

Chapter 5

ANIMALS*

- Sec. 5-1. Feeding of raccoons and other wild animals prohibited.
- Sec. 5-2. Removal of dog litter.
- Sec. 5-3. Roaming and nuisance animals.
- Sec. 5-4. Regulation of vicious dogs.

***State law reference**—Municipal authority to regulate animals, G.S. § 7-148(c)(7)(D).

Sec. 5-1. Feeding of raccoons and other wild animals prohibited.

(a) No person shall feed, harbor or shelter raccoons, feral cats, foxes, coyotes, woodchucks or skunks within the town.

(b) No person or business entity shall leave waste food products, and containers, garbage or other similar refuse attractive to such animals outside of an enclosed structure unless the same are contained within appropriate trash or refuse receptacles so maintained as to minimize access by such animals.

(c) The director of health for the town is hereby authorized to add additional species to this prohibition from time to time as such director deems necessary, and upon review and approval of the board of selectmen.

(d) Any person who violates any provision of this section will be issued a warning for the first violation. Any person who violates any provision of this section after receiving the first violation warning shall be subject to a fine of \$50.00 for each violation, and each day such violation continues shall constitute a separate violation.

(Ord. of 8-12-1992, §§ 1—4)

Editor's note—Provisions enacted by §§ 1—4 of an ordinance adopted Aug. 12, 1992, have been codified herein at the discretion of the editor as § 5-1.

Sec. 5-2. Removal of dog litter.

(a) It shall be unlawful for any person owning, keeping, walking or in control of any dog to allow or permit such animal to defecate upon any sidewalk or any other public or private property maintained for human use, other than property of the owner or his agent, unless such person shall remove all feces so deposited by such animal before leaving the immediate premises.

(b) The provisions of this section shall not apply to a guide dog accompanying any blind person.

(c) Anyone in violation of this section shall be punished by a fine of not more than \$100.00.
(Ord. of 5-3-1995)

Cross reference—Litter on highways, § 9-1.

Editor's note—At the discretion of the editor, provisions enacted by an ordinance adopted May 3, 1995, have been included herein as § 5-2.

Sec. 5-3. Roaming and nuisance animals.

(a) No owner of any animal shall allow such animal to create a nuisance or roam at large within the town while it is not in control, by means of a leash, of the owner or agent of the owner, provided that nothing in this section shall be construed to limit or prohibit the use of hunting dogs during the open hunting or training season or any animal while performing or being exhibited in a bench show or exhibition.

(b) If an animal is found at large in violation of this section, it shall be impounded by the animal control officer.

(c) Violation of this section shall be punishable by a fine of not more than \$100.00.
(Ord. of 10-8-1997)

Sec. 5-4. Regulation of vicious dogs.

(a) *Purpose.* It is hereby declared that vicious dogs have become a serious threat to the safety and welfare of the citizens of our community. Unprovoked attacks by vicious dogs upon persons and animals throughout the country have occurred at an increasing rate and the existing laws are inadequate to deal with the threat to the public. The owning, keeping or harboring of vicious dogs is a nuisance and many of the attacks have been attributed to the failure of owners to register, confine and properly control their vicious dogs.

(b) *Definitions.* As used in this section, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

Domestic animals: Includes, but is not limited to, all forms of livestock.

Enclosure: A fence or structure not more than six feet in height and at least five by ten feet, forming or causing an enclosure suitable to prevent the entry of young children and suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper, such as tethering of the vicious dog. Such "enclosure" shall be securely enclosed, locked, designed with secure sides, top and bottom, designed to prevent the dog from escaping the enclosure and also provide the dog protection from the elements.

Impounded: Taken into custody of the municipal dog pound.

Owner: Any natural person or legal entity including, but not limited to, a firm, corporation, organization, partnership or trust, possessing, harboring, having, keeping an interest in or having control or custody of the dog.

Panel: A panel of three individuals, which shall include the first selectman, one veterinarian licensed in the state and the health officer.

