, 5-5-75; Code 1976, § 11.25; repealed Ord. No. 17-2008, 7-7-08)

**Sec. 4-107. Running on owner's premises.**

The provisions of this article do not prohibit animals from running at large on the premises of the owner or person having charge of such animal. (Ord. No. 5-75, § 5.4, 5-5-75; Code 1976, § 11.26)

**Sec. 4-108. Repealed.**

(Ord. No. 5-75, § 6.1, 5-5-75; Code 1976, § 11.27; repealed Ord. No. 17-2008, 7-7-08)

**State law reference**-Confinement of vicious animals, G.S. § 130A-200.

**Sec. 4-109. Dangerous dogs.**

(a) As used in this article, unless the context clearly requires otherwise and except as modified in subsection (b) of this section, the term:

(1) *Dangerous dog* means a dog that:

- a. Without provocation has killed or inflicted severe injury on a person; or,
- b. Is determined by the person or board designated by town council to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.
- c. 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* means a dog that the person or board designated by the town council determines to have:

- a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or,

- b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
- c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

(3) *Owner* means any person or legal entity that has a possessory property right in a dog.

(4) *Owner's real property* means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

(5) *Severe injury* means any physical injury that results in broken bones or disfiguring lacerations or requires cosmetic surgery or hospitalization.

(b) The provisions of this article do 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;

(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, and tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

(c) The town council shall designate a person or a board to be responsible for determining when a dog is a, “potentially dangerous dog,” “dangerous dog,” or “vicious dog” and shall designate a separate board to hear any appeal. The person or board making the determination that a dog is a “potentially dangerous dog”, “dangerous dog,” or “vicious dog” must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this article. The owner may appeal the determination by filing written objections with the appellate board within three (3) days. The appellate board shall schedule a hearing within ten (10) days of the filing of the objections. Any appeal from the final decision of such appellate board shall be taken to the superior court by filing notice of appeal and a petition for review within ten (10) days of the final decision of the appellate board. Appeals from rulings of the appellate board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate board whose ruling is being appealed is located.

(Ord. No. 23-94, 10-3-94; amended Ord. No. 17-2008, 7-7-08)

**Sec. 4-110. Precautions against attacks by dangerous dogs.**

(a) It is unlawful for an owner to:

(1) Leave a dangerous or potentially 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 restrain the dog.

(2) Permit a dangerous or potentially dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(b) If the owner of a dangerous or potentially dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice to:

(1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and,

(2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(c) Violation of this section is a Class 3 misdemeanor.

(Ord. No. 23-94, 10-3-94; amended Ord. No. 17-2008, 7-7-08)

**Sec. 4-111. Penalty for attacks by dangerous dogs and strict liability.**

(a) The owner of a dangerous or potentially dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of a Class 1 misdemeanor.

(b) The owner of a dangerous dog shall be strictly liable in civil damages for any injuries of property damage the dog inflicts upon a person, his/her property, or another animal.

(Ord. No. 23-94, 10-3-94; amended Ord. No. 17-2008, 7-7-08)

**State law reference-**Penalty and strict liability, G.S. §§ 67-4.3 and 67-4.4.

**Sec. 4-112. Requirements for the confinement of a potentially dangerous or dangerous dog.**

The town hereby establishes the following requirements for housing a potentially dangerous or dangerous dog:

(1) A fully-enclosed chain link fence of nine (9) gauge wire with a height of six (6) feet must be constructed to house the animal;

(2) The fence must be cemented at ground level so as to keep the animal from escaping under the fence;

(3) A lock must be kept on the gate of the fence and must be engaged at all times; and,

(4) A barrier must be placed over the entire top of the facility, or in the alternative, barbed wire must be installed along the top of the fence to keep the animal from escaping.

(Ord. No. 23-94, 10-3-94)

(5) The owner shall have fourteen (14) calendar days from the date a notice of violation is issued to comply with this section. If the owner fails to comply within the time frame, the owner shall be guilty of a Class 2 misdemeanor. For violations of this section, each day past the time given for compliance shall constitute a separate offense

(amended Ord. No. 17-2008, 7-7-08)

**Sec. 4-113. Removal of vicious dog from Town.**

The town hereby establishes the following process for the removal of a vicious dog.

