

Chapter 10

REGULATION, CONTROL AND CARE OF ANIMALS*

Article I. Definitions

- Sec. 10-1. Definitions.
Secs. 10-2—10-14. Reserved.

Article II. Regulation and Control

- Sec. 10-15. Animal control ordinance.
Sec. 10-16. Administration and enforcement.
Sec. 10-17. Integration with animal control ordinance.
Sec. 10-18. Permits for wild animals and livestock.
Sec. 10-19. Prohibition of certain animals and operations.
Sec. 10-20. Appeals.
Sec. 10-21. Abatement of animal-related public nuisances.
Sec. 10-22. Regulation of dogs in the central business district.
Sec. 10-23. Location of dog houses and domestic animal pens.
Secs. 10-24—10-40. Reserved.

Article III. Miscellaneous

- Sec. 10-41. City declared bird sanctuary.
Sec. 10-42. Penalties and remedies.

***Editor's note**—Chapter 10 as recodified in its entirety by Ord. of 7-21-87 appears herein. Many previously existing sections were deleted, or amended and renumbered if retained. The original title, "Taxation, Regulation, Control and Care of Animals," was amended by Ord. of 10-20-87.

Cross reference—Disposal of dead animals, § 11-118.

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ARTICLE I. DEFINITIONS**Sec. 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*. Any person designated by the manager to perform the responsibilities assigned by this chapter to the administrator.
- (2) *Animal control ordinance*. The ordinance entitled "Animals and Fowl," as adopted by the Gaston County board of commissioners July 27, 1989, as amended September 14, 1989, and including any subsequent amendments thereto by Gaston County in the future.
- (3) *Domestic animal*. A domesticated or tame animal that is kept as a pet. Livestock and wild animals shall not be regarded as domestic animals.
- (4) *Domestic animal pen*. An area in which domestic animals are kept which is completely enclosed by a fence on all sides and has an area of no more than 200 square feet.
- (5) *Livestock*. Horses, mules, cows, pigs, goats, sheep, fowl (such as chickens, ducks, guineas, peacocks, turkeys, etc.), rabbits and all other animals that typically are kept primarily for productive or useful purposes rather than as pets. By exception, rabbits kept as pets and not for productive purposes shall not be deemed livestock, and the having or keeping of a pig commonly referred to as the miniature Vietnamese potbellied pig (*sus scrofa vittatus*) shall not be deemed livestock.
- (6) *Wild animal*. An animal that (i) typically is found in a nondomesticated 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, or (ii) is classified as a wild animal by the North Carolina wildlife resources commission so that any person wishing to possess the same is required by state law to obtain a permit from the wildlife resources commission.

(Code 1982, § 10-1; Ord. of 2-5-91; Ord. of 12-19-95(1), §§ 1, 2; Ord. No. 04-461, § 1, 6-1-04)

Cross reference—Definitions generally, § 1-1.

Secs. 10-2—10-14. Reserved.

ARTICLE II. REGULATION AND CONTROL***Sec. 10-15. Animal control ordinance.**

The ordinance entitled "Animals and Fowl" as adopted by the Gaston County board of commissioners on July 27, 1989, and as amended September 14, 1989, is hereby adopted in its

***Editor's note**—Former sections 10-2, 10-3 and 10-4 of this article are derived from Ords. of 2-15-83 and 2-7-84, amending then-existing section 10-7.

entirety as an ordinance of the city. All subsequent amendments thereto shall be likewise effective and enforceable in the city. A copy of said ordinance and all amendments thereto shall be kept on file in the office of the city clerk.

(Code 1982, § 10-2; Ord. of 2-5-91)

Sec. 10-16. Administration and enforcement.

(a) *Delegation to county.* The city hereby authorizes Gaston County's animal shelter superintendent and animal control officers to enforce the provisions of the animal control ordinance within the corporate limits of the city. The city is hereby authorized to enter into an agreement with Gaston County for enforcement of the ordinance.

(b) *Enforcement.* The provisions of this chapter more specific than Gaston County's animal control ordinance may be enforced by any employee of the city charged with the interpretation and/or enforcement of the Gastonia Code of Ordinances.

(Code 1982, § 10-3; Ord. of 2-5-91; Ord. of 12-19-95(1), § 3; Ord. of 3-4-97(1), § 1)

Sec. 10-17. Integration with animal control ordinance.

