



CITY OF HENDERSONVILLE
ANIMAL SERVICES ADVISORY COMMITTEE
HPD - Police Assembly Room | 160 Sixth Ave. E | Hendersonville NC 28792
Thursday, May 20, 2021 – 5:30 PM



AGENDA

1. **CALL TO ORDER**

2. **APPROVAL OF AGENDA**

3. **APPROVAL OF MINUTES**

A. Meeting Minutes of April 15, 2021 - *Melissa Justus, Secretary*

4. **APPROVAL OF AGENDA**

A. Adoption of Regular Meetings Schedule - Revised - Meetings returning to In-person.

5. **PUBLIC COMMENT**

6. **NEW BUSINESS**

A. Survey Results- Will be provided by end of business on Wednesday

B. Special Events Discussion

C. Educational Items-BRHS and COH

7. **OTHER BUSINESS**

A. Civil Penalties- *John Connet, City Manager*

B. Discussion - *Caroline Gunther, Chair*

8. **ADJOURNMENT**

9.

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.



Regular Meeting
City of Hendersonville
Animal Services Advisory Committee

Meeting Minutes | April 15, 2021 – 5:30 p.m.

HPD Police Assembly Room | 160 6th Ave. E. | Hendersonville NC 28792

1. Call to Order

Meeting was called to order at 5:35 p.m. by Caroline Gunther, Chair. Member's present were Caroline Gunther, Chair; Angela Prodrick, Vice Chair; Alexa Arnold; Jean Greeson and Sarah Hoffman. City Staff present were Captain Rich Olsen; Allison Justus, COH Communications Manager; Angie Beeker, City Attorney and Melissa Justus, Secretary.

Committee members Dr. Pat Gallagher and Connie Stewart were absent.

Joy Edwards joined the meeting at 5:41 pm.

Angie Beeker, City Attorney left the meeting at 7:01 pm.

2. Adoption of 03-18-2021 Meeting Minutes

Committee member Barbara Burke moved to approve the minutes of the March 18, 2021 meeting. Committee member Alexa Arnold seconded. A unanimous vote of the Committee followed.

3. Survey Plan and Sample

Allison Justus provided a sample survey with the 5 questions that were decided upon at the March 18, 2021 meeting. Changes were discussed and Allison will revise with those recommended changes. This survey will be sent out to citizens via the city website and posted on social media. The survey will run for approximately 3 weeks, with reminders to complete the survey, and the results will be exported in a spreadsheet and should be available to the committee by the May 20, 2021 meeting. That information along with year-to-date information of the calls for service that are animal related from HPD will be combined and the committee will decide what steps will be next.

4. Discussion of educational materials by BRHS and data from HPD

Angela Prodrick and Laura Rice from BRHS will meet with Allison Justus to discuss joint information that can be on the COH website, such as Spay & Neuter information and FAQ's. There is also an upcoming meeting with Chief Myhand.

5. Animals at Special Events

Ordinance needs to be more defined with clear expectations. Discussed making changes to the ordinance. There needs to be solid suggestions for the Special Events committee by October for those to be in place by January 2022. Caroline requested that the committee email suggestions to Melissa Justus for any changes to the current ordinance/policies.

6. Civil Penalties – Angie Beeker, City Attorney

Attorney Beeker shared a PowerPoint presentation with the committee on civil penalties versus criminal charges for pet related penalties. Civil penalties are more flexible than criminal penalties.

The terms of committee members Barbara Burke, Constance Stewart and Alexa Arnold are ending in June. Applications will need to be submitted if those members want to serve again.

7. New Business for the May 20, 2021 Meeting

- **Civil Penalties – Angie Beeker, Attorney**
- **Blue Ridge Humane Society**
- **Animals at Special Events**
- **Survey results and HPD year-to-date data**

8. Adjourn

There being no further business Vice Chair Angela Prodrick moved to adjourn the meeting at 7:13 p.m.

NOTICE

City of Hendersonville Animal Services Advisory Committee

160 Sixth Ave. E, NC 28792

NOTICE OF ANIMAL SERVICES ADVISORY COMMITTEE **ANNUAL SCHEDULE OF REGULAR MEETINGS**

Regular Meetings of the City of Hendersonville Animal Services Advisory Committee are held **on the Third Thursday** beginning at **5:30 p.m.** in the Police Assembly Room located in City Hall at 160 Sixth Avenue. E., Hendersonville NC. The following regular meetings have been scheduled through September 2021:

June 17, 2021
July 15, 2021
August 19, 2021
September 16, 2021

The following regular meetings have been scheduled through June 2022 and will be held at the **NEW PD Headquarters Assembly Room located at : 630 Ashe Street Hendersonville, NC**

October 21, 2021
November 18, 2021
December 16, 2021
January 20, 2022
February 17, 2022
March 17, 2022
April 21, 2022
May 19, 2022
June 16, 2022

Board Chair Name

Chair

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Adopted: _____ *Posted* **08/21/2021**
<https://www.hendersonvillenc.gov>



stated this strategic plan allowed an evaluation of the organization and overall effectiveness. It includes recommendations to improve safety and service delivery. He asked Chief Grayson to explain the process and findings.

Chief Grayson congratulated the City on its Public Protection Class 4 Rating. He stated the goal of this review is to help build, strengthen, improve and advance the fire and rescue service delivery system for the people of Hendersonville. The key objective of the review is to provide essential tools and resources for the City to construct a valuable, comprehensive fire protection strategic plan. He reviewed the process that engaged eight external subject matter experts collaborating with five internal staff.

The process components included collecting data from the Fire Department and City government. A forum for business and community leaders was held to gain insight and feedback, community feedback was solicited about the department's service quality and employees were engaged to learn about perceived strengths, weaknesses, opportunities and threats. They used the information gained create strategic recommendations for improvement and provide projections for a three to five year period. He reviewed the report in detail.

