

## Chapter 10 – ANIMALS

### Definitions

#### ARTICLE I. - IN GENERAL

##### Sec. 10-1. - City declared bird sanctuary.

The territory embraced within the corporate limits of the city is hereby declared to be a bird sanctuary.

(Ord. No. 20-0206, § 1, 2-6-20)

##### Sec. 10-2. - Harming or destroying birds prohibited; exceptions.

No person shall willfully destroy or harm any bird or bird's nest within the city; provided, however, that this section shall not be deemed to protect any birds classed as ~~invasive predatory~~ by the state law or by the wildlife resources commission ~~nor shall it extend to English Sparrows, pigeons, crows or starlings.~~

(Ord. No. 20-0206, § 1, 2-6-20)

##### Sec. 10-3. - Protection of squirrels.

1. The entire area embraced within the corporate limits of the city is hereby designated as a sanctuary for all species of squirrel (family Sciuridae) and in particular, the Brevard White Squirrel.
2. It shall be unlawful for any person to hunt, kill, trap or otherwise take any protected squirrels within the city limits except pursuant to the authority and permit of the state wildlife resources commission. This section may not protect any squirrels classified as pests by the state statutes, except that the Brevard White Squirrel shall always be protected by this section.

(Ord. No. 20-0206, § 1, 2-6-20)

##### Sec. 10-4. - Animals running at large.

It shall be unlawful for any person to allow or permit any animal owned, kept or harbored by such person to run at large within the city at any time upon any property not his own without the written permission of the owner of such property.

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference**— Streets, sidewalks and other public places, [ch. 46](#).

**~~Sec. 10-5. — Fowl running at large.~~**

~~No person shall permit ducks, geese or chickens, or other fowl under his control to remain on or in any of the streets or public places of the city at night, or to run at large in the daytime.~~

~~(Ord. No. 20-0206, § 1, 2-6-20)~~

**Cross reference**— Streets, sidewalks and other public places, [ch. 46](#).

**Sec. 10-6. - Animals ~~Dogs and cats~~ fouling public grounds.**

It is hereby declared to be unlawful for any ~~owner, keeper or walker~~ of any animal ~~dog or cat to permit his dog or cat~~ to discharge such animal's excreta upon any public or private property, other than the property of the owner ~~of any dog or cat~~, within the city, if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property.

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference**— Parks and recreation, [ch. 38](#); streets, sidewalks and other public places, [ch. 46](#).

**Secs. 10-8—10-40. - Reserved.**

**ARTICLE II. - ~~KEEPING ANIMALS~~ Keeping Livestock and Fowl**

**DIVISION 1. - ~~GENERALLY~~— Livestock**

~~As used in this article, the following terms have the meanings here provided:~~

~~Livestock means animals commonly associated with farming including, but not limited to, horses, mules, ponies, swine, sheep, cattle and goats. Livestock shall not include chickens or fowl.~~

**~~Sec. 10-41. — Compliance with article.~~**

~~No sheep, cattle, goats, or other Livestock shall not be kept or maintained by any person within the city except as provided in this article.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-42. - Swine.**

It shall be unlawful for any person to keep any hogs or other swine within the city with the exception of miniature pigs weighing not more than 100 pounds kept as household pets. Only one such miniature pig shall be kept in any household. Such pigs shall be kept in a restrained area and shall not be permitted to run at large. ~~Any outside area occupied by a miniature pig shall be regularly sanitized and kept free from waste. No such area shall be allowed to become muddy or unsanitary.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-43. - Milking cows or goats and horses.**

Milking cows, milking goats, ~~ungulates farmed for wool~~, and horses may be kept within the city subject to ~~applicable health statutes and regulations.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-44. - Location restrictions.**

No person shall keep any ~~livestock animal~~ within 150 feet of any residential or commercial building in the city ~~occupied and used as a residence~~ other than that of the property of the owner of the livestock.

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-45. - Maintenance of stables, sheds, or other places where livestock is kept.**

Any person owning or having the use of any stable, shed or place where any livestock is kept shall ~~keep such place in a clean and sanitary condition. All droppings shall be removed from the premises every 24 hours.~~ shall be cleaned daily in a manner approved by the health department and all droppings and body excretions shall be removed daily.

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference—** Buildings and building regulations, [ch. 12](#).

