

**AN ORDINANCE TO AMEND ARTICLE II. "ANIMAL CONTROL" OF CHAPTER 6
"ANIMALS" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN**

THAT WHEREAS, the Animal Control Officer of the City of New Bern has proposed certain amendments to Article II "Animal Control" of Chapter 6 entitled "Animals" of the Code of Ordinances of the City of New Bern; and

WHEREAS, the Chief of Police recommends approval of said proposed amendments; and

WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect said revisions to Chapter 6 of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Section 6-27. "Duties of animal control officer." of Article II "Animal Control" of Chapter 6 "Animals" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 6-27 and inserting in its stead the following:

"Sec. 6-27. Duties of animal control officer. The animal control division shall be charged with the responsibilities of:

(1) Enforcement of the city laws, ordinances and resolutions relating to dogs, or to the care, custody and control of animals.

(2) Cooperation with the health director and assistance in the enforcement of the laws of the state with regard to dogs; the vaccination of domesticated animals against rabies; and the confinement and leashing of vicious animals."

(Code 1971, §§ 4-20; Ord. No. 2002-1, § 1, 1-8-02)

Cross reference--Personnel, ch. 54.

SECTION 2. That Section 6-28. "Definitions." of Article II "Animal Control" of Chapter 6 "Animals" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 6-28 and inserting in its stead the following:

"Sec. 6-28. 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:

At large means any animal when it is off the property of its custodian, and not under restraint as defined in this section.

Custodian means the person owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal however temporarily; provided, however, that a person having temporary custody or possession of an animal for the sole purpose of turning over such animal to the county health department, county animal control officer, city animal control officer or other peace officer shall not be deemed the custodian of the animal.

Domesticated animal means any animal accustomed to living in or about the habitation of humans, including but not limited to cats, cows, dogs, fowl, horses, and domesticated wild animals.

Pet means a domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, reptiles, domesticated wild animals and other animals associated with human's environment.

Restraint. An animal is under restraint within the meaning of this article if it is:

- (1) Controlled by means of a chain, leash or other like device;
- (2) On or within a vehicle being driven or parked; or
- (3) Within a secure enclosure.

Stray means any domesticated animal within the city, off the premises of the owner, and not under restraint.

Vicious animal means any animal that has made an attack on a human being by biting or in any manner causing abrasions or cuts of the skin; or one which, without provocation, attacked other pets." (Code 1971, §§ 4-21; Ord. No. 2002-1, § 2, 1-8-02)

Cross reference --Definitions generally, §§ 1-2.

SECTION 3. That Section 6-30. "Certain acts declared public nuisance." of Article II "Animal Control" of Chapter 6 "Animals" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 6-30 and inserting in its stead the following:

"Sec. 6-30. Certain acts declared public nuisance. The following acts are hereby declared a public nuisance for which an animal may be impounded:

- (1) Any dog or other animal which by frequent or habitual howling, yelping, barking, or the making of other noises shall disturb the neighborhood.
- (2) Any animal which chases, snaps at, or attacks pedestrians, bicycle riders or vehicles.
- (3) Any animal which turns over garbage pails, damages gardens, flowers, vegetables or personal property of another.
- (4) A female animal in heat not under restraint.
- (5) Any stray animal running at large within the city.
- (6) Any animal off the premises of custodian not wearing rabies vaccination tags if required by this article." (Code 1971, §§ 4-23; Ord. No. 2002-1, § 3, 1-8-02)

Cross reference --Nuisances generally, §§ 26-26 et seq.

SECTION 4. That Section 6-32. "Prohibited acts." of Article II "Animal Control" of Chapter 6 "Animals" of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 6-32 and inserting in its stead the following:

"Sec. 6-32. Prohibited acts. It shall be unlawful for any person within the city to do any of the following:

- (1) Vicious animals. Keep or cause to be kept any vicious animal, as defined in this article, unless confined within a secure building or enclosure, or under restraint.
- (2) Howling and barking dogs, cats or other animals. Keep or harbor any dog, cat, or animal which, by frequent or habitual howling, yelping, barking, or the making of other noises, shall annoy or disturb the neighborhood.

(3) Stray animals. Cause, permit, or allow an animal to be away from the premises of the owner, or to be in a public place, or on any public property in the city, unless such animal is under restraint.

(4) Interference with animal control officer. Interfere with, hinder, or molest the animal control officer, or other authorized officer, or person, in the performance of any duty authorized by this article, or to seek to release any animal in the custody of such person.

(5) Rabies vaccination. Have custody of any dog or cat over the age of four months which is not currently vaccinated against rabies.

(6) Dog feces. Fail or neglect to remove immediately any dog feces deposited on public or private property, without the consent of the owner of such property, by a dog in the care, charge, control, or custody of such person, or owned, possessed, or harbored by said person. For the purpose of this section, dog fecal matter shall be immediately removed by placing such matter in a closed or sealed container and thereafter disposing of it by depositing the matter in a trash receptacle, sanitary disposal unit, or other closed or sealed container.” (Code 1971, §§ 4-25; Ord. No. 2002-1, § 4, 1-8-02)

SECTION 5. That Section 6-35. “Penalty for violation of section 6-32.” of Article II “Animal Control” of Chapter 6 “Animals” of the Code of Ordinance of the City of New Bern be and the same is hereby amended by deleting Section 6-35 and inserting in its stead the following:

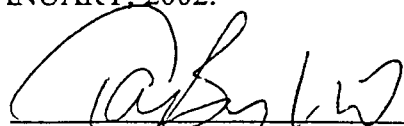
“Sec. 6-35. Penalty for violation of section 6-32.