All definitions and provisions of the animal control ordinance shall apply in the city except where provisions of this chapter are inconsistent with the provisions of the animal control ordinance and the provisions of this chapter are more specific.

(Code 1982, § 10-4; Ord. of 2-5-91)

Sec. 10-18. Permits for wild animals and livestock.

(a) It shall be unlawful for any person to own, keep, have or maintain any livestock or any chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl within the city except in accordance with a permit issued pursuant to this section.

(b) No permit may be issued for any wild animal unless the owner thereof has also obtained a permit from the North Carolina Wildlife Resources Commission authorizing him to keep such an animal.

(c) No permit may be issued for any livestock, excluding equines, 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 one acre of land under single ownership or control.
- (2) Each cow or other large livestock shall have a minimum pasture area of two acres. Each goat, sheep, or other small livestock shall have minimum pasture area of one-fourth acre. Livestock pasture area must be securely fenced at all times.
- (3) Livestock animals must be provided with adequate shelter to protect them from the elements.
- (4) No barn or building that houses livestock animals shall be erected or maintained within the front yard (as defined by the zoning ordinance), within 25 feet of any

property line or within 100 feet of another residence other than that of the applicant. Fences shall not be erected or maintained within 15 feet of any property line or paved road surface, or within 75 feet of a residence other than that of the applicant; provided, however, that if the closest residence other than that of the applicant is more than 90 feet from the property line, the fence may be erected or maintained closer than 15 feet to the property line at a point as allowed by the administrator when issuing the permit.

- (5) The shelter and fenced pasture area shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odor.
- (6) For the purposes of calculating pasture area requirements, large livestock less than one year of age and small livestock less than six months of age shall not be included.
- (7) All food and feed kept for feeding livestock shall be kept and stored in rat-free and ratproof containers, compartments or rooms unless kept in a ratproof building.

(d) No permit may be issued for any chickens, turkeys, ducks, guineas, geese, pheasants or other domesticated fowl unless the applicant for the permit demonstrates that the fowl will be kept on a tract of land that satisfies each of the following conditions:

- (1) The tract shall consist of at least one acre of land under single ownership or control.
- (2) Such animals must be provided with adequate shelter to protect them from the elements and must be contained in a secure fenced enclosure at all times.
- (3) Such animals must be confined at all times in a coop, fowl house or other secure enclosure which is not less than 18 inches in height. The coop, fowl house or other secure enclosure must be well ventilated and well drained so there is no accumulation of odor or moisture.
- (4) The coop, fowl house or other secure enclosure shall have a minimum of ten square feet of floor area for each fowl.
- (5) No coop, fowl house or secure enclosure shall be erected or maintained within the front yard (as defined by the zoning ordinance), within 25 feet of any property line or within 100 feet of another residence.
- (6) The coop, fowl house or other secure enclosure shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odor. It shall be cleaned daily, and all droppings and body excrement shall be placed in a flyproof container and double-bagged in plastic bags for proper disposal.
- (7) No more than 20 such fowl shall be kept or maintained per acre. The number of fowl shall be proportionate to the acreage. There will be no discounting for chicks or other young fowl.
- (8) All food and feed kept for feeding chickens, turkeys, ducks, guineas, pheasants or other domesticated fowl shall be kept and stored in rat-free and ratproof containers, compartments or rooms unless kept in a ratproofing building.

(e) No permit may be issued for any equine unless the applicant for the permit demonstrates that the animals will be kept on a tract of land that satisfies each of the following conditions:

- (1) The tract shall consist of at least two acres of land under single ownership or control.
- (2) Each horse shall have a minimum pasture area of one acre. Livestock pasture area must be securely fenced at all times.
- (3) Horses must be provided with adequate shelter to protect them from the elements.
- (4) No stable, barn or building that houses horses shall be erected or maintained within 25 feet of any property line or within 100 feet of another residence. Fenced enclosures shall not be erected or maintained within 15 feet of any property line or paved road surface, or within 75 feet of a residence other than that of the applicant; provided, however, that if the closest residence other than that of the applicant is more than 90 feet from the property line, the fence may be erected or maintained closer than 15 feet to the property line at a point as allowed by the administrator when issuing the permit.
- (5) The shelter and fenced pasture area shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odor.
- (6) For the purposes of calculating pasture area requirements, equine less than one year of age shall not be included.
- (7) All food and feed kept for feeding equine shall be kept and stored in rat-free and ratproof containers, compartments or rooms unless kept in a ratproofing building.