Mayor Volk expressed appreciation for the report and for working with the Fire Department. **No action was taken by the Council.**

10. Consideration of Change to Special Event Permit for Art on Main: Development Assistance Director Susan Frady reported a change to the Art on Main special event. The sponsors are requesting Main Street be closed from 5:00 p.m. on September 29 until 7:00 p.m. on October 1 from First Avenue to Sixth Avenue. The Downtown Advisory Committee recommended approval of this event. She reported the Special Events Committee recommended unanimously that the City Council issue a special event permit for Art on Main.

Downtown Economic Dev Director Lew Holloway reviewed the special event approval process. Council Member Smith asked if there is a safety issue if the street is not closed. Mr. Connet responded because the sidewalks are full, people may step into the street creating this safety concern.

Ms. Kim Adams, Event Coordinator for Art on Main, addressed the Council. She requested the Council approve allowing the event into the street to make it safer. She stated attendance at the event is increasing and due to tables and chairs and other items on sidewalks, the sidewalks are filled. She expressed concerns about public safety and stated art was damaged at a previous event. The event will include live art demonstrations.

There was discussion from the Council on the number of events when Main Street is closed which includes Garden Jubilee, Apple Festival, Art on Main, and Motorama (avenues remain open) and whether the number of events that require the closure of Main Street be limited. Mr. Holloway will present that idea to the committee for discussion.

Council Member Miller asked how the poll was taken. Mr. Holloway explained a closure petition form was circulated by the organizer to make businesses aware of the proposed closing. This form allows an opportunity to get approval from the business owner. Ms. Adams reported the petition was distributed to 82 businesses and she received 49 signatures; six opposed the closing and others chose not to sign the form. Council Member Smith asked if there any numbers on economic impact for events that close Main Street. Mr. Holloway stated no but heard a comment from a restaurant that they were not prepared staff-wise for the increase in business.

Mayor Pro Tem Caraker moved Council to approve the Special Event Permit for Art on Main. A unanimous vote of the Council followed; motion carried.

11. Consideration of an Ordinance Amending Section 10-7 of the Code of Ordinances Respecting Animals at Special Events: Downtown Economic Development Director Lew Holloway addressed the Council stating there have been challenges enforcing the current ordinance. He presented an amendment to the ordinance that will allow dogs that are property restrained and at all times and under the control of their handler. He stated the amendment also gives the committee discretion to determine which events should exclude such animals, and who should provide security at smaller events where the organizer wishes to exclude dogs. The larger events, such as the Apple Festival, will have security and will not allow dogs. There was discussion of how citizens will know if their dogs are allowed. Mr. Holloway stated it will be clearly stated in the marketing materials and may posted on the website.

Council Member Smith moved Council to approve the amendment to City Code Section 10-7. A unanimous vote of the Council followed; motion carried.

Ordinance #17-0220

**AN ORDINANCE AMENDING SECTION 10-7 OF THE CODE OF ORDINANCES
RESPECTING ANIMALS AT SPECIAL EVENTS**

WHEREAS, the City has adopted an ordinance, codified as City Code section 10-7, and

WHEREAS, the City of Hendersonville has determined that the ordinance should be amended to provide wider discretion to the Special Events Committee with respect to allowing animals at various events and the provision of security therefor;

NOW THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Section 10-7 of the Hendersonville Code of Ordinances shall and it is hereby amended to read in its entirety as follows:

Sec. 10 7. Animals at special events.

(a) It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46 84, below, during the hours of operation of such special event.

(b) The following animals are exempted from the prohibition contained in subsection (a):

- (1) Guide (or seeing-eye) dogs assisting persons who are visually impaired service dogs;
- (2) Animals under the control of on duty law enforcement personnel;
- (3) Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14 284, below.
- (4) Dogs that are properly restrained and are at all times be under the full control of their handler.

(c) The special events committee, as established in section 46 85, may require the suspension of the exemption for domesticated dogs contained in in subsection (b) item (4) above under either of two conditions.

- (1) The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or
- (2) The event organizer requests that dogs be excluded from the event.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance. This ordinance does not purport to cover treatment of animals where such treatment has been preempted by federal or North Carolina law.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this ninth day of February 2017.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

12. Consideration of Code Purple: City Manager John Connet reported the City received a request from Joseph's Outreach Ministry to establish a "Code Purple" policy that will allow them to house homeless individuals overnight in their day center on Seventh Avenue when the outside temperature drops below 32 degrees. Currently, the Joseph's Outreach Ministries is operating under a special use permit that does not allow them to house individuals overnight. Mr. Connet granted temporary permission for overnight stays at Joseph's Ministry for three nights when the temperatures were in single digits.

Mr. Connet explained the Mission has a "Code Grace" policy when the temperature drops below 36 degrees that allows homeless to use their facilities even if they are not part of their regular programs. However, Joseph's Ministries believes there is still a segment of the population who will not use the services offered by the Rescue Mission.

Rev. Austin Watson, Board chair of Joseph's Ministry, explained their request grew out of concern for those who need an additional choice of where they can be safe and warm during period of extreme cold weather. He stated the building has been inspected by the Fire Department. He stated their request comes from unhoused street people who will not accept the hospitality of the Rescue Mission and sees Joseph's Ministry's approach acceptable. He stated their volunteers frequently refer guests to the Mission and encourage them to continue their programs there. He stated the Council voted to become a City of Compassion in August 2016. He stated offering alternatives to citizens who face extreme cold weather is compassionate and treats all people with dignity and the right to make their own choices. He stated they are willing to adjust the temperature to 25 degrees and are willing to negotiate that, to provide extreme cold weather accommodations.

Mayor Pro Tem Stephens asked how many individuals may be accommodated by Joseph's Ministry. Rev. Watson stated 25-30 people if needed. Mayor Pro Tem Caraker asked about policy differences between the Rescue Mission and Joseph's Center that some will not accept. Rev. Watson stated some people perceive they are not welcome, have criminal records, or may have out-used their ability to go there, etc. Council Member Miller asked if the individuals they served were turned away from the Mission. Rev. Watson stated some have said they were turned away or had the police called on them.

