

## **CHAPTER 10**

### **ANIMAL CONTROL**

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 Carrboro Town Council 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.

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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).

## 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 tables 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	24-40sf	44-80sf
Minimum run/pen size in square feet (sf) (6 sf flow or rabbit)	18-30sf	36-30sf	66-120sf

<u>Location Requirements</u>	<u>Number of Fowl/Rabbits</u>		
	<u>3-5</u>	<u>6-10</u>	<u>11-20**</u>
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 within 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.

(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 the reasons for the issuance or denial of the permit and shall furnish a copy thereof to any person who requests a copy.

(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:

(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 the administrator 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 the administrator 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**

(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 Town Council 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.

**Section 10-6 Penalties** (*amend. to add 10/11/22*)

The following penalties shall pertain to violations of this Ordinance.

(a) Enforcement of this Ordinance may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to North Carolina General Statutes § 160A-175 (d) and (e).

(b) A violation of this Ordinance may subject the offender to the civil penalties hereinafter set forth.

(1) The Orange County Animal Services Director (or designee) may issue to the known Owner or Keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s) and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. The following civil penalties shall be assessed for each violation of this Ordinance:

(i) Mistreatment of Animals (See Orange County Unified Animal Ordinance (UAO) Section 4-41) \$200.00. (ii) The civil penalty for a nuisance violation (UAO Section 4-45) shall be as follows:

Number of Prior Nuisance Violations	Amount
1	\$100.00
2	\$200.00
3 or more	\$400.00

(2) This civil penalty shall be paid to the Animal Services Director or his or her designee within 14 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this Ordinance.

(3) In the event that 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 Keeper or other alleged violator of this Ordinance, and upon conviction, the Owner or Keeper shall be punished as provided by State law. Failure on the part of the Owner or Keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is

unlawful and a violation of the Ordinance. Unless otherwise provided, the civil penalty for violation of this subsection is \$25.00, except where the original violation was for Failure to Vaccinate for Rabies in which case the civil Penalty for a violation of this subsection is \$100.00.

**Section 10-7 Enforcement of the Display of Wild and Exotic Animals** (*Amend. to add 10/11/22*)

Any person displaying or sponsoring a display of a wild or exotic animal at the date that the Orange County Unified Animal Control Ordinance (UAO) was adopted (Jan. 21, 2016) to prohibit such display shall comply with the UAO's prohibition on the display of wild or exotic animals within 30 days of the effective date of the UAO. (The Carrboro Town Council adopted a resolution authorizing enforcement of the UAO inside the Town limits.) No wild or exotic animals may be displayed that are not permitted by the United States Department of Agriculture nor shall any exotic or wild animal that has been designated a rabies vector species in North Carolina be displayed, except when approved by the Animal Services Director. Wild or Exotic animals designated as rabies vector species may only be displayed in a manner so as to not come into contact with the public.

(a) Investigations. The Orange County Animal Service Department shall investigate any complaints, reports, or information that wild or exotic animals are being displayed or will be displayed in Orange County in violation of the UAO to determine whether or not a violation has occurred.

(1) If the Orange County Animal Services Department determines that wild or exotic animals are being displayed in Orange County in violation of the UAO, the investigating officer(s) shall issue a written warning to the person displaying the wild or exotic animal(s). The written notice shall be delivered, via hand delivery to a responsible person or via posting at the site of the display.

(2) The person against whom the warning is issued shall desist all activities in violation of the UAO as of the business day the written notice is given.

(b) Penalties.

(1) Reserved.

(2) Civil Penalty. —A person who violates any of the provisions of the UAO shall be subject to a civil penalty of \$250.00 per animal for each day of the violation. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the

person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty.

(3) Injunctive Relief.

a. Whenever the Orange County Animal Services Department or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate the UAO, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Section, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation of threatened violation.

b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil penalty prescribed for violations of this Section.