Vicious dog: A dog is not "vicious" by virtue of any past behavior or propensity until the panel makes the determination based upon evidence presented to it that a dog:

- (1) Which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; is owned or harbored primarily, or in part, for the purpose of dog fighting or any dog trained for dog fighting;
- (2) Notwithstanding the definition of a "vicious dog" above, no dog may be declared vicious if an injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner of the dog or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.
- (3) No dog may be declared vicious if an injury or damage was sustained by a domestic animal, which at the time that such injury or damage was sustained, was teasing,

tormenting or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(c) *Control of vicious dogs.* All vicious dogs shall be confined in an enclosure. It shall be unlawful for any owner to maintain a vicious dog upon any premises which does not have a locked enclosure. It shall be unlawful for an owner of a vicious dog to permit the dog to be outside the enclosure unless the dog is securely muzzled and restrained with a chain type leash and under the direct control and supervision of the said owner. The chain shall have a minimum tensile strength of 300 pounds and not exceed three feet in length. The muzzle shall be made in such a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal. The owner shall display a sign on the premises warning others of a vicious dog on the premises. Said sign shall be visible and capable of being read from the street, road or highway, whether public or private, which abuts said premises.

(d) *Prohibited activities.* No person shall own or harbor any dog for the purpose of dog fighting or train, torment, badger, bait or use any dog for the purpose of causing or encouraging said dog to unprovoked attacks upon human beings or domestic animals.

(e) *Impoundment; issuance of citations; hearing procedures; appeals.*

- (1) In the event the animal control officer has probable cause to believe that a dog is vicious, upon notification the first selectman, or his designee, shall be empowered to convene a hearing for the purpose of determining whether or not the dog in question should be declared vicious. The first selectman, or his designee, shall notify the owner of the dog that a hearing will be held, at which time such owner shall have the opportunity to present evidence why the dog should not be declared vicious. The hearing shall be conducted by the panel. Said hearing shall be held promptly within no less than five days but no more than ten days after service of notice upon the owner of the dog. The hearing shall be open to the public.
- (2) After the hearing, the owner of the dog shall be notified in writing of the decision. If a decision is made that the dog is vicious, the owner shall comply with the provisions of this section in accordance with a time schedule established by the animal control officer or his designee, but in no case more than 30 days subsequent to the date of the determination. If the owner of the dog contests the determination, he may request a hearing before the state commission of agriculture when such is provided by G.S. § 22-358.
- (3) In the event the animal control officer has probable cause to believe the dog in question is vicious and may pose a threat of serious harm to human beings or domestic animals, the animal control officer shall seize and impound the dog pending the hearing. The owner of the dog shall be liable to the town for the costs and expenses, including shelter, food and veterinary expenses, necessitated by the seizure of such dog.

(f) *Violations and penalties.*

- (1) Any vicious dog which is not maintained within an enclosure on the premises or outside of the dwelling of the owner or outside of an enclosure and unmuzzled and/or unchained, as provided herein, shall be confiscated by the animal control officer and impounded for a period of 14 days. Following the second impoundment under this section, the dog may be destroyed in an expeditious and humane manner, but only after written notice to the owner of a hearing and order of the animal control officer. The owner may request a hearing before the state commission of agriculture, when such is provided for by G.S. § 22-358, or when not so provided, then by the panel within 14 days of said order. In the event that the owner requests said hearing, the destruction of the dog shall be stayed until such time as the commissioner of agriculture affirms the order of the animal control officer. In addition, the owner shall pay a fine of \$99.00 and such costs and expenses necessitated by each seizure of the dog, including such expenses as may be required for the destruction of such dog.
- (2) If any vicious dog should attack, assault, wound, bite or otherwise injure or kill a human being or domestic animal, when unprovoked, the owner of said dog shall pay a fine of \$99.00 and the animal control officer is empowered to confiscate and impound said dog for a period of 14 days. Following impoundment under this section, the dog may be destroyed in an expeditious and humane manner but only after the owner has been advised by written notice of a hearing and order of the animal control officer. The owner may request a hearing before the commissioner of agriculture, when such is provided for by G.S. § 22-358, or when not so provided, then by the panel within 14 days of the issuance of said order. In the event the owner requests said hearing, the destruction of the dog shall be stayed until such time as the commissioner affirms the order of the animal control officer. In addition, the owner shall pay such costs and expenses necessitated by the seizure of the dog, including such expenses as may be required for the destruction of such dog. The penalties set forth herein shall not limit the right of any victim to bring a civil action against the owner or keeper of a vicious dog, as provided for by state law.

(g) *Responsibility of parents for ensuring compliance.* In the event the owner of the vicious dog is a minor, the parent or guardian shall be responsible for ensuring compliance with this section.

(h) *Exceptions.* This section shall not apply to:

- (1) Kennels licensed in accordance with G.S. title 22, ch. 435.
- (2) K-9 or other dogs owned by the police department or any law enforcement officer, which are used in the performance of police work.

(Ord. of 9-27-2000)