Council Member Smith asked if local churches could take people in during extreme cold rather than Joseph's Center. He referenced the ordinance requiring 1,500 feet between shelters and the churches may not fall within that distance. Rev. Watson stated they do not consider themselves a shelter and do not want to be a shelter. He stated they are supported by the churches. He stated until something is in place, to their knowledge, there is no alternative. He stated the Homeless Coalition discussed there is no shelter other than the Mission for homeless people in the City. Mayor Pro Tem Caraker commented the City made a commitment not to have all of the service organizations in the same area. He agreed the churches would be a good source for extreme weather conditions.

Paulette White, 46 Blooming Lane, Hendersonville, addressed the Council and relayed stories of those who stayed in the recent 7-degree weather. They had seven people the first night, nine people the second night and 11 people the third night. Those people said they could not go to the Mission because they were banned -- did not follow rules or they preferred not to go to the Mission. They are a faith-based organization that partners with four to five other churches. The hosts at the Joseph's Center during the day, and possibly the few nights per year, come from a variety of churches in the community. She stated people brought in blankets, coverlets and people slept on the floor those nights and they are only requesting permission to do that. She stated they may have been grandfathered in on the 1,500 foot requirement as a day center for the homeless on Seventh Avenue. They attempted to send people to the Mission. She stated in 2016, being a day center, offering showers, laundry, coffee and a place to be during the day, they served more than 1,000 individuals.

Council Member Miller asked if Joseph's Ministry has tried to work in collaboration with the Mission. Ms. White stated yes, and she personally has been involved in three of the four meetings. They refer people to the Mission for meals, food, clothing, and overnight. She stated the Mission refers people to them for showers, laundry and haircuts.

CITY OF HENDERSONVILLE

Special Events Policy



Updated June 2019

Executive Summary

The City of Hendersonville, NC is a vibrant community with a variety of municipal resources which lend themselves to use for special events. Special events require the coordination of a variety of city and event organizers' resources to come together successfully. Whether held downtown, in one of our many attractive public parks or elsewhere in the city, they have very specific impacts which are best considered and weighed prior to the event itself.

The following policy has been established to facilitate this planning process with the city. If you are planning a special event in the City of Hendersonville, it is essential that you review the policy well ahead of your planned event date to determine what you'll need to have in place for a successful event!

In this policy you will find information about:

1. What the City's definition of a "Special Event" is.
2. Fees, deposits and special conditions which may be applied to each event.
3. Application timelines and required special event permit documentation and information.
4. Grounds for application denial.
5. The Committees involved in the event approval process and their roles & responsibilities.



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Special Event - Definitions

A special event is defined as a pre-planned event, whether publicly and/or privately sponsored, which is proposed to be held on public property, including but not limited to parks, streets and/or sidewalks. All special events require a Special Event Permit issued by the City of Hendersonville. There are two categories of Special Events listed below.

Park and/or Road Festival

Park and/or Road Festival means an organized neighborhood or public gathering on a public right-of-way (street, sidewalk, parking lot or alley) or public park (Patton, Berkley, etc.) on a specified date at a specific time, and confined to a designated area that may or may not require an admission fee to enter and participate.

Procession/Parade/Organized Competitive Event

Procession/Parade means a public or private march, run, cortege, walk, cavalcade, autocade, parade of any kind, other gathering of persons that occurs upon public right-of-way, park or both in an area used for vehicular traffic. **Organized Competitive Event** means any planned race, walk, derby, or event that involves a contest of skill and/or strength and takes place upon public right-of-way or park.

Special Event Application: Timelines

The Special Events Committee hears all event applications within the city. The timeline below outlines minimum requirements for Special Event Permit Applications.

SUBMIT SPECIAL EVENT APPLICATIONS TO:

Lew Holloway - Special Event Committee Chair

Phone #: 828.233.3219

E-mail: lholloway@hvlnc.gov

Address: 100 N. King St. Hendersonville, NC 28792



Special Event Application Submission & Approval Timeline	
<u>Minimum 90 Days Prior to Special Event Date – Application Submission</u>	
• Submission of Special Event Application Package • Special Event Site Plan • Street and/or Parking Closure Request(s)	
<u>Minimum 60 Days Prior to Special Event Date – Committee Review (Applicant Attendance Required)</u>	
• Downtown Advisory Committee Review & Recommendation (where applicable) • Special Events Committee Review & Recommendation – includes review by Police, Fire and Public Works	
<u>Minimum 30 Days Prior to Special Event Date – City Council Meeting</u>	
• Final Site Plan, Event Timeline & On-Site Contacts • Proof of Insurance • Vendor Permits • Formal Event Notice • City Council Review & Approval (Required)	
Post-Event	
<u>Maximum 30 Days After Last Day of Event</u>	
• Final Payment as needed • Reserve Future Dates	

Special Event Application: Component Parts

1. **Event Application Cover Page:**
 - a. **Event Organizer & Contact Information**
 - b. **Name of Event**
 - c. **Date(s) of Event**
 - d. **Past Attendance Trends & Predicted Attendance For Upcoming Event**
 - e. **Past Vendor Participation Trends & Predicted Vendor Participation for Upcoming Event**
2. **Event Description, Statement of Public Benefit and Public Services Required:** A basic overview of the event and its impact on the community and city services. Provide an overview of the event and how it will benefit the community? In addition, include information about what you, as the event coordinator, will need in terms of city services? Examples might include additional trash pick-up, police support, etc.
3. **Event Marketing Strategy & Budget:** A snapshot of the people and places you are targeting in your effort to “get the word out” about your event and the budget you are employing to reach your target market. Reviewing this snapshot is an important component of understanding the public benefit.
4. **Event Site Plan:** A visual representation of all the operational elements of your proposed event. To properly assess the event, the site map should be submitted along with the Special Event Application and include the following elements:

A	Direction North, indicated by directional arrow symbol.
B	The overall event area including: any requested street closures and/or the location and number of any parking closures
C	The location and dimensions of all physical equipment being placed, including, but not limited to, any stage(s), vendors, booths, sponsors, tents, signs, barricades, portable toilets, vehicles, shelters and shelter numbers, etc.
D	Location of temporary alcohol sales where both sales and consumption occur.
E	Indicate 20' wide fire lane clearances in all areas and the location of all fire hydrants.
F	Include electrical plans for vendors and stages, specifying how much each site requires, in terms of amps & volts.
G	Any other details you think are helpful in the physical description of your event.

