

## **CHAPTER 10**

### **ANIMAL CONTROL**

(Adopted 2/28/17)

On January 21, 2016 the Orange County Board of County Commissioners adopted a Unified Animal Control Ordinance with an effective date of March 1, 2016. The Town of Carrboro Board of Aldermen has adopted a Resolution authorizing the enforcement of the Unified Animal Control Ordinance in Carrboro's corporate limits with the exception of the sections below. As to matters covered by the sections below, the provisions apply in Carrboro's corporate limits. Otherwise, the Orange County Unified Animal Control Ordinance (UAO) applies in Carrboro.

#### Article I – Definitions

Section 10-1 Definitions

#### Article II – Taxation and Tags

Section 10-2 Privilege Tax on Dogs and Cats

#### Article III – Livestock and Wild Animals

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#### Article V – Appeals

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## **ARTICLE I**

### **DEFINITIONS**

#### Section 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) *Domesticated Livestock*: Animals raised for the production of meat, milk, eggs, fiber or used for draft or equestrian purposes, including but not limited to horses, mules, cows, pigs, goats, llamas, ostriches, sheep, fowl such as chickens, turkeys, ducks, etc. (also referred to as poultry), rabbits, and all other animals that typically are kept primarily for productive or useful purposes rather than as pets.

(2) *Tether*: To restrain a dog outdoors by means of a rope, chain, wire, or other line, one end of which is fastened to the dog and the other end of which is connected to a stationary object or to a cable trolley system. (This definition excludes walking a dog with a handheld leash). (Created 9/13/11).

## **ARTICLE II**

### **TAXATION AND TAGS**

#### Section 10-2 Privilege Tax on Dogs and Cats

(a) The owner of every dog or cat over four (4) months of age that is kept within the town shall annually pay to the town (through Orange County Animal Control) a tax on the privilege of keeping such animal within the town.

(b) The amount of the tax shall be established annually as part of the annual budget ordinance adoption process.

(c) In order to further the goal of controlling animal population, the tax on unsprayed or un-neutered dogs and cats shall be higher than that of spayed or neutered animals.

## **ARTICLE III**

### **DOMESTICATED LIVESTOCK AND WILD ANIMALS**

#### Section 10-3 Permits:

(a) No person may keep or display within the town any wild or exotic animal as defined in Subsection 4-37(kk) and 4-37(o) of the UAO. In addition, no person may display snakes or reptiles of any kind.

(b) No person may keep within the town any permissible domesticated livestock over four (4) months of age except in accordance with a permit issued pursuant to subsection (c).

(c) Subject to the UAO and subsections (d) and (e) below, no permit may be issued for any domesticated livestock 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 40,000 square feet of land under single ownership or control.
- (2) There shall be at least 20,000 square feet of land per animal.
- (3) No fence, coral, or other similar enclosure shall be erected within 15 feet of any property line.
- (4) No barn, stable or similar structure used for the keeping of domesticated livestock other than fowl or rabbits shall be erected or maintained within 50 feet of any property line or street right-of-way.

(d) The provisions of subsection (c)(3) and (c)(4) shall not preclude the establishment, with the consent of the affected adjoining property owners, of a commonly owned or used fence, barn or other enclosure, all of which is located along or near a common property line.

(e) The provisions set forth above in (c)(1) and (c)(2) shall not apply to fowl and rabbits, provided, however, that a permit is required to keep fowl and rabbits within the town limits. Such permit is personal to the applicant to whom it is issued, and is not transferable to another property. No such permit may be issued for fowl or rabbits unless the provisions of subsection (e)(3) through (e)(7) are complied with and unless the permit applicant demonstrates compliance with the following conditions:

- (1) The applicant shall submit with the application a drawing showing the location of the facilities, the shelter, coop (fowl) or hutch (rabbit), and associated enclosure for the run or pen subject to the dimensional requirements in the table below.