**Secs. 10-47—10-65. - Reserved.**

**DIVISION 2. - FOWL**

As used in this article, the following terms have the meanings here provided:

*Fowl* refers to chicken, turkey, pea fowl, quail, ducks, geese or other domesticated birds.

**Sec. 10-66. - Keeping of fowl subject to applicable law.**

The keeping of fowl shall be subject to all applicable health statutes and regulations.

(Ord. No. 20-0206, § 1, 2-6-20)

**Secs. 10-67. - Keeping of male chickens.**

Keeping of male chickens shall be unlawful in city limits

**Secs. 10-68—10-69. Reserved**

**Sec. 10-70. - Requirements for construction and maintenance of enclosures.**

Each person keeping ~~chickens and~~ fowl within the city shall comply with the following rules and regulations:

1. The ~~chicken or~~ fowl house and run must be enclosed, and the ~~chickens or~~ fowl kept within it at all times.
2. The ~~chicken or~~ fowl house must be used for chickens or fowl only and it must be well ventilated, with one square foot of window to 15 square feet of floor space. ~~All walls must be whitewashed twice yearly.~~
3. The run must be well drained so there will be no accumulation of moisture.
4. The floor of the house and run must be lined at least twice weekly from May 1 to October 1 of each year.
5. The floor of the ~~chicken or~~ fowl house and run shall be cleaned daily in a manner approved by the health department and all droppings and body excretions shall be removed daily and placed in a flyproof covered container by the owner or holder of the permit ~~or composted in a manner as to not allow unsanitary conditions.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-71. - Disposal of dead ~~chickens and~~ fowl.**

It shall be unlawful for any person to allow any dead ~~chicken or~~ fowl to remain on the premises ~~covered by a permit issued under this division,~~ and disposal of any dead ~~chicken or~~ fowl may not be contrary to any methods approved by the ~~county health department~~ the department of agriculture or department of environment services.

(Ord. No. 20-0206, § 1, 2-6-20)

Cross reference— Environmental services, [ch. 44](#).

Secs. 10-72—10-105. - Reserved.

## ARTICLE III. - DOGS

### DIVISION 1. - GENERALLY

#### Sec. 10-106. - Definitions.

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

As used in this article, the following terms have the meanings here provided:

Animal control officer means any person designated or authorized by a local governing body, either city or county, to perform the duties of detaining or holding any animal deemed to be mischievous, sick, or at large within the city limits or a public nuisance animal. The ~~animal control officer~~ Animal Service Center shall be the designated ~~individual entity who that~~, when necessary, will humanely destroy any dog deemed to have dangerous ~~or vicious~~ propensities or otherwise pose a safety or health risk to any person or other animals.

Animal services center means any holding place or other facility designated by the county board of commissioners for the detention of animals.

At large means off the premises of the owner and not under the control of the owner, a member of the owner's immediate family, or designee by means of a ~~tether leash, cord, chain or voice command, electric control~~.

Dangerous dog means any dog that ~~without provocation has killed or inflicted severe injury on a person; or is~~ determined by the chief of police or designee and/or City of Hendersonville ~~animal services advisory board~~ to be ~~potentially~~ dangerous because the dog has engaged in one or more of the behaviors listed below ~~Any dog owned or harbored primarily or in part for the purposes of dog fighting, or any dog trained for dog fighting.~~

- ~~1. Inflicted severe injury on a person; Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or~~
- ~~2. Killed or inflicted severe injury upon a domestic animal when not on the owner's property; or~~
- ~~3. Approached a person when not on the owner's property in a terrorizing manner, in an apparent attitude of attack, or constituting a physical threat to human beings or other animals or~~
- ~~4. Any dog owned in part for the purposes of dog fighting, or any dog trained for dog fighting.~~

Dog means both the male and female members of the canine species of animals.

Holding facility means any pet shop, kennel, cattery, ~~boarding facility, veterinary office, animal shelter,~~ or combination thereof.

~~Mischievous animal means any animal or group of animals which:~~

- ~~(1) Is repeatedly found at large.~~
- ~~(2) Damages the property of anyone other than its owner.~~
- ~~(3) Causes fouling of the air by odors.~~
- ~~(4) Causes unsanitary condition of enclosures or surroundings.~~
- ~~(5) Excessively makes disturbing noises.~~

Owner means any person owning, keeping, harboring, possessing, or acting as custodian, however, temporarily, of an animal; provided, however, that a person having temporary custody or possession of an animal for the sole purpose of turning over such animal to ~~an animal control officer a member of the county animal control division or other peace officer~~ shall not be deemed the owner of the animal.