5. **Event Impact Notification:** All events must notify impacted residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to the event by formal notice. The formal “Event Impact Notice” must be submitted with the special event application and will be reviewed by the Special Event Committee. The “Notification Guarantee” must be signed by the Authorized Event Coordinator. The formal Event Impact Notification must:
- Be completed by all event applicants.**
 - Be submitted to the Special Events Committee prior to distribution to impacted areas.**
 - Be distributed to impacted areas, at least, 20 days prior to the event by either hand or mail delivery.**
 - Include the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.**

IMPORTANT NOTE: New street closure requests, whether for an existing event or new event, require additional review and time for notification. Please consult with Special Events Committee Chair about the City’s policy to provide impacted stakeholders a minimum 90-day notification for new major street closure requests.

6. **Vendor Applications & Electrical Requirements Form (when applicable):** If your event includes food or retail vendors and any of those vendors or you as the event coordinator require electric, you must submit the vendor permit & electrical requirements form. The form will help you to calculate your total “Event Fees,” while providing city staff with a clear picture of your electrical needs. Event Fees must be submitted prior to the event @ 145 Fifth Avenue East, Hendersonville, NC 28792.
7. **Insurance:** The event organizer must furnish a current general liability insurance policy which names the City of Hendersonville as a co-insured on the policy. Insurance requirements are as follows:
- Commercial General Liability:**
 - Per occurrence \$1,000,000
 - Personal & Advertising Injury \$1,000,000
 - Products/Completed Ops. \$1,000,000
 - General Aggregate \$1,000,000

In addition to these minimum requirements certain events may require additional coverage, based upon the type of event. Examples of additional coverage could include Automobile Liability, Workers Compensation and Liquor Liability. Additional requirements will be conveyed to the event organizers.

8. **Police Support:** Events which exceed the attendance threshold established below and/or operate with an ABC special event permit are required to hire off-duty City of Hendersonville police officers. Hourly rates for off duty officers are included for budgeting purposes. Please note the Special Event Committee may require a larger or smaller number of officers depending on event specific conditions.

Attendance Range	Officers Required - NON-ABC EVENT	Officers Required - ABC EVENT
0 to 5,000	Zero	2 to 3
5,000 to 10,000	Zero	3 to 4
10,000 (plus)	# determined by Police Chief	# determined by Police Chief
Hourly Rate for Off Duty Officer	\$45.00 (\$50.00 for night shift)	\$45.00 (\$50.00 for night shift)

Special Event Application: Additional Considerations & Interpretations

1. **Special Event Applicant Priority Ranking:** The Special Event Committee will use the following priority list if there are conflicting requests for a particular time and date.

Priority will be given in the following order:

- a. Events that have established historic precedence and are in good standing.
 - b. Events organized by the City of Hendersonville.
 - c. Events organized by Henderson County Schools.
 - d. Events organized by Henderson County Governmental Units.
 - e. Events organized by Hendersonville based non-profit organizations with proceeds providing assistance to the organizer or another Hendersonville based non-profit organization (requires proof of 501c(3) status).
 - f. Events organized by private businesses, non-profit organizations; without or pending 501c(3) status, **not** based in Hendersonville, and/or individuals for the purpose of profit, personal gain, and/or proceeds that will be used to benefit other than those Hendersonville based non-profit organizations.
2. **Criteria Considered for All Street Closures & Other Event Impacts:** The following factors are carefully considered prior to recommending approval of proposed events, in particular those which require street closure (whether lane closures, local streets or major/secondary streets.) Organizers wishing to close any portion of a street will need to justify that need with a compelling case composed of information in the following categories.
 - a. Total number of event attendees, both historical trends and predicted increases.
 - i. These numbers will be considered both in terms of total attendance and attendance over time, i.e. a smaller total may still warrant closure if concentrated over a short period of time.
 - ii. Unless an event attracts more than 50,000 visitors per day it would typically not warrant the closure of a majority of Main Street.
 - iii. Smaller events may with fewer than 50,000 visitors per day may warrant the closure of one or more blocks of Main Street.
 - b. Total number of event vendors, both historical trends and predicted increases.

- i. Unless an event hosts more than 125 vendors it would typically not warrant the closure of a majority of Main Street.
 - ii. Smaller events with fewer than 125 vendors may warrant the closure of one or more blocks of Main Street.
 - c. Event Marketing Strategy & Budget
 - d. Verification that the event applicant or sponsor has committed to completing the “**Event Impact Notification.**”
 - e. Impact of the proposed event on residents, occupants or businesspersons of the block.
 - f. Impact of the proposed event on the accessibility of emergency vehicles in the closure areas.
 - g. Impact of the proposed event on vehicular traffic such as circulation, traffic movement and availability of alternate routes for traffic.
 - h. Potential interference with commercial and business activities in the immediate vicinity.
 - i. Conditions existing in the surrounding area that, when occurring in conjunction with a street closure, might create a hardship or an unnecessary inconvenience to the general public or persons residing in the area.
 - j. Relationship in regard to timing of proposed closure to other approved or proposed closures.
3. **Portable Toilets:** An essential but sometimes overlooked element of special event planning portable toilets are particularly important in downtown Hendersonville as the availability of public restrooms is limited. The guidelines included below are provided as a recommendation and reference. They are based on a four-hour long event. Longer or shorter duration events should consider modification to these numbers.