(f) Upon receipt of an application for a permit, the administrator shall investigate and verify the information set forth in the livestock permit application and identify and notify the adjoining property owners of the permit application by regular first-class mail. Adjoining property owners shall be sent a copy of the permit application, a copy of the livestock ordinance requirements and a deadline for submitting public opinions concerning the permit application. A period of not less than 30 days shall be given to submit public opinions concerning the permit application. After the expiration of the period for submitting public opinions, the administrator shall make a determination concerning the permit application and notify the applicant of the determination in writing.

(g) The administrator shall issue the permit required by this section unless it is found that:

- (1) The applicant has failed to comply with the applicable requirements of subsections (c), (d) or (e);
- (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 seriously with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons; or

- (4) The animal for which the permit is requested otherwise constitutes a threat to the public health or safety.

(h) Subject to the provisions of G.S. 106-701, the requirements of this section apply to wild animals, livestock and fowl that are present within the city on the effective date of this chapter as well as those brought within the city thereafter. However, owners of wild animals, livestock or fowl that are within the city on the effective date of this chapter shall not be deemed in violation of this section until they have been notified in writing of its requirements, have been given 30 days to apply for the required permits, and have either failed to apply during that time, or after application, have been denied a permit and have failed to remove the animals within 30 days after the denial of the permit.

(i) A permit issued in accordance with this section may be revoked by the administrator for any reason that would have justified denial of the permit as set forth in this section. If a permit is revoked, the applicant shall be given a written explanation of the reasons for revocation. Upon the determination of a violation, the owner shall have 30 days in which to bring the property or condition into compliance with this section or to remove the animals from the premises. If the administrator denies or revokes a permit in accordance with this section, he shall notify the owner of the animal(s) of his right to appeal such decision in accordance with section 10-20.

(Code 1982, § 10-5; Ord. of 7-21-87; Ord. of 12-19-95(1), § 4; Ord. of 3-4-97(1), § 2)

Sec. 10-19. Prohibition of certain animals and operations.

(a) No person may have or keep within the city any wild animal other than one classified as a wild animal by the North Carolina wildlife resources commission and for which a permit is obtained from that commission, or any hogs, pigs, or swine except that a person may have or keep one miniature Vietnamese potbellied pig (*sus scrofa vittatus*) provided that any out-of-doors pen constructed for said potbellied pig shall meet the required yard setbacks and other requirements for small livestock as set forth in section 10-18; however, any out-of-doors pen constructed prior to January 1, 1996, shall not have to meet said setbacks so long as the potbellied pig occupying such pen is in existence.

(b) No person may locate, construct, or operate any animal breeding, growing, or feeding establishment for commercial purposes within the city. However, this prohibition shall not apply to animals maintained solely for family use by the owner of the premises upon which they are located.

(Code 1982, § 10-6; Ord. of 7-21-87; Ord. of 12-19-95(1), § 5; Ord. of 3-4-97(1), § 3)

Sec. 10-20. Appeals.

(a) A decision of the administrator to deny an application for a permit for wild animals and livestock, or a decision to revoke such a permit, may be appealed to the city manager or his designee in accordance with the provisions of this section.

(b) An appeal is taken by filing a written notice of appeal with the administrator, identifying the decision appealed and the basis for the appeal. This notice must be filed within ten days after the notice of the denial or revocation is served in accordance with the provisions of this article.

(c) In the case of a permit revocation, an appeal stays all efforts to enforce the decision appealed unless the administrator certifies to the city manager or his designee that, because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In that case, enforcement efforts shall not be stayed except by a restraining order, which may be granted by the council [or] the superior court of Gaston County after application on due cause shown, and on notice to the administrator due cause of said restraining order.

(d) The city manager or his designee shall hear the appeal at the earliest practicable date. Due notice of the date and time of the hearing shall be given to the appellant and to appellant's neighbors. The city manager or his designee may reverse or affirm, wholly or partly, or modify the order or decision of the administrator and to this end the city manager or his designee shall have all the powers conferred by this article upon the administrator.