~~Potentially dangerous dog means a dog that the chief of police or designee and/or City of Hendersonville Animal Services Advisory Committee 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 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.~~

~~Vicious animal means any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.~~

Voice command means the ability to direct or instruct a dog under one's control by issuing verbal ~~or audible~~ commands that will cause a dog to obey the person issuing such commands thereby causing the dog to act in a

manner not likely to cause harm to any other person, animal, or property. ~~Voice command is also likely to prevent any dangerous, vicious, or mischievous acts by any dog under such control.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference**— Definitions generally, [§ 1-2](#).

#### **Sec. 10-106. - Impoundment authorized.**

~~It shall be the duty of any law enforcement officer or animal control officer to initiate appropriate enforcement action whether such action requires the officer to cite the owner of such dog, apprehend, or cause to be apprehended, any dog found to be in violation of any provision of this article.~~

~~(Ord. No. 20-0206, § 1, 2-6-20)~~

#### **Sec. 10-107. - Running at large.**

It shall be unlawful for any owner to permit such owner's dog to be off the owner's premises within the city limits unless such dog is on a leash and under the owner's control. Notwithstanding the foregoing, dogs may remain off leash with the city limits while:

1. Enclosed within an automobile, or
2. Enclosed within a designated fenced area on the premises of a city dog park, or
3. Within a commercial indoor area designated and maintained for the keeping of dogs, so long as the dog remains under the control of a dog keeping professional.

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference**— Streets, sidewalks and other public places, [ch. 46](#).

#### **Sec. 10-108. - Dogs fouling public grounds.**

~~It is hereby declared to be unlawful for any owner, keeper or walker of any animal dog or cat to permit his dog or cat to discharge such animal's excreta upon any public or private property, other than the property of the owner of any dog or cat, within the city, if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property.~~

#### **Sec. 10-109. - Vaccination.**

~~It shall be unlawful for any owner of any dog to fail to have his dog vaccinated with an anti-rabies vaccine by a licensed veterinarian.~~ Pursuant to NC statue

~~(Ord. No. 20-0206, § 1, 2-6-20)~~

#### **Sec. 10-110. - Tag.**

Upon the vaccination of any dog under the provisions of this article, the veterinarian shall issue to the owner of such dog a tag evidencing such vaccination. It shall be the duty of the owner to affix the tag to the collar worn by the dog and to cause the dog to wear the collar at all times.

**Sec. 10-111. - Procedure upon suspicion of rabies.**

1. If a dog is believed to have rabies or has been bitten by or exposed to a dog or other animal suspected of having rabies, such dog shall be confined by a leash or by other means on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks. The owner shall notify the animal control officer of the fact that his dog has been exposed to rabies, and, at their ~~his~~ discretion, the animal control officer is empowered to have such dog removed from the owner's premises to a veterinarian hospital and there placed under observation for a period of two weeks at the expense of the owner.
2. It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the city without the written permission of the animal control officer.
3. ~~Every~~ An owner, ~~or other person~~, upon diagnosis ~~ascertaining~~ of a rabid dog ~~is rabid~~, shall notify the animal control officer or a law enforcement officer who shall either remove the dog to the animal services center or summarily destroy it.

**Cross reference—** Health and sanitation, [ch. 26](#).

**Sec. 10-112. - Destruction of animals that cannot be seized or confined by reasonable means.**

1. Notwithstanding any other provision of this chapter, an animal ~~a dog or cat~~ that cannot be seized by reasonable and normal means, trapped in a humane, live-capture animal trap, or tranquilized, alternative resources being exhausted, may be humanely destroyed in the field by animal control or other law enforcement officers.
2. ~~Vicious, dangerous/potentially~~ dangerous animals ~~so designated~~, or wild animals, or an animal attacking a human being, domestic animal, livestock or fowl ~~another pet, or livestock~~ may be immediately destroyed in the field, if such destruction is necessary for the protection of the public health and safety or that of city staff.

**Sec. 10-113. - Mischievous dogs.**

A dog can be deemed mischievous by an animal control officer if a dog has engaged in one or more of the behaviors listed.