(a) A vicious dog is a dog that is defined in section 4-101 of this chapter; has been previously determined to be dangerous, potentially dangerous or vicious; and fits the following criteria:

(1) The dog has bitten a human while off its own premises causing physical injury and requiring medical treatment in excess of three hundred (\$300.00) dollars at least once; or,

(2) The dog has approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack on at least two (2) separate occasions.

(b) The owner will be notified in writing of any such occurrence(s) by the person or board designated in Sec. 4-109, and the owner will be afforded the same rights of appeal used in that section.

(c) The dog must be sheltered in accordance with section 4-207 at the County Animal Shelter until such time as a final determination is made.

(d) If the final determination is that the dog is vicious, then the owner must remove the animal from the municipal limits of the Town through perpetuity.

(e) If the owner transfers or surrenders ownership to another person, the notification requirements under Section 4-110(b) shall apply.

(f) The owner of the dog will surrender the animal in the instance of a bite under the provisions of Sec. 4-207 of this chapter. Upon conclusion of the quarantine requirements, the owner may, at the owner's choosing, lawfully obtain the dog from the shelter, and take the animal to a new home outside of the corporate limits of the Town, or the owner may relinquish ownership of the dog and ownership will revert to the Catawba County Animal Control Section for final disposition. Under no circumstance will a dog removed under the provisions of this section be allowed to re-enter the corporate Town limits. Any owner who brings a vicious dog back into the municipal limits of the Town will be guilty of a Class 1 misdemeanor. The dog brought back into the town limits shall be immediately seized and delivered to the County Animal Control Facility for quarantine and disposal.

(adopted Ord. No. 17-2008, 7-7-08)

**State law reference**-Penalty and strict liability, G.S. §§ 67-4.3 and 67-4.4.

**Secs. 4-114-4-199.** Reserved.

**ARTICLE II. RABIES CONTROL**

**Sec. 4-201. Vaccinations.**

(a) Required. Every person owning or harboring a dog or cat four (4) months of age or older for three (3) or more days shall have such dog or cat vaccinated against rabies with an approved vaccine by a licensed veterinarian. If other species of animals are vaccinated, such vaccination shall be with a vaccine approved by the county department of health. Vaccinations shall be kept current in accord with the requirements of the county department of health.

(b) Certificate of vaccination. Upon vaccination, the veterinarian administering the vaccine shall execute and furnish to the owner of the animal a certificate as evidence of the vaccination.  
(Code 1976, § 11.9)

**Sec. 4-204. Designation of qualified persons.**

All veterinarians who are duly registered and licensed as such by the state are hereby designated as authorized to vaccinate animals against rabies and to execute certificates of vaccination as provided by law.  
(Ord. No. 5-75, § 2.5, 5-5-75; Code 1976, § 11.12)

**Sec. 4-205. Proof.**

It shall be unlawful for any person who owns or harbors any dog, cat or other animal to fail to refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this article.  
(Ord. No. 5-75, § 2.6, 5-5-75; Code 1976, § 11.13)

**Sec. 4-206. Duty to report.**

Any person having knowledge of an animal bite shall immediately report the incident to the police, animal control officer, and to the county department of health.  
(Ord. No. 5-75, § 3.1, 5-5-75; Code 1976, § 11.14; revised Ord. No. 17-2008, 7-7-08)

**State law reference**-Confinement of biting animals...notice..., G.S. § 130A-196.

**Sec. 4-207. Quarantine of animals.**

Any animal which has bitten a person shall be observed for a period of ten (10) days from the date of the bite. Confinement shall be in the county animal shelter and such confinement shall be at the expense of the owner. Stray animals whose owners cannot be located shall be confined in the county animal shelter. The owner of any animal that has been reported as having inflicted a bite on any person shall on demand produce the animal for quarantine as prescribed in this section. Refusal to produce the animal constitutes a violation of this section and each day of such refusal shall constitute a separate and individual violation.  
(Ord. No. 5-75, § 3.2, 5-5-75; Code 1976, § 11.15; revised Ord. No. 17-2008, 7-7-08)

**State law reference-**Confinement of biting animals, G.S. § 130A-196.

**Sec. 4-208. Removal of animals from quarantine.**

It shall be unlawful for any person to remove from any place of isolation or quarantine any animal which has been isolated or quarantined as authorized, without the consent of the impounding agency.