<u>Type/Size of Facility</u>	<u>Number of Fowl/Rabbits</u>		
	<u>3-5</u>	<u>6-10</u>	<u>11-20**</u>
Minimum coop/hutch Size in square feet (sf) (4 sf/fowl or rabbit)	12-20sf	24-40 sf	44-80 sf
Minimum run/pen size in square feet (sf) (6 sf flow or rabbit)	18-30 sf	36-60 sf	66-120 sf

**Locational Requirements**

Coop/hutch and run/pen -property line setback	5 feet (rabbits) 0 feet (fowl)	10 feet	20 feet
Coop/hutch and run/pen -right-of-way setback	15 feet	20 feet	30 feet
Coop/hutch and run/pen -setback from nearest residence (other than the owner's)	30 feet	100 feet	100 feet

\*\*N.C. Gen. Stat. 160A-203.1, prohibits city ordinances from regulating standards of care for flocks of greater than 20 birds.

- (2) The following minimum standards apply to any facilities-shelter or enclosures associated with keeping fowl or rabbits:
  - a. Facilities shall provide adequate protection from adverse weather, predators and rodents.
  - b. Facilities shall be maintained in a clean and sanitary condition at all times.
  - c. Fowl and rabbits must at all times be contained within a run or pen unless the applicant constructs and installs a sufficient barrier to prevent fowl or rabbits from roaming beyond the confines of the subject property.
  - d. Fowl or rabbit food shall be kept in rodent-proof containers.
  - e. No fewer than three (3) fowl or rabbits are allowed.
  - f. All permits issued under this section are subject to annual review and inspection.

g. If turkeys and/or geese are being kept, then the coop and run/pen size requirements shall be multiplied by two.

- (3) The keeping of fowl or rabbits shall be in accordance with all applicable State law.
- (4) Such animals may be kept only (i) on a lot used for residential, educational, or day care purposes with written permission of the owner, if the owner is not the applicant, or (ii) on a common open space area within a residential development with the written permission of the owner of such common space land accompanied by a copy of the association minutes reflecting the approval decision.
- (5) Any sale of eggs produced on a residential lot must occur off-site, outside of residential zoning districts, and is subject to applicable provisions of the Town of Carrboro Land Use Ordinance for the district in which the lot is located.
- (6) It shall be unlawful for any person to keep or maintain on any lot with in the Town's corporate limits any rooster, duck, goose or other such bird or fowl that by loud and habitual crowing, quacking or honking or other manner constitutes a public nuisance. Failure to abate such nuisance within two (2) days after receiving written notice from the town shall be a violation of the provisions of this chapter, and shall subject the permittee to penalties as set forth in Section 10-6.
- (7) Slaughter of animals must occur within a fully enclosed structure. Disposal of deceased animals remains shall be in accordance with State law. (See, N.C. Gen. Stat. 106-403)

(f) Facilities for keeping fowl and rabbits for which permits have been issued prior to the effective date of this ordinance may remain provided that if use of such facility is discontinued for a period of 12 consecutive months, any new use of the facility must comply with this ordinance.

(g) The permit required by this Section is an administrative permit. Before issuing a permit under this section, the Administrator shall notify the applicant and the applicant's neighbors owning and/or residing at property within 150 feet of the boundary of the applicant's property by any convenient means of the date and time of an informational meeting concerning the application. After the informational meeting, the Administrator shall set forth in writing his reasons for the issuance or denial of the permit and shall furnish a copy thereof to any person who requests a copy. Any person aggrieved by the issuance or denial of a permit under this Section may appeal the decision to the Animal Control Board of Appeals pursuant to Section 10-6 (except that the burden of demonstrating that the administrator erred shall be on the appellant).