1. Is repeatedly found at large.
2. Damages the property of anyone other than its owner.
3. ~~Causes fouling of the air by odors.~~



4. ~~Causes unsanitary condition of enclosures or surroundings.~~
5. ~~Excessively makes disturbing noises.~~
4. ~~(3) If any dog at large overturns a securely covered garbage container or removes any garbage from any such securely covered container, then such dog shall be conclusively presumed to be a mischievous dog and a dog of mischievous propensities and tendencies.~~
6. ~~No dog of mischievous propensities or tendencies may be at large at any time within the limits of the city, and it shall be unlawful for the owner or other person having any such dog in his possession or under his control, or in any manner keeping or harboring any such dog within the limits of the city, to cause or permit any such dog to be at large in the city.~~
7. ~~If any dog at large overturns a securely covered garbage container or removes any garbage from any such securely covered container, then such dog shall be conclusively presumed to be a mischievous dog and a dog of mischievous propensities and tendencies.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Sec. 10-114. - ~~Dangerous/potentially~~ Dangerous dogs ~~restricted~~.**

1. General provisions. It shall be unlawful for any person to own ~~or in any way maintain or harbor a dog~~ that is dangerous/~~potentially dangerous~~, except as provided in this chapter.
    - a) Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Henderson County Animal Service Center.
  2. Reporting requirement by Owner, ~~keeper, harborer~~ of a dog deemed dangerous/~~potentially dangerous~~ or of a dog who has attacked or bitten a person or domestic animal; Victim of or person witnessing such of an attack or biting; Veterinarian treating a domestic animal for such an attack or biting; Health care professional treating a person for such an attack or biting.
    - a) The report must be made to the police department within 24 hours of the event.
    - b) Failure to report an incident within 24 hours may result in criminal and civil penalties under this chapter and personal liability in subsequent incidents.
- i. Any attack or biting by a dog upon a person, livestock, ~~fowl~~, or domestic animal;
  - ii. ~~Transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog;~~
  - iii. confinement to a veterinary facility;
  - iv. removal from ~~territorial~~ jurisdiction of the ~~city~~ county;
  - v. ~~Dog's animal's death must be reported by any of the following individuals:~~
  - vi. Change of address or ownership of a dangerous/~~potentially dangerous~~ dog, the owner shall provide written notification of the change of address or ownership to the chief of police ~~or designee~~, stating the full name if there's a new owner, address, and location of the new owner of the dog. ~~Prior to any transfer to a new owner (with or without consideration) of a dangerous dog, the owner must provide to the chief of police a written statement, signed before a notary by the transferee (on a form obtained from the Hendersonville Police Department), indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous dog. If the dangerous or dog is being transferred out of Hendersonville or out of North Carolina. The owner of the animal must notify the sheriff/chief of police of the new jurisdiction to which the animal is being moved that this~~

dog has been deemed a potentially dangerous dog. The chief of police or designee also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case. The owner must comply with any local regulations regarding dangerous dogs in the new location.

- vii. Of the death of a dangerous/~~potentially dangerous~~ dog, the owner shall provide written notification of the dog's death to the chief of police or designee.

- ~~a. Owner, keeper, harbinger of a dog deemed dangerous/potentially dangerous or of a dog who has attacked or bitten a person or domestic animal;~~
- ~~b. Victim of or person witnessing such of an attack or biting;~~
- ~~c. Veterinarian treating a domestic animal for such an attack or biting;~~
- ~~d. Health care professional treating a person for such an attack or biting.~~

~~(1) The report must be made to the police department within 24 hours of the event.~~

~~(2) Failure to report an incident within 24 hours may result in criminal and civil penalties under this chapter and personal liability in subsequent incidents.~~

- 3. Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:

- a) Used by law enforcement agencies to carry out official law enforcement duties;
- b) Functioning lawfully as hunting or herding dogs, or in controlling predators on the property of, or under control of, the owner when performing duties appropriate to said functions;
- c) Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
- d) Protecting itself or its young from assault, torment, or abuse.

- 4. Declaration of dangerous/~~potentially dangerous~~ dog. The police chief or ~~their his/her~~ designee shall have the authority to declare a dog to be a dangerous/~~potentially dangerous dog~~. Any determination that a dog is dangerous/~~potentially dangerous~~ shall be made in writing summarizing the available evidence and which shall be delivered or mailed by certified or registered mail to the owner. The written determinations shall order compliance with the appropriate provisions of this chapter and may impose reasonable conditions to maintain the public health and safety.