(Ord. No. 5-75, § 3.3, 5-5-75; Code 1976, § 11.16)

**Secs. 4-209-4-299. Reserved.**

**ARTICLE III. RESERVED**

**Sec. 4-301. Repealed.**

*\*Editor's note*-Ord. No. 23-2003, adopted July 21, 2003, repealed Art. III §§ 4-301-4306, which pertained to dog licenses and derived from Ord. No. 5-75, originating 5-5-75; Code 1976 §§ 11.17-11.22; and Ord. No. 9-79.

**ARTICLE IV. RESERVED**

**Sec. 4-401. Repealed.**

(Ord. No. 5-75, § 7.1, 5-5-75; Code 1976, § 11.28; repealed Ord. No. 17-2008, 7-7-08)

**Sec. 4-402. Repealed.**

(Ord. No. 5-75, § 7.2, 5-5-75; Code 1976, § 11.29; repealed Ord. No. 17-2008, 7-7-08)

**Sec. 4-403. Repealed.**

(Ord. No. 5-75, § 7.3, 5-5-75; Code 1976, § 11.30; repealed Ord. No. 17-2008, 7-7-08)

**Cross reference**-Offenses, Ch. 15.

**State law references**-Animal welfare act, G.S. § 19A-20; municipal powers as to animal shelters, G.S. § 160A-493.

**Sec. 4-404. Repealed.**

(Ord. No. 5-75, §§ 7.4, 7.5, 5-5-75; Code 1976, § 11.32; repealed Ord. No. 17-2008, 7-7-08)

**Secs. 4-405-4-499. Reserved.**

**ARTICLE V. LIVESTOCK\***

**Sec. 4-501. Horses.**

No person shall ride or lead a horse or pony upon the sidewalks within the corporate limits. Riding or leading of horses and ponies shall be restricted to the roadways.  
(Code, 1976, § 11.34)

**Sec. 4-502. Pig pens.**

No person shall maintain a pig pen or other enclosure for pigs within one hundred and fifty (150) feet of any dwelling or room used for sleeping quarters.  
(Code 1976, § 11.35) Cross reference-Land use and zoning, § 17-301 et seq.

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\* Cross references-Butchering restricted, § 12-101; swine, § 12-105.

**ARTICLE VI. ANIMAL CRUELTY**

**Sec. 4-601. General**

All animals shall be kept and treated under sanitary and humane conditions, and it shall be unlawful for any person to violate one or more of the sections of this article.

**Sec. 4-602. Failure to provide adequate food.**

All animals, unless otherwise indicated in this article, shall be given at suitable intervals, not to exceed twenty-four (24) hours, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.

**Sec. 4-603. Failure to provide adequate water.**

All animals shall have constant access to a supply of clean, fresh, potable water or a supply of clean, fresh potable water provided at suitable intervals. If access is not constant, then adequate amounts of water must be provided at least twice in a twenty-four (24) hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one (1) hour during each interval.

**Sec. 4-604. Failure to provide adequate shelter.**

All animals shall be provided with adequate shelter from the weather at all times. It shall be within the discretion of the town animal control officer to determine what constitutes adequate shelter. Examples of inadequate shelter include, but are not limited to, the following:

- (1) Underneath outside steps, decks, and stoops;
- (2) Underneath houses;
- (3) Inside or underneath motor vehicles;
- (4) Inside metal or plastic barrels;
- (5) Inside cardboard boxes;
- (6) Inside temporary animal carriers or crates;
- (7) Shelters located in flood-prone areas; and
- (8) Shelters surrounded by waste, debris, obstructions or impediments that may endanger an animal.