(a) Any city official authorized by the city manager or his designated agent may issue to the known owner or person having custody of any animal or to any other violator, a ticket giving notice of the violation of section 6-32. Tickets so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot readily be found. The ticket issued shall impose upon the owner a civil penalty of \$20.00 which may, in the discretion of the violator, be paid to the city tax collector within 14 days of receipt in full satisfaction of the assessed civil penalty.

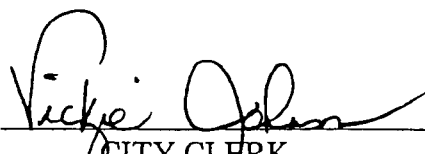
(b) If the owner of an animal or other violator does not appear in response to the above-described ticket or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the owner or person having custody of an animal for violation of this article and upon conviction, the owner shall be punished as provided by state law.” (Code 1971, §§ 4-28; Ord. No. 2002-1, § 5, 1-8-02)

SECTION 6. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 22ND DAY OF JANUARY, 2002.



MAYOR



CITY CLERK

Chapter 6

ANIMALS*

Article I. In General

- Sec. 6-1. Keeping swine.
- Sec. 6-2. Keeping horses or cattle.
- *Sec. 6-3. Animals constituting a public nuisance.
- Sec. 6-4. Impoundment of livestock at large and livestock in violation of article.
- Secs. 6-5--6-25. Reserved.

Article II. Animal Control

- Sec. 6-26. Office of animal control created; duties.
- ✓ Sec. 6-27. 1 Duties of animal control officer.
- Sec. 6-28. Definitions.
- Sec. 6-29. Responsibility of custodian of animals.
- ✓ Sec. 6-30. 2-5 Certain acts declared public nuisance.
- Sec. 6-31. Rabies control.
- ✓ Sec. 6-32. 3 Prohibited acts.
- Sec. 6-33. Impounding animals.
- Sec. 6-34. Records.
- Sec. 6-35. Penalty for violation of section 6-32.

*State law references—Authority to regulate domestic animals, G.S. 160A-186, license tax authorized, G.S. 160A-212.

ARTICLE I. IN GENERAL

Sec. 6-1. Keeping swine.

It shall be unlawful for any person to keep or maintain swine within the city unless the swine shall be kept, maintained or housed at least 150 yards from the nearest dwelling.

(Code 1971, § 4-1)

Sec. 6-2. Keeping horses or cattle.

It shall be unlawful for any person to keep or maintain horses or cattle within the city, unless the horses or cattle shall be kept, maintained or housed at least 200 feet from the nearest dwelling.

(Code 1971, § 4-2)

Sec. 6-3. Animals constituting a public nuisance.

It shall be unlawful for any person to keep or maintain within the city any animals or poultry in such numbers and so housed as to result in noxious or offensive odors, or loud and disagreeable noises, and thereby to constitute a public nuisance.

(Code 1971, § 4-3)

Cross reference—Nuisances generally, § 26-26 et seq

Sec. 6-4. Impoundment of livestock at large and livestock in violation of article.

Any livestock which is found running at large or is in violation of this article shall be seized and impounded by the chief of police.

(Code 1971, § 4-4)

Secs. 6-5—6-25. Reserved.

ARTICLE II. ANIMAL CONTROL

Sec. 6-26. Office of animal control created; duties.

There is hereby created the office of animal control for the city. It shall be the duty of the animal control officer to perform all of the duties incident to the administration and enforcement of this article, and to perform such other duties as by general law or ordinance may be imposed on him. He shall be assigned to the police department, and

shall work in cooperation with the county health department, and the county animal control officer.

(Code 1971, § 4-19)

Sec. 6-27. Duties of animal control officer.

The animal control division shall be charged with the responsibilities of:

- (1) Enforcement of the city laws, ordinances and resolutions relating to dogs, or to the care, custody and control of animals.
- (2) Cooperation with the health director and assistance in the enforcement of the laws of the state with regard to dogs; the vaccination of dogs against rabies; and the confinement and leashing of vicious animals.

(Code 1971, § 4-20)

Cross reference—Personnel, ch. 54.

Sec. 6-28. 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:

At large means any animal when it is off the property of its custodian, and not under restraint as defined in this section.

Custodian means the person owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal.

Restraint. An animal is under restraint within the meaning of this article if it is:

- (1) Controlled by means of a chain, leash or other like device;
- (2) On or within a vehicle being driven or parked; or
- (3) Within a secure enclosure.

Stray dog means any dog within the city, off the premises of the owner, and not under restraint.