- 5. Appeal. Any person who owns a dog that has been declared dangerous/~~potentially dangerous~~ shall have the right to appeal this decision to the animal services advisory ~~board~~. (Define)

- a) Manner of appeal. The owner of a dog declared dangerous/~~potentially dangerous~~ must request an appeal of the determination in writing. The written appeal must be submitted to the chief of police and must be received ~~by the chief of police~~ or postmarked within ~~seven~~ calendar days of the receipt by the owner of notice of the declaration.
- b) Pending the appeal, the owner of a dog declared dangerous/~~potentially dangerous~~ shall comply with the provisions of [section 10-110](#)(e).
- c) Hearing procedures. Once properly appealed, the animal services advisory ~~board committee~~ shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as ~~dangerous/potentially dangerous~~ ~~is correct~~ should be upheld.

- d) Outcome. If the dog is affirmed by the animal services advisory ~~board committee~~ as being ~~dangerous/potentially~~ dangerous, then the owner shall comply with the terms of section 10-114(e), (f), (g). Any person who owns a dog ~~upheld affirmed~~ dangerous/~~potentially dangerous~~ by the Animal Services advisory ~~board committee~~ or its designee has the right to appeal this determination to ~~a the~~ superior court.
6. Enclosures and control measures for dangerous/~~potentially dangerous~~ dogs. If a dog has been determined to be dangerous/~~potentially dangerous~~, as specified in this section, the dog may be retained upon the owner satisfying the following conditions:
- The owner must ensure that the dog at all times on and off the owner's property remains securely enclosed as per the ordinance or controlled and muzzled as described below. ~~Failure to do so shall subject the owner to penalty under this chapter.~~
  - Confine the dog within the owner's residence; or
  - Erect and confine the dog (except when muzzled and controlled as required below), within 30 days in a securely enclosed and padlocked pen with a concrete bottom and secure top. The structure must ~~be at least 10x10 feet~~ and be secured by ~~a tamper-proof child-resistant~~ lock. Pending construction of such pen, the dog must be confined within the owner's residence; or
  - The animal must be muzzled and under restraint by a competent person who, by means of a leash ~~or chain~~, has such animal firmly under physical restraint at all times when not in a secure building or enclosure. The muzzle must be a ~~basket muzzle. approved in advance by the Hendersonville Police Department and must be in good repair. In approving or disapproving of a particular muzzle, the Hendersonville Police Department shall take into account the size and demonstrated behavior of the dog, and the potential for injury in case of a failure of appropriate muzzling.~~
  - Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks, or greenways.
  - The owner must post a warning sign, use of city supplied sign of at least 120 square inches, which is to be visible to any adjoining property from each exposure of the residence or the structure in which the dangerous/potentially dangerous dog is confined. Each sign must have an approved graphic representation of an appropriate animal such that the dangerousness of the animal is communicated to those who cannot read, including young children.
  - Microchip. Within ten days of the determination or appeal determination, the owner of a dangerous/potentially dangerous dog must demonstrate to animal enforcement that such dog had a microchip implanted.
  - Inspection. Animal enforcement shall cause periodic inspections to be made of the premises where the dangerous/potentially dangerous dog is kept to assure compliance with the provisions of this chapter. The owner must permit these inspections at any reasonable time without notice to the owner from the animal ~~control enforcement~~ officers.
  - ~~All dogs deemed dangerous or potentially dangerous must be altered within 30 days of the determination.~~
7. Control measures.
- All control measures required by this section must be met immediately upon the determination that the animal is dangerous/~~potentially dangerous~~ except for the construction of the enclosure discussed in the subsection of this provision. The owner has 30 days to construct the enclosure during which time the animal must be confined indoors and may only be permitted outside under the control of a competent person by leash and the animal must be muzzled. ~~Failure to meet all control measures may result in the immediate impoundment of the animal and civil and criminal penalties.~~

- b) If the owner has no place to keep the animal while the structure is being constructed, the animal may be kept at the Henderson County Animal Services Center or at a private establishment approved by animal control officer enforcement and Henderson County Animal Services at the owner's expense.