Attendance Range	Portable Toilets Recommended	
	NON-ABC EVENT	ABC EVENT
0 to 5,000	1 to 10	2 to 15
5,000 to 15,000	10 to 25	15 to 40
15,000 to 50,000	25 to 50	40 to 75
50,000 (plus)	50 plus	75 plus

Special Event Application: Grounds for Denial

The Special Event Committee may recommend that City Council deny a permit application on one or more of the following grounds:

- The event applicant does not generate a compelling case for the event's public benefit.
- Failure to submit an application within the time periods outlined herein.
- Failure to submit a complete application. A complete application is one which addresses all "required" elements of the application.
- The applicant owes the City of Hendersonville money from another event for services provided or as a result of damages to city property.
- The Special Events Committee has already received a completed application for the same date and/or space.
- The event would conflict with previously planned programs organized and conducted by the city or non-governmental agencies scheduled for the same time and/or place.
- An event requiring significant street closures, i.e. 3 or more blocks, occurs within ten (10) days of an existing event which also requires significant street closures.
- The applicant does not comply with all applicable city ordinances, traffic rules, park rules and regulations, state health laws, fire codes and/or ABC licensing regulations.
- The use or event proposed by the applicant would present an unreasonable danger to the health or safety of the public.
- The applicant cannot comply with applicable local, state and federal license requirements for all or part of the planned event.
- The use or event is prohibited by law.
- The application contains material misrepresentation or fraudulent information.

Special Events Committee – Roles & Responsibilities

This Committee is established to assure that all special event applicants follow the procedures outlined in this document and to provide assistance in event logistics as it relates to the health and safety of organizers and attendees at special events conducted within the City of Hendersonville.

Special Event applicants will submit their applications to the Committee Chair; Community Development Director Lew Holloway, who will distribute copies to the committee according to the timeline outlined on page 4. The applicant will then meet with the Special Events Committee at least 60 days prior to their event; event coordinators are encouraged to schedule this even earlier if possible. For events within the Downtown Municipal Service Districts, the Downtown Manager will distribute copies to the Downtown Advisory Committees.

The Special Events Committee is made up of the following individuals:

1. Community Development Director – Committee Chairperson
2. Police Chief (or representative)
3. Fire Chief (or representative)
4. Public Works Director (or representative)
5. Downtown Manager (or representative) (Ex-Officio Member)

The Special Event Committee's primary role is to coordinate the variety of special events which take place in the City of Hendersonville and to protect the health and safety of the community. To do so the Committee:

1. Maintains a running list of events that includes those that have:
 - a. Received City Council approval.
 - b. Received Special Events and Downtown Advisory Committee (as applicable) review and recommendation.
 - c. Requested an annually recurring date and which have established historic precedent for this request. Example, The Apple Festival occurs over Labor Day weekend each year.
2. Provides a comprehensive review of the event site plan, identifying and providing event organizers with cost estimates for any city services and personnel that their event will require.
3. Reviews the event site plan and application to identify any life safety issues that the proposed event presents the community.
4. May approve recurring events which have no material changes to the event proposal.
5. May approve events which have no impact on the streets or sidewalks of the City of Hendersonville and do not require more than \$1,000 in city resources.

Downtown Advisory Committees – Roles & Responsibilities

The Downtown Advisory Committees are City Council appointed volunteer groups tasked with helping implement the Main Street Four Point model of downtown economic development. The committees have two primary roles in regard to Special Events as they are defined in this document.

1. The primary role of the Downtown Advisory Committees is to organize and oversee special events of their choosing which support the Committees' vision for Historic Downtown Hendersonville, both Main Street and Seventh Avenue. The criteria used to guide the Committee in this role include, but are not limited to, the following:
 - a. Events should celebrate the community's culture, heritage and diversity.
 - b. Events should appeal to our diverse community.
 - c. Events should support the entrepreneurial and creative communities that call downtown home on a daily basis.
 - d. Events should support our efforts to highlight downtown as a cultural and market destination for the community & visitors.
2. The secondary role of the Downtown Advisory Committees is to provide Special Event Organizers, the Special Event Committee and City Council with recommendations and feedback in regard to any special event proposed for the downtown Municipal Service District(s). These recommendations and associated feedback will be presented to event organizers during the Special Events Committee meeting by the Downtown Manager or appointee. Event organizers are encouraged to attend the Downtown Advisory Committee meeting at which their event will be reviewed to answer questions and hear feedback firsthand.

Appendix

Example “Notice of Event Impact”I

Example General Liability PolicyII

Recycling Bin Loan ProgramIII

Code of Ordinances – Special EventsIV

NOTICE OF EVENT IMPACTS

{EVENT NAME}

The organizers of {EVENT NAME} have received approval from the City of Hendersonville to host {EVENT NAME} on {EVENT DATE(S)} from {EVENT START TIME} to {EVENT CONCLUSION TIME}.

{EVENT NAME} includes the closure of {STREET NAME} between {CROSS STREET NAME} and {CROSS STREET NAME}. To accommodate event set-up and tear down this street will close between {TIME & DATE} to {TIME & DATE}

The closure will be for the exclusion of vehicles only. A 20' emergency lane shall be provided on all streets within the said closure at all times.

Should you have questions or concerns {EVENT NAME} and the related event impacts you can speak with our team by calling:

{AUTHORIZED EVENT COODINATOR PHONE NUMBER}

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/)
04/29/

Item B.