(h) The provisions of subsection (c)(1) through (c)(4) shall not apply to “fainting goats.” However, no permit may be issued for a person to keep fainting goats unless the permit applicant demonstrates compliance with the following conditions: (Amend. 8/25/09)

1. The tract where such livestock are kept shall consist of at least 25,000 square feet;
2. Such livestock may be kept only on a lot used for residential purposes and only for the consumption of persons who reside at that lot; such livestock may not be kept for commercial purposes;
3. No more than two (2) fainting goats may be kept on a single tract or lot;
4. Any person wishing to keep fainting goats on their property must seek and obtain a permit to do so;
5. The Administrator shall issue the permit required by this section unless he finds:
  - (a) The applicant has failed to comply with subsection (h)(1);
  - (b) The animal(s) for which the permit is requested poses a substantial danger of harm to any person, animal or property;
  - (c) The animal(s) for which the permit is requested is likely to or does interfere with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons;
  - (d) The animal(s) for which the license is requested otherwise constitutes a threat to the public health or safety.

(i) After compliance with subsection (h), the administrator shall issue the permit requested by this section unless he finds that:

- (1) The applicant has failed to comply with subsection (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 with the use and enjoyment of neighboring properties because of offensive noise or odor or for other reasons;
- (4) The animal for which the license is requested otherwise constitutes a threat to the public health or safety.

#### Section 10-4 Feeding of Deer Prohibited

(a) Subject to subsection (f), no person within the corporate limits of the town may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of feeding or attracting deer.

(b) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer at a height of less than five (5) feet off the ground is for the purpose of feeding deer.

(c) There is a rebuttable presumption that the placement of any fruit, grain, mineral, salt, plant, vegetable, or other material edible by deer in a drop feeder, automatic feeder, or similar device regardless of the height of such device is for the purpose of feeding deer.

(d) Each property owner shall remove any materials placed on the owner's property in violation of this section within 48 hours of being notified by the town that such violation exists. Failure to do so shall constitute a separate violation of this section.

(e) Each property owner shall remove any device placed on the owner's property to which deer are attracted or from which deer actually feed. Alternatively, a property owner may modify such device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove the device or make necessary modifications within 48 hours of notice from the town shall constitute a separate violation of this section.

(f) This section does not apply to:

- (1) Naturally growing materials, including but not limited to fruits, grains, seeds, vegetables, or other crops or vegetation;
- (2) Stored crops, provided that such crop materials are not intentionally made available to deer;
- (3) Feeders used to provide food to domestic animals or livestock.

#### Section 10-5. Dogs Prohibited Within Farmers Market

No owner, keeper or other person in possession of any dog may allow such animal to go upon the premises operated by or for the town as a farmers market during any period when the market is in operation.

##### Section 10-5.1 Dog Owners Required to Remove Feces Deposited by Dogs (Amend. 10/7/08)

(a) Subject to Subsection (b), it shall be unlawful for the owner of any dog, or any person walking or otherwise in charge of such dog, to fail or refuse to remove feces deposited by such dog on any street, sidewalk, park, or other publicly owned area, or on any private property.

(b) The provisions of subsection (a) of this section shall not apply to the premises occupied by the owner or keeper of the dog, but shall apply to any common areas in any two-family or multi-family residential development.

#### Section 10-5.2 Tethering of Dogs Generally Prohibited

(a) The Board finds that:

- (1) Tethered dogs can and do become highly territorial and aggressive, presenting a significant risk of injury to the public through dog bites and attacks; and
- (2) Tethered dogs can and do negatively impact community life through nuisance barking; and
- (3) Tethered dogs are at risk of becoming tangled and prevented from reaching food, water, and shelter; and
- (4) Tethered dogs are at risk of sustaining injury or death from accidental strangulation and are less able to defend themselves from other animals.

(b) Subject to subsections (c) and (d) of this section, no person may tether a dog, and no owner or keeper of a dog may or cause or permit such dog to be tethered.