~~8.—Notification. Within 24 hours:~~

- ~~a) Of change of address or ownership of a dangerous/potentially dangerous dog, the owner shall provide written notification of the change of address or ownership to the chief of police or designee, stating the full name if there's a new owner, address, and location of the new owner of the dog.~~
- ~~b) Of the death of a dangerous/potentially dangerous dog, the owner shall provide written notification of the dog's death to the chief of police or designee.~~
- ~~b) Notification prior to transfer. Prior to any transfer to a new owner (with or without consideration) of a dangerous/potentially dangerous dog, the owner must provide to the chief of police a written statement, signed before a notary by the transferee (on a form obtained from the Hendersonville Police Department), indicating the transferee's understanding of the transferee's obligations hereunder as an owner of a dangerous/potentially dangerous dog. If the dangerous or potentially dangerous dog is being transferred out of Hendersonville or out of North Carolina,~~
  - ~~(1) The owner of the animal must notify the sheriff/chief of police of the new jurisdiction to which the animal is being moved that this dog has been deemed a potentially dangerous dog.~~
  - ~~(2) The chief of police also shall notify the new jurisdiction that the animal has been deemed dangerous and the circumstances surrounding the case.~~
  - ~~(3) The owner must comply with any local regulations regarding dangerous dogs in the new location.~~

8. Immediate impoundment.

- a) Any dangerous dog may be immediately impounded and/or euthanized ~~may occur if a dangerous/potentially dangerous if the dangerous dog is kept in violation of (references section). Civil penalties may be imposed. section may be immediately impounded and or euthanized. Any dog in violation of this section, in addition to any criminal penalties imposed, the chief of police or his/her designee may be immediately impounded and or euthanized request Henderson County Animal Services to euthanize the dog~~
    - ~~a.—upon issuance of a second violation indicating a dangerous dog any warrant for the same, pending the outcome of the criminal action. If the owner is convicted of a criminal offense of keeping a dangerous/potentially dangerous dog in violation of this section, in addition to any criminal penalties imposed, the chief of police or his/her designee may request Henderson County Animal Services to euthanize the dog. Nothing herein shall be construed to in any way limit the use of civil penalties for a violation of this section.~~
    - ~~b.—If criminal charges have been brought against the owner for failure to comply with this chapter or for interference with the operations of the animal services center, no dog deemed dangerous shall be released from animal services until determined by a court of competent jurisdiction. During this time while the dog is impounded, it cannot be euthanized, and the cost of impoundment shall be charged to the owner.~~
  - a) No dog deemed dangerous ~~or potentially dangerous~~ may be adopted or euthanatized pending the outcome of quasi-judicial hearing.
9. Cost of impoundment. Costs of impoundment ~~at the animal services center~~ shall be paid by the owner ~~or the person liable~~ for the animal at a daily rate as determined by the impoundment facility. ~~Henderson~~

~~County.~~ In instances where the animal services center must impound the animal(s) at a private facility or kennel, the person liable for the animal will pay the rate established by those facilities.

10. Release from impoundment. Dog deemed dangerous dog may only be released to owner if the following requirements have been satisfied
  - a) Proof of compliance submitted to chief or designee
  - b) Approval of proof by the chief or designee is submitted in writing to the impoundment facility.  
~~once the owners submit proof to Chief of police or designee or potentially dangerous who has been impounded by the animal services center shall be released to the owner from impoundment except upon proof submitted by the owner or person liable for the animal that all the elements of this chapter have been met as verified by animal enforcement. This shall not apply in instances where criminal charges have been brought against the owner.~~
  - c) ~~If criminal charges have been brought against the owner for failure to comply with this chapter or for interference with the operations of the animal services center, no dog deemed dangerous shall be released from animal services until determined by a court of competent jurisdiction. During this time while the dog is impounded, it cannot be euthanized, and the cost of impoundment shall be charged to the owner.~~
  - d) ~~No dog deemed dangerous or potentially dangerous may be adopted.~~
  - e) ~~All dogs deemed dangerous or potentially dangerous must be altered within 30 days of the determination.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**~~Sec. 10-111. — Destruction of animals that cannot be seized or confined by reasonable means.~~**

- ~~1. — Notwithstanding any other provision of this chapter, animal a dog or cat that cannot be seized by reasonable and normal means, alternative resources being exhausted, trapped in a humane, live-capture animal trap, or tranquilized, may be humanely destroyed in the field by animal control or other law enforcement officers.~~
- ~~2. — Vicious, dangerous/potentially dangerous animals so designated, or wild animals, or an animal attacking a human being, domestic animal, livestock or fowl another pet, or livestock may be immediately destroyed in the field, if such destruction is necessary for the protection of the public health and safety or that of city staff.~~