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Morrow Insurance Agency, Inc. 800 Beverly Hanks Centre PO Box 1109 Hendersonville, NC 28793	CONTACT NAME: PHONE (A/C, No, Ext): 828 693-5396 FAX (A/C, No): 8286935496 E-MAIL ADDRESS: PRODUCER CUSTOMER ID #:														
INSURED 	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Cincinnati Ins. Co.</td> <td></td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Cincinnati Ins. Co.		INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER D :															
INSURER E :															
INSURER F :															

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC		EPP0128028	03/30/2012	03/30/2015	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DEDUCTIBLE RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A				WC STATUTORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Dir/Off Liability		BCP8674394	03/24/2013	03/24/2016	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

CANCELLATION

To whom it may concern

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



EVENT RECYCLING BIN LOAN PROGRAM

Henderson County coordinates a recycling bin loan program designed for use at community events, fairs, festivals, and block parties. Use is restricted to events held in Henderson County.

The county has 75 blue 32-gallon bins available. They are available at no cost to municipalities, clubs, schools, churches, and other organizations on a first-come, first-served reservation basis. Any number can be reserved *as available, though users should provide their own bags to go inside the bins.* To do so, please complete the reservation request form below. Once approved, *the user will need to confirm/arrange pick-up and return drop-off times.* Bins should be returned clean and in good working order to ensure that this program can be continued for community groups. Bagged recyclables should be brought to the Transfer Station upon bin return, as well. Bins are stored at the Henderson County Solid Waste Department at 191 Transfer Station Drive. Location directions will be provided once your application is received and approved.

The Henderson County Environmental Programs Coordinator is available to assist all users with planning & implementing successful recycling programs at their events. Questions? Contact 828-694-6524 or 828-697-4505.

Please use this form to request recycling bins for your event. Email a signed copy to jroberts@hendersoncountync.org or mail the signed form to 1 Historic Courthouse Square, Suite 6, Hendersonville, NC 28792, ATTN: Recycling Bin Loan.

Name of Event/ Sponsoring Organization: _____

Contact Person Name: _____

Phone number: _ (____) _____ E-mail: _____

Requesting Organization's Mailing Address: _____

Event Location/Facility: _____

Event Date(s): _____

Estimated Attendance: _____

Number of units requested: _____

Pick-up date: _____ Time: _____

Return date: _____ Time: _____

Deposit Guarantee

These units may be borrowed with no money down by agreeing to guarantee that all bins are returned promptly, clean, and in good working order. By signing below at pick-up, the user accepts full responsibility for the bins and agrees to pay the full replacement costs for any bins that are not returned or are not returned intact. Replacement cost per bin is \$20, per lid is \$5.

Signature: _____ Date: _____

Office Use Only

Approval _____
 Date _____
 Units Returned _____
 Return Damages? _____
 # Stack Bins _____
 # Stack Lids _____

Sec. 46-84. - Exception; permitted special events.

Notwithstanding the foregoing provisions of this article, the city council may authorize the temporary obstruction of streets or sidewalks, or the use of other public property, in conjunction with special events. Provided, however, the special event sponsor shall ensure that there is a continuous five foot width of unobstructed sidewalk. Anyone desiring a special event permit shall make application to the city manager by submitting a completed City of Hendersonville special event permit application. In deciding whether to issue a special event permit, the city council shall be guided by the city's special event policy.

(Code 1971, § 28-39; Ord. No. 08-0841, § 2, 8-7-08; Ord. No. 15-1269, § 1, 12-3-15)

Sec. 46-85. - Events committee established; membership; duties.

- (a) There is hereby officially designated an events committee, the purpose of which will be to review and evaluate applications for the temporary use of public property, including applications for special event permits pursuant to section 46-84
- (b) The membership of the events committee shall be as follows:
 - (1) The chief of police or his designee;
 - (2) The city manager or his designee;
 - (3) The director of public works or his designee;
 - (4) The zoning administrator or his/her designee,
 - (5) The fire chief or his designee; and
 - (6) The downtown economic development director or his designee shall be an ex officio member of the committee, having voice but no vote.
- (c) Requests for the use or obstruction of public property shall be made on forms promulgated by the city manager and shall be referred to the events committee.
- (d) The events committee shall review such requests and, in the case of an application requiring city council approval, shall prepare a report setting forth the anticipated public costs of the special event and the recommendation of the committee, and shall forward such report and recommendation to the city council.
- (e) The events committee itself shall have authority to issue special event permits in the following circumstances:
 - (1) When the proposed special event will not result in the obstruction or blocking of streets or sidewalks and the total cost in city services will not exceed \$1,000.00; or
 - (2) When the proposed special event has been approved previously by city council and the proposal does not materially differ from that previously approved by the city council.
- (f) When the events committee denies an application for a special event permit, the applicant shall have the right to have the matter considered by city council. In order to exercise that right, the applicant must make such request in writing to the city clerk within 15 days of the date of denial by the events committee.

(Code 1971, § 28-40; Ord. No. 13-0736, § 1, 7-11-13); Ord. No. 15-1269, § 2, 12-3-15)



City of Hendersonville SPECIAL EVENT APPLICATION



Item B.

An application for a permit to conduct a special event pursuant to Section 28-39, Hendersonville City Code.

Please reference the City's Special Event Policy for additional information about the application process.

Note: The person responsible for the special event, or his/her designee, must be present for the duration of the event.

Submit This Completed Application & All Supporting Material Outlined Below To:

Community Development Department City of Hendersonville

100 N. King Street Hendersonville, NC 28792 Phone #: (828) 233-3219

Name of Special Event: _____

Event Sponsor: _____ Phone #: _____

Sponsor Address: _____

Authorized Event Coordinator: _____

Cell Phone #: _____ Email: _____

Requested Event Date(s): _____ Requested Event Hours: _____

Estimated Past Attendance: _____ Predicted Attendance: _____

Past Vendor Participation: _____ Predicated Vendor Participation: _____

"Hold Harmless Agreement"

By signing this agreement, the sponsor will hold harmless the City of Hendersonville, its officers, employees and agents, the Public Works Department and staff free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges professional and attorney's fee or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this event and/or the performance hereof and caused by the negligence of the Sponsor. The Sponsor will take full responsibility. The City of Hendersonville will not be responsible for personal items or property used as part of event.