(e) Any person aggrieved by an order issued by the administrator or a decision rendered by the city manager or his designee on appeal shall have the right within 30 days after the issuance of the order or rendering of a decision to petition the superior court for a temporary injunction restraining the administrator pending a final disposition of the cause. There shall be no appeal from the decision of the city manager or his designee to the city council.

(Code 1982, § 10-8; Ord. No. 12-19-95(1), § 7; Ord. of 3-4-97(1), § 5)

Editor's note—Section 4 of an ordinance adopted Mar. 4, 1997(1), deleted § 10-20 in its entirety. Formerly, § 10-20 pertained to location and maintenance of livestock pens and enclosures and derived from § 10-7 of the 1982 Code; an ordinance adopted July 21, 1987; an ordinance adopted Feb. 5, 1991; and § 6 of an ordinance adopted Dec. 19, 1995(1). Sections 5 and 6 of an ordinance adopted Mar. 4, 1997(1) also renumbered §§ 10-21 and 10-22 as § 10-20 and 10-21.

Sec. 10-21. Abatement of animal-related public nuisances.

(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 or a 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 or safety, or 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 the 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 an animal to remain on the premises without adequate housing and protection from the elements. Adequate housing for an animal must consist of a shelter of sufficient height and strength and which is constructed for the express purpose of housing animals.

(b) For the purposes of enforcing this section, the administrator shall apply the provisions of chapter 11 from sections 11-192 through 11-197 and sections 11-226 through 11-230 and amendments thereto.

(Ord. of 12-19-95(1), § 8; Ord. of 3-4-97(1), § 6; Ord. No. 06-514, § 1, 6-6-06)

Note—See the editor's note following § 10-20.

Sec. 10-22. Regulation of dogs in the central business district.

(a) It shall be unlawful for the owner or occupant of any nonresidential premises located within the central business (CB) district, as shown on the official zoning map of the City of Gastonia, to keep or maintain any dog on said premises in any area that is visible from a publicly maintained sidewalk.

(b) This provision shall not apply to any person owning and/or operating a retail establishment the primary purpose of which is the sale of domestic animals to retail customers nor shall it apply to service animals aiding persons with disabilities.

(Ord. No. 04-456, § 1, 5-4-04)

Sec. 10-23. Location of dog houses and domestic animal pens.

All dog houses, domestic animal pens and other structures primarily used for housing domestic animals shall be located behind the principal structure located on the property or within the rear yard as such terms are defined in section 17-55 of the City of Gastonia Code of Ordinances.

(Ord. No. 04-461 § 2, 6-1-04)

Secs. 10-24—10-40. Reserved.

ARTICLE III. MISCELLANEOUS

Sec. 10-41. City declared bird sanctuary.

(a) All territory within the city limits is declared to be a bird sanctuary, and no person may hunt, kill or trap any birds within the corporate limits except as provided in subsection (b).

(b) Subsection (a) shall not apply to any birds classified as predatory by the North Carolina wildlife resources commission or the North Carolina General Statutes, nor to pigeons, crows, starlings, or English sparrows. However, firearms may not be used to hunt such birds except as provided in section 5-8 of this Code.

(Code 1982, § 10-11; Ord. of 7-21-87)

Sec. 10-42. Penalties and remedies.

(a) A violation of any of the provisions of sections 10-18, 10-19, 10-20, 10-21, 10-22, 10-23 or 10-41 shall subject the offender to a civil penalty of \$25.00. If the offender fails to pay this penalty within ten calendar days after being cited for a violation, the penalty may be recovered by the city in a civil action in the nature of a debt.

(b) Except with regard to section 10-22, each day after the first 10 calendar days that any violation continues after a person has been notified that such violation exists and that he is subject to the penalty specified in subsection (a) shall constitute a separate offense. Each day that a violation of section 10-22 continues after a person has been notified that such violation exists and that he is subject to the penalty specified in subsection (a) shall constitute a separate offense.

(c) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(d) The city may enforce this chapter by any one or any combination of the foregoing remedies.

(Code 1982, § 10-12; Ord. of 7-21-87; Ord. of 2-5-91; Ord. of 12-19-95(1), § 9; Ord. No. 04-461, § 3, 6-1-04; Ord. No. 04-456, § 2, 5-4-04)