~~(Ord. No. 20-0206, § 1, 2-6-20)~~

**~~Sec. 10-112. — Procedure upon suspicion of rabies~~**

- ~~1. — If a dog is believed to have rabies or has been bitten by or exposed to a dog or other animal suspected of having rabies, such dog shall be confined by a leash or by other means on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of two weeks. The owner shall notify the animal control officer of the fact that his dog has been exposed to rabies, and, at their his discretion, the animal control officer is empowered to have such dog removed from the owner's premises to a veterinarian hospital and there placed under observation for a period of two weeks at the expense of the owner.~~
- ~~2. — It shall be unlawful for any person knowing or suspecting a dog has rabies to allow such dog to be taken off his premises or beyond the limits of the city without the written permission of the animal control officer.~~

- ~~3. Every An owner, or other person, upon diagnosis ascertaining of a dog is rabid, shall notify the animal control officer or a law enforcement officer who shall either remove the dog to the animal services center or summarily destroy it.~~

(Ord. No. 20-0206, § 1, 2-6-20)

**Cross reference**— Health and sanitation, [ch. 26](#).

**~~Sec. 10-113. Vaccination.~~**

~~It shall be unlawful for any owner of any dog to fail to have his dog vaccinated with an anti-rabies vaccine by a licensed veterinarian.~~

~~{Ord. No. 20-0206, § 1, 2-6-20}~~

**State Law reference**— Health and sanitation, [ch. 26](#).

**~~Sec. 10-114. Tag.~~**

~~Upon the vaccination of any dog under the provisions of this article, the veterinarian shall issue to the owner of such dog a tag evidencing such vaccination. It shall be the duty of the owner to affix the tag to the collar worn by the dog and to cause the dog to wear the collar at all times.~~

~~{Ord. No. 20-0206, § 1, 2-6-20}~~

**~~Sec. 10-115. Impoundment authorized.~~**

~~It shall be the duty of any law enforcement officer or animal control officer to initiate appropriate enforcement action whether such action requires the officer to cite the owner of such dog, apprehend, or cause to be apprehended, any dog found to be in violation of any provision of this article.~~

~~{Ord. No. 20-0206, § 1, 2-6-20}~~

**Secs. 10-115—10-150. - Reserved.**

## **ARTICLE IV. - ANIMAL CRUELTY**

**Sec. 10-151. - Definitions.**

As used in this article, the following terms have the meanings here provided:

Adequate food shall mean the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foods shall be served in a receptacle, dish, or container that is physically clean.

Adequate shelter means proper and adequate shelter that will protect the animal from adverse weather and will allow the animal to stand, sit, and lie down without restriction and is kept humanely clean and sanitary.

Adequate water shall mean the readily availability to the domestic animal at all times of clean, potable (fresh) water.

Domestic animal shall mean any mammal or bird kept as a pet, and shall also include any animals including all dogs and cats owned or kept by a person, which animals are members of the genus Felidae or the genus Canidae.

Necessary Medical Attention -

Define extreme weather

Tether means a metal chain or coated metal cable used to restrain a domestic animal.

Tethering refers to the practice of securing or **restraining** a domestic animal to a stationary object. ~~by means of a metal chain, coated steel cable keeping the animal restrained.~~ This does not refer to periods when animals are being walked on a leash or tether for temporary grooming or other professional services.

(Ord. No. 20-0206, § 1, 2-6-20)

## **Sec. 10-152. - Mistreatment of animals prohibited.**

1. [Unlawful treatment.] It shall be unlawful for any person to deprive or cause to be deprived of any domestic animal of
  - a. Adequate food and adequate water,
  - b. necessary medical attention
  - c. and adequate shelter. Such a place shall be kept a clean and sanitary condition. All droppings shall be removed from the premises every 24 hours.

~~(1) Adequate food and water, as defined herein, must be provided for all domestic animals.~~

2. When confinement is prohibited. It shall be unlawful for a domestic animal to be intentionally confined in a building, enclosure, car, boat, vehicle or vessel of any kind to do so would expose the animal to heat or cold harmful to its health.

3. It shall be unlawful for a domestic animal to be tethered. Properly fitted collars required. An owner of a dog or cat shall not permit injury or inflict pain upon such animal from an improperly fitting or embedded collar.