Vicious animal means any animal that has made an attack on a human being by biting or in any manner causing abrasions or cuts of the skin;

or one which, without provocation, attacked other pets.

(Code 1971, § 4-21)

Cross reference—Definitions generally, § 1-2.

Sec. 6-29. Responsibility of custodian of animals.

The custodian of every animal shall be responsible for the care, vaccination and behavior of such animal.

(Code 1971, § 4-22)

Sec. 6-30. Certain acts declared public nuisance.

The following acts are hereby declared a public nuisance for which an animal may be impounded:

- (1) Any dog or other animal which by frequent or habitual howling, yelping, barking, or the making of other noises shall disturb the neighborhood.
- (2) Any animal which chases, snaps at, or attacks pedestrians, bicycle riders or vehicles.
- (3) Any animal which turns over garbage pails, damages gardens, flowers, vegetables or personal property of another.
- (4) A female dog in heat not under restraint.
- (5) Any stray dog running at large within the city.
- (6) Any dog off the premises of custodian not wearing rabies vaccination tags if required by this article.

(Code 1971, § 4-23)

Cross reference—Nuisances generally, § 26-26 et seq

Sec. 6-31. Rabies control.

(a) *Vaccination.* Every dog or cat four months of age or older housed in the city shall, at all times, be currently vaccinated against rabies. The custodian of all such animals shall provide proof of such vaccination upon demand of the animal control officer. Failure to provide such proof may result in such animal being impounded subject to redemption in the manner provided in this article

(b) *Confinement.* Whenever any person or animal is bitten by a dog, cat, or other animal within the city, the animal control officer shall have the right and authority to examine such animal to determine whether it has hydrophobia. In such case, upon demand of the animal control officer, the custodian of such animal shall deliver it to the animal control officer who may impound such animal during such period as may be necessary to determine whether it has hydrophobia, such period being not less than ten days. If the animal control officer finds that such animal has hydrophobia or any symptoms thereof, then such officer shall cause such animal to be destroyed; otherwise it shall be returned to its custodian at the time it was delivered up for examination, provided such custodian shall pay the expense of keeping said animal in confinement. If such custodian fails to pay for the upkeep of such animal upon demand, the animal control officer is empowered to proceed as otherwise provided in this article.

(Code 1971, § 4-24)

Cross reference—Health and sanitation, ch. 34.

State law reference—Rabies control, G.S. 130A-184 et seq.

Sec. 6-32. Prohibited acts.

It shall be unlawful for any person within the city to do any of the following:

- (1) *Vicious animals.* Keep or cause to be kept any vicious animal, as defined in this article, unless confined within a secure building or enclosure, or under restraint.
- (2) *Howling and barking dogs, cats or other animals.* Keep or harbor any dog, cat, or animal which, by frequent or habitual howling, yelping, barking, or the making of other noises, shall annoy or disturb the neighborhood.
- (3) *Stray dogs.* Cause, permit, or allow a dog to be away from the premises of the owner, or to be in a public place, or on any public property in the city, unless such dog is under restraint.
- (4) *Interference with animal control officer.* Interfere with, hinder, or molest the animal control officer, or other authorized officer, or person, in the performance of any duty

authorized by this article, or to seek to release any animal in the custody of such person.

- (5) *Rabies vaccination.* Have custody of any dog or cat over the age of four months which is not currently vaccinated against rabies.
- (6) *Dog feces.* Fail or neglect to remove immediately any dog feces deposited on public or private property, without the consent of the owner of such property, by a dog in the care, charge, control, or custody of such person, or owned, possessed, or harbored by said person. For the purpose of this section, dog fecal matter shall be immediately removed by placing such matter in a closed or sealed container and thereafter disposing of it by depositing the matter in a trash receptacle, sanitary disposal unit, or other closed or sealed container.

(Code 1971, § 4-25)

Sec. 6-33. Impounding animals.

Any animal that, in the considered judgment of the animal control officer, has strayed or which is not properly vaccinated for rabies, or is deemed a public nuisance, may be impounded and confined in the animal pound in a humane manner, subject to redemption, adoption or destruction as provided in current pound regulations.

(Code 1971, § 4-26)

Sec. 6-34. Records.

It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of:

- (1) Impoundment and disposition of all animals picked up by the animal control officer.
- (2) Bite cases, violations and complaints and investigations of same.

(Code 1971, § 4-27)

Sec. 6-35. Penalty for violation of section 6-32.

- (a) Any city official authorized by the city manager of his designated agent may issue to the known owner or person having custody of any dog,

or to any other violator, a ticket giving notice of the violation of section 6-32. Tickets so issued may be delivered in person or mailed by registered mail to the person charged if that person cannot readily be found. The ticket issued shall impose upon the owner a civil penalty of \$20.00 which may, in the discretion of the violator, be paid to the city tax collector within 14 days of receipt in full satisfaction of the assessed civil penalty.

- (b) If the owner of a dog or other violator does not appear in response to the above-described ticket or the applicable civil penalty is not paid within the time period prescribed, a criminal summons may be issued against the owner or person having custody of a dog for violation of this article and upon conviction, the owner shall be punished as provided by state law.

(Code 1971, § 4-28)