Signature of Authorized Event Representative: _____ Date: _____

APPLICANT CHECKLIST

Please reference the City of Hendersonville's Special Event Policy for additional information about the requirements listed in the checklist below.

- ☐ Event Description, Statement of Public Benefit & Public Services Required (REQUIRED) - Page #2 in application
- ☐ Event Marketing Strategy & Budget (REQUIRED) - Page #3 in application
- ☐ Event Site Plan (REQUIRED) - Page #4 in application
- ☐ Event Impact Notification (REQUIRED) - Page #5 in application
- ☐ Formal Event Notice (REQUIRED)
- ☐ Vendor Application & Electrical Needs (AS NEEDED) Page #6 in application
- ☐ Event Insurance (REQUIRED)



City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT DESCRIPTION, STATEMENT OF
PUBLIC BENEFIT AND PUBLIC SERVICES REQUIRED



Please provide a detailed “Event Description” along with your “Statement of Public Benefit” and “Public Services Required” for review.
Please reference the City’s Special Event Policy for additional information about this application requirement.
Feel free to attach your response to this sheet.

Name of Special Event: _____

Event Description:

Statement of Public Benefit:

Public Services Required:



City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT MARKETING: STRATEGY AND BUDGET



Please provide an “Event Marketing Strategy” along with your “Marketing Budget” for review.
Please reference the City’s Special Event Policy - page 5 for additional information about this application.
Feel free to attach your response to this sheet.

Name of Special Event: _____

Event Marketing Strategy:

Marketing Budget:



City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT SITE PLAN



Please provide a detailed “Event Site Plan” and your notification guarantee. Please reference the City’s Special Event Policy - page 5 for additional information about this application requirement. Feel free to attach your site plan to this sheet.

Name of Special Event: _____

Event Site Plan:



**City of Hendersonville
SPECIAL EVENT APPLICATION
EVENT IMPACT NOTIFICATION REQUIREMENT
(FOR COMMERCIAL AREAS)**



Event applicants are required to notify, by a formal notice, all residents, businesses, places of worship and schools that are affected by street and sidewalk impacts related to your event. This notice must be submitted with the event application to the Special Events Committee for review prior to notification delivery, and example format for this notification is included in the City's Special Events Policy appendices.

Once approved by the Special Events Committee the notice must then be mailed or hand delivered to impacted areas at least twenty days prior to your event. Information on the notice should include, but not be limited to; the name of the event, event date(s), time(s) of event and overall impacts (including set-up and tear down), specific location of impacts, type of activity and telephone number where the public can contact your organization about the event.

Failure to comply with the notification requirement can result in the cancellation, postponement or other significant restrictions to your event or future events. The Special Event Committee requires that the Authorized Event Organizer verify that this notification will take place, please see below.

NOTIFICATION GUARANTEE: I hereby certify that all residents, businesses, places of worship and schools affected by any street closures and sidewalk impacts related to this event and outlined in this application's "Event Site Plan" will be notified at least 20 days prior to the event with the attached notice by the Authorized Event Coordinator or designee.

Authorized Event Coordinator's Signature _____



City of Hendersonville
SPECIAL EVENT APPLICATION
VENDOR PERMITS AND ELECTRICAL NEEDS



Complete the form below based on the number of vendors and types of electrical connections required for your event. If you have questions about the electrical requirements for your event please contact the City Public Works Department at (828) 697-3000.

Name of Special Event: _____

Authorized Vendor Coordinator: _____ Phone #: _____

Cell Phone #: _____ Email: _____

Please calculate your event vendor fees & electrical usage fees below.

Total #_____ of Retail Vendors X \$15 = _____

Total #_____ of Single-Day Food Vendors X \$30 = _____

Total #_____ of Multi-Day Food Vendors X \$55 X Total #_____ of days = _____

Total Vendor Fee Due: _____

Electrical Requirements: Location of electrical needs to be included on Event Site Plan.

((Total # of connections @ 20 Amps or less _____) x (# of days _____)) x \$25 = _____

((Total # of connections @ 21 to 50 Amps _____) x (# of days _____)) x \$50 = _____

((Total # of connections @ 50 Amps or more _____) x (# of days _____)) X \$100 = _____

Total Electrical Usage Fee: _____

Total of All Event Fees: _____

All Event and Vendor Fees are to be submitted prior to the event. Checks can be made out to the "City of Hendersonville." Payment is accepted in person at

145 Fifth Avenue East
Hendersonville, NC 28792

Please remit payment along with the final invoice you receive from the Community Development Department.

From: [Justus, Melissa](#)
To: [Reece, Angela](#)
Subject: FW: A few pieces of material for next meeting
Date: Tuesday, May 18, 2021 1:45:03 PM

From: Caroline Gunther <caroline@wagpetboutique.com>
Sent: Thursday, April 22, 2021 3:09 PM
To: Justus, Melissa <mjustus@hvlnc.gov>; Angela Prodrick <aprodrick@blueridgehumane.org>
Subject: A few pieces of material for next meeting

Be Advised: This email originated from outside of the Hendersonville network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Special Events Policy:

Policy – https://www.hendersonvillenc.gov/sites/default/files/uploads/special-events/coh_specialeventpolicy 2019 2.pdf

permit app – https://www.hendersonvillenc.gov/sites/default/files/uploads/special-events/coh_special_event_app_only 2019 1 0.pdf

The following is from meeting Minutes on February 6, 2020, in reference to ordinances updated at the time.

First highlight in **red** addresses tethering and leash ordinances.

Second highlight in **pink** addresses dogs/pets at special events.