~~(b) Tethering. Domestic animals may be tethered to a stationary object only if all of the conditions numbered subsections (1) through (9) are followed:~~

~~(1) A tether must be equipped with a swivel on both ends.~~

~~(2) A tether must be a minimum of ten feet in length and be made of either metal chain or coated steel cable.~~

~~(3) Tethers must be attached to a collar or harness worn by the domestic animal and under no circumstances shall the tether be placed directly around the domestic animal's neck. Tethers are never to be used in conjunction with training collars such as choke or pinch-style collars.~~

~~(4) The weight of the tether must not exceed ten percent of the total body weight of the domestic animal but shall be of sufficient strength to prevent breakage.~~

~~(5) The tether by design and placement must allow the domestic animal a reasonable and unobstructed range of motion without the possibility of entanglement.~~

~~(6) The domestic animal must be six months of age or older to be tethered.~~

~~(7) Only one domestic animal may be attached to a single tether.~~

~~(8) Pulley systems, running lines, and trolley systems cannot be used in conjunction with training collars such as choke or pinch-style collars. The attached tether may not be made of rope, twine, cord, or similar material.~~

~~a. Pulley, running line or trolley systems shall be at least ten feet in length and no more than seven feet above ground.~~

~~b. The attached tether shall be no less than ten feet in length.~~

~~(9) No tether shall be affixed to a stationary object which allows a domestic animal to come within five feet of any property line.~~

~~(10) The animal care and control officer may have in their sole discretion the power to order any resident a minimum tethering requirement when such a condition is found to be detrimental to the health, safety and welfare of the domestic animal. No animal shall be left tethered outside without adequate shelter for longer than 30 minutes, during any period which a severe weather warning has been issued for the immediate area by the National Weather Service and a licensed veterinarian determines that current or expected weather conditions could cause significant harm to the animal. The determination shall be based on breed, estimated age, health, and condition of the animal.~~

~~(c) Properly fitted collars required. An owner of a dog or cat shall not permit injury or inflict pain upon such animal from an improperly fitting or embedded collar.~~

(Ord. No. 20-0206, § 1, 2-6-20)

## **Sec. 10-153. - Violations and penalties.**

The following penalties shall pertain to violations of this chapter:



- (a) Misdemeanor. The violation of any provision of this chapter shall be a misdemeanor, and any person convicted of such violation shall be punishable as provided in G.S. 14-4 or other applicable law. Each violation of this chapter (or if a continuing violation, each day in which the violation continues) is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not affect the liability for fees or civil penalties imposed under this chapter.
- (b) Enforcement. Enforcement of this chapter may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. 153A-123(d) and (e).
- (c) Issuance of a citation. Issuance of a citation for violation of this chapter is directed toward and against the owner. The purpose of the issuance of a citation is to affect the conduct of the owner by seeking to have the owner ensure compliance with this chapter. The issuance of a citation hereunder shall not affect the prosecution of a violation hereof as a misdemeanor as provided above. A citation shall:
  - (1) Give notice of the violation(s) alleged of the owner;
  - (2) State the civil penalties for such violation(s);
  - (3) State the date by which any penalties for such violation(s) must be paid; and
  - (4) State that the city may initiate after such date a civil action to collect the civil penalties which are and may become due.
- (d) Civil penalties. In addition to and independent of any criminal penalties and other sanctions provided in this article, violations of this article may also subject the offender to the civil penalties hereinafter set forth.

(Ord. No. 20-0206, § 1, 2-6-20)

#### **Sec. 10-154. - Enforcement.**

- (a) The chief of police or any city police officer may issue to the known owner of any animal, or to any other violator of the provisions of this chapter, a citation. Citations so issued may be delivered in person or mailed by certified or registered mail to the person charged if that person cannot be readily found. The imposed civil penalty shall be paid in full to the city within 30 days of receipt of the citation assessing the civil penalty. This civil penalty is in addition to other fees or costs authorized by this article.
- (b) In the event that the owner of an animal or other alleged violator does not respond to the above-described citation, or the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or other alleged violator of this chapter, and upon conviction, the owner shall be punished as provided by state law. The city manager or his designee are expressly authorized to initiate and prosecute small claims actions in district court to collect civil penalties and fees due to the city and may call on the city legal department for assistance as needed.

(Ord. No. 20-0206, § 1, 2-6-20)

#### **Sec. 10-155. - Enumerated civil penalties.**

The following civil penalties are hereby established for each incident violation of this chapter:

Violation of this article as to any domestic animal (per day) .....\$500.00.

(Ord. No. 20-0206, § 1, 2-6-20)