**Sec. 4-605. Provide Reasonable Care.**

Failure or refusal of any owner of a sick, diseased, or injured animal to provide proper medical treatment for the animal. A sick, diseased, or injured animal shall go no longer than twenty-four (24) hours without veterinary care.

**Sec. 4-606. Animal Cruelty.**

Animal cruelty is prohibited. Examples of animal cruelty include, but are not limited to the following:

- (1) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck;
- (2) Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised;
- (3) Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter;
- (4) Intentionally allowing animals to engage in a fight;
- (5) Allowing animals to live in unsanitary conditions;
- (6) Allowing animals to live in crowded conditions;
- (7) Failure or refusal to obtain medical treatment for an animal when in an animal control officer's opinion such treatment is needed;
- (8) Trapping a dog or cat without the use of a recognized humane live animal trap;
- (9) Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or them. The town animal control officer shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the corporate limits of the town if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves;
- (10) Animals being confined to or restrained on the premises of a vacant or abandoned structure;
- (11) Failure to provide adequate drainage to prevent surface water from standing in the area of the pen or enclosure where the animal is kept. It shall be within the discretion of the town animal control officer as to what constitutes adequate drainage; and
- (12) Failure or refusal to report injured domestic animals.

**Sec. 4-607. Cruel Restraint Prohibited.**

An owner shall not chain or tether an animal to a stationary object for a period of time or under conditions that an animal control officer deems harmful or potentially harmful to the animal. Examples of improper chaining or tethering include, but are not limited to, the following:

- (1) Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal. Guidelines for the proper weight and length of chains or tethers can be obtained from the town animal control officer;
- (2) Using a chain or tether made of rope, twine, cord or similar material;
- (3) Using a chain or tether that is less than ten (10) feet in length and/or does not have swivels on both ends. All chains or tethers must be attached to the animal by means of a properly fitting harness or collar of not less than one (1) inch in width;
- (4) Allowing an animal to be chained or tethered such that the animal is not confined to the owner's property or such that the chain or tether can become entangled and prevent the animal from moving about freely, lying down comfortably or having access to adequate food, water and shelter; and
- (5) Using a chain as a primary collar. All collars used for the purpose of chaining or tethering an animal must be made of nylon or leather.

**Sec. 4-608. Leaving animals unattended in vehicles.**

An owner shall not leave an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer deems harmful or potentially harmful to the animal.

**Sec. 4-609. Authority for Animal Control Officer to act.**

(a) If it is determined by the animal control officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate treatment or abuse can be corrected within 72 hours, the officer may issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer may take action as outlined below:

- (1) Seek a magistrate's order to take possession of the animal; and/or
- (2) Seek the issuance of criminal process.

(b) If it is determined by the animal control officer that the animal is in imminent danger of death or serious bodily injury, the animal control officer shall immediately:

- (1) Seek a magistrate's order to take immediate possession of the animal; and,
- (2) Seek the issuance of criminal process.

(c) If the animal has been abandoned as defined in this article, the animal control officer is authorized to immediately take possession of the animal and transport it to the County animal control facility for care and shelter.

(d) When it has been determined by the animal control officer that there has been a violation of one or more provisions of state law or this article, the officer may initiate a criminal summons or warrant.

(e) Any time an animal is taken possession of by authority of this ordinance, the owner shall be responsible and liable for any costs incurred for shelter, housing, and care of the animal.

**Sec. 4-610. Penalties.**

Any person who willfully fails or refuses to abide by or otherwise violates this article shall be subject to the following sanctions or penalties.

(1) Violations of this article are deemed to be a misdemeanor, and upon a verdict or plea of guilty, the violator shall pay a fine of \$50.00 and the costs of court.

(2) Each additional violation of this article thereafter shall be deemed to be a separate misdemeanor, and upon a verdict or plea of guilty, the violator shall pay a fine of \$100.00 per misdemeanor and the costs of court.

(adopted Ord. No. 9-2009, 4-6-09)