

Chapter 3

ANIMALS*

* **State Law References:** Rabies, G.S. § 130A-184 et seq.; city's authority to regulate the keeping of domestic animals, G.S. § 160A-186.

Sec. 3-1. Vicious animals prohibited.

It shall be unlawful for any person to keep or harbor a fierce or vicious animal. For the purposes of this chapter, the term "vicious animal" shall mean any dog or other animal that, without intentional provocation, bites or attacks humans or other animals, or in a vicious or terrorizing manner approaches any person in an apparent attitude of attack, whether or not the attack is consummated or capable of being consummated. (Code 1982, § 11.32)

State Law References: City's authority to regulate possession of dangerous animals, G.S. § 160A-187.

Sec. 3-2. Nuisance dogs.

(a) *Definition.* The keeping or maintenance of any dog which by prolonged and habitual barking, howling, or whining causes serious annoyance to neighboring residents and interferes with the reasonable use and enjoyment of the premises occupied by such residents, or with the reasonable use and enjoyment of the public streets, sidewalks, or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided in this section.

(b) *Complaint and notice.* Upon receipt of a written detailed and signed complaint being made to the police department by any resident that any person is maintaining a public nuisance as described in subsection (a), the chief of police shall cause the owner or keeper of the dog 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 by the investigating officer.

(c) *Abatement.* If the written findings of the investigating officer indicate that the complaint is justified, then the chief of police shall cause the owner or keeper of the dog in question to be so notified in writing, and ordered to abate such nuisance within forty-eight (48) hours by destruction or removal of such dog, or by construction of a proper enclosure, as the case may necessitate. For the purposes of this section, the term "proper enclosure" shall mean a building or other structure from which a dog cannot escape, or an outside area enclosed by a fence at least six (6) feet in height secured to the ground in a manner so that a dog cannot escape. If the owner or keeper of the dog is unknown and cannot be ascertained, such notice and order, along with a general description of the dog, shall be posted for forty-eight (48) hours at the town hall.

(d) *Impoundment; destruction.* If any person being the owner or keeper of a dog described in subsection (a) shall fail or refuse to abate such nuisance upon order of the chief of police within the specified time, the chief shall cause the dog in question to be apprehended and impounded in a suitable place, and the owner or keeper shall be notified in writing of such impoundment. If the owner or keeper shall so request, the dog shall be released to him upon his execution of a written agreement to comply with the abatement order. If

no such request and execution is made by the owner or keeper within five (5) days after written notice, the chief of police shall cause such dog to be destroyed. If the owner or keeper of a dog is unknown, the chief shall cause apprehension and impoundment to be carried out if no one claims such dog within forty-eight (48) hours after the notice, order, and description have been posted. The chief shall cause a notice of impoundment, along with a general description of the dog, to be posted five (5) days at the town hall. If no request for release of such dog and execution of agreement to comply with the order of abatement respecting such dog is made within such five (5) day period the chief shall cause such dog to be destroyed.

(e) *Penalties.* If any person, being the owner or keeper of a dog respecting which an order of abatement has been issued, shall fail or refuse to abate the nuisance as ordered, he shall be guilty of a misdemeanor, punishable in accordance with the provisions of section 1-5. In addition, enforcement of this section may be by injunction, restraining order, or order of abatement in a court of competent jurisdiction, as provided by G.S. section 160A-175.

(Code 1982, § 11.32)

Cross References: Nuisances, Ch. 8.

State Law References: City's authority to regulate noise, G.S. § 160A-184.

Sec. 3-3. Immediate destruction.

Nothing in this chapter shall be construed to prevent the immediate destruction by a police officer of any vicious dog or other animal when less drastic methods, such as tranquilizing, are not available or effective and when neither a member of the police department nor the animal's owner is able to restrain or control the animal so that it might be impounded.

Sec. 3-4. Animal cruelty.

It shall be unlawful for any person to overdrive, overload, drive when overloaded, overwork, torture, deprive of necessary sustenance, cruelly beat, mutilate or kill needlessly, or to carry in any vehicle or otherwise transport in a cruel and inhumane manner, any animal, or to cause any of these acts or omissions to be done. It shall be unlawful for any animal owner to fail to provide such animal with proper food, drink, protection from the weather, and necessary medical treatment to prevent suffering, or to cause any of these acts or omissions to be done.

State Law References: Cruelty to animals, G.S. § 14-360 et seq.; authority to define and prohibit abuse of animals, G.S. § 160A-182.

Sec. 3-5. Responsibility to control dogs.

(a) The owner or keeper of any dog shall be responsible for controlling said animal at all times, in order to prevent said animal from annoying or disturbing other pedestrians, destroying property, or disturbing trash placed for collection in suitable containers. Any dog which habitually engages in any of the foregoing activities is hereby declared to be a public nuisance, and shall be abated as provided in section 3-2.

(b) The owner or keeper of any dog shall be responsible, if said animal shall defecate upon the public streets, sidewalks, or other public area, for collecting and properly disposing of said fecal matter. Any person, being the owner or keeper of any such dog, and who does not immediately so collect and properly dispose of said fecal matter, shall be guilty of a misdemeanor, punishable in accordance with the provisions of section 1-5.

(c) It shall be unlawful for any person to willfully allow a dog to enter upon or remain within the Highlands Ball Park, on Hickory Street, at any time, for any purpose, whether leashed or unleashed. "Highlands Ball Park", as used in this section, shall mean the area enclosed with fencing and owned by the town at 444 Hickory Street in Highlands. Violation of this section shall be a misdemeanor, punishable in accordance with the provisions of Highlands Code section 1-5. Allowing a dog to run loose such that it habitually enters upon the Highlands Ball Park shall be included within the list of "nuisance" activities under other provisions of this chapter.

(Ord. of 9-4-96(1); Ord. of 4-7-10)