(c) Provided that the tethering does not extend for more than seven (7) consecutive days and that the tethering device meets the standards set forth in subsection (d), tethering of a dog shall be permissible under the following circumstances:

- (1) Lawful dog activities such as hunting, hunting training, and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors.
- (2) Any activity where the tethered dog is in visual range of its owner or keeper and the owner or keeper is located outside with the dog.
- (3) After taking possession of a dog that appears to be a stray dog, and after so notifying the Animal Control Officer, the dog may be tethered while the person taking possession of the dog searches for its owner.

(d) When tethering is permitted under the circumstances specified in subsection (c), the tethering may take place only in accordance with the following requirements:

- (1) Tethers must be made of rope, twine, cord or similar material with a swivel on one end or must be made of a chain that is at least ten (10) feet in length



with swivels on both ends and which does not exceed ten (10) percent of the dog's body weight.

- (2) The tethering may be fastened to the dog only by attachment to a buckle type collar or body harness.

The dog must be tethered in such a manner that it has access to food, water, and shelter.

## **ARTICLE V**

### **APPEALS**

### **AND**

### **PENALTIES**

#### Section 10-6

(a) Appeals:

- (1) The owner of any animal who (i) is required to remove his animal from the Town based upon a finding that the animal is or creates a public nuisance, or (ii) who has been assessed and has paid a civil penalty, (iii) whose permit is denied or revoked pursuant to applicable regulations, or (iv) whose animal is declared to be “dangerous” or “vicious” pursuant to applicable regulations, may appeal to the Animal Control Board. An appeal shall be taken within ten (10) days after receiving the written notice of the determination appealed from except that appeals from a determination that a dog is a vicious dog or a dangerous dog shall be taken within three (3) days of notification. An appeal is taken by filing a written notice of appeal with the administrator and stays all enforcement efforts of the administrator until the appeal is disposed of. An appeal from an order to pay civil penalties shall first be reviewed by the Chief of Police, or his designee, who shall have the authority to affirm, revise or modify the order. If the owner is unsatisfied with the first civil penalty review, the owner may then appeal to the Animal Control Board of Appeals within ten (10) days of the Chief’s, or his or her designee’s, decision.
- (2) The Animal Control Board of Appeals shall consist of three (3) members and one (1) alternate appointed by the board of aldermen. The board of aldermen shall designate one member as chairman. The member shall serve three-year staggered terms. The alternate shall also serve a three-year term and shall be appointed initially for a term of three (3) years.
- (3) The board shall meet within twenty (20) days after notice of appeal is filed. A quorum of the board shall consist of three (3) members, and all decisions shall be made by majority vote. The board may uphold, reverse, or modify the determination appealed from, and the administrator shall thereafter continue, modify or cease his enforcement efforts in accordance with the board’s decision.
- (4) The burden of justifying the administrator’s determination shall be on the administrator. Strict rules of evidence need not be followed, but the board

may consider only what a witness knows of his own knowledge, and no decision may be based upon hearsay alone.

- (5) The board shall reach a decision as expeditiously as possible and shall provide the appellant and the administrator with a written decision, stating the reasons therefore.

(b) Penalties:

- (1) A violation of any of the provisions of Sections 10-3, 10-4, 10-5, 10-5.1 and 10-5.2 shall subject the offender to a civil penalty of \$25.00. A violation of Section 10-2 shall subject the offender to a civil penalty of \$50.00. The penalty for second and subsequent violation of the same provisions of Section 10-3 shall be set forth in the following table:

Violation	
Second	\$ 50.00
Third	\$ 75.00
Fourth	\$ 100.00

A fifth or subsequent violation of Section 10-3 shall subject the permittees to revocation of their permit upon written notice of record. Said notice of revocation is subject to appeal pursuant to subparagraph (a) above.

If the offender fails to pay any penalty within fifteen (15) calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

- (2) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (a) and (b) shall constitute a separate offense.
- (3) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.
- (4) The town may enforce this chapter by any one or any combination of the foregoing remedies.