9. Consideration of Revisions to the Animal Control Ordinance: Police Captain Chris LeRoy explained staff was asked to review and propose revisions to the City's animal control ordinance. He stated there

REGULAR MEETING FEBRUARY 6, 2020 PAGE 384

are some conflicts with Henderson County's animal ordinance and there have been problems with criminally prosecuting violations of this ordinance.

Captain LeRoy reviewed the revisions to the ordinance including:

- Section 10-8 because Henderson County no longer enforces any animal ordinances within the City limits,

- Provide clear definitions for dangerous and mischievous dogs,

- a new Animal Services Advisory Committee was added,

- Section 10-152 Mistreatment of animals: some sections were removed because they could not be

criminally enforced regarding tethering, adequate shelter and potable water,

The Council discussed the tethering and conditions to allow tethering and the necessity to tether on occasion. Mr.

Connet explained to enforce criminally the City would have to show intent of "cruel and inhumane." He stated

there is not a standard for tethering, and it is difficult for officers to enforce a time limit on tethering. Council

Member Hensley asked if violators may continue to be cited even if not convicted. Captain

LeRoy stated violators

can be cited and sent through the court process. Discussion followed on enforcement and conviction the fence– building program through the Humane Society.

Captain LeRoy explained another amendment to the ordinance is the creation of the Animal Services Advisory Committee who will provide guidance to the Council and the staff and is part of the appeals process when a dog is deemed dangerous and the decision can also be appealed to the courts. Mr. Connet stated there is also a civil process whereby an animal can be taken. Discussion followed on establishing the committee. Mayor Pro Tern Smith commented the first task of the committee should be to review the ordinance. Mayor Pro Tern Smith asked about a specific definition for “at large”, distance, regulations for the Greenway, etc. Mr. Connet suggested “under voice control” could be removed from the ordinance so animals must be on a leash. There was a brief recess to allow the drafting of additional language for the ordinance. The majority consensus of the Council was to amend the proposed ordinance and ask the Committee to review it and make recommendations to the Council. After further discussion of tethering, Mayor Pro Tern Smith suggested a person wanting to tether their dog could seek a permit to do so. Mayor Volk asked the Council if their want to amend the draft ordinance with the one change and then have the committee make a recommendation as soon as possible. Council Member Hensley stated she does not support the ordinance as presented. She voiced support of banning tethering completely. Mayor Pro Tern Smith suggested instead of prohibiting tethering, the committee can create criteria and require a get permit. Mayor Pro Tern Smith moved to City Council to adopt an Ordinance amending Chapter 10 of the Code of Ordinances with Respect to the Welfare of Domestic Animals. Mayor Pro Tern Smith amended the motion to revise Section 10–107 as follows: 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:

- (a) enclosed within an automobile, or
- (b) enclosed within a designated fenced area on the premises of a city dog park, or
- (c) 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.

The vote on the proposed amendment was unanimous. Motion carried. The vote on the ordinance including the revision by Mayor Pro Tern Smith was four in favor; one opposed (Hensley). Motion carried. Mayor Volk expressed appreciation to the members of the Blue Ridge Human Society and all who have provided assistance in the drafting of the ordinance.

Ordinance #20–0206
AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES WITH RESPECT

TO THE WELFARE OF DOMESTIC ANIMALS

WHEREAS, the State of North Carolina has declared that municipalities may define and regulate animal cruelty; and

WHEREAS, the City of Hendersonville has determined that cruelty to animals is a danger to the public health, safety and welfare; and

WHEREAS, the City Council has determined that its current ordinance with respect to the welfare and protection of domestic animals is in many cases unenforceable; and,

WHEREAS, the City Council believes that the protection of animals is best effect with an enforceable ordinance,

NOW THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Chapter 10 of the Hendersonville Code of Ordinances is hereby amended to read as follows:

REGULAR MEETING FEBRUARY 6, 2020

Chapter 10 ANIMALS

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.

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

PAGE 385

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 predatory by the state law or by the wildlife resources commission nor shall it extend to English Sparrows, pigeons, crows or starlings.

Sec. 10-3. – Protection of squirrels.

(a) 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.

(b) 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.

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.

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.

Sec. 10-6. – Dogs and cats fouling public grounds.

It is hereby declared to be unlawful for any owner, keeper or walker of any 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. 10-7. – Animals at special events.

(a) It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46-84, below, during the hours of operation of such special event.

(b) The following animals are exempted from the prohibition contained in subsection (a):

(1) Service dogs;

(2) Animals under the control of on-duty law enforcement personnel;

(3) Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14-284, below.

(4) Dogs exempted under (b) (1), (2), and (3) must be that are properly restrained and are at all times be under the full control of their handler at all times.

(c) The special events committee, as established in section 46-85, may require the suspension of the exemption for domesticated dogs contained in subsection (b) item (4) above under either of two conditions.

(1) The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or

(2) The event organizer requests that dogs be excluded from the event.

Sec. 10 8. EnfoFCement by Henderson County.

Pursuant to N.C.G.S. § 153A 122, Henderson County shall be authorized and permitted to enfoFCe the pFOvisions of

Chapter 66A of the Henderson County Code within the corporate limits of the city. In the event of a conflict between

the pFOvisions of chapter 66A of the County Code and the pFOvisions of this chapter, the provisions of chapter 66A shall prevail.

ARTICLE II. – KEEPING ANIMALS

DIVISION 1. – GENERALLY

Sec. 10-41. – Compliance with article.

No sheep, cattle, goats or other livestock shall be kept or maintained by any person within the city except as provided in this article.

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.

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

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

Sec. 10-44. – Location restrictions.

No person shall keep any animal within 150 feet of any building in the city occupied and used as a residence.

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.

DIVISION 2. – FOWL

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

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

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.

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.

REGULAR MEETING FEBRUARY 6, 2020

ARTICLE III. – DOGS

DIVISION 1. – GENERALLY

Sec. 10-106. – Definitions.

PAGE 386

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:

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 shall be the designated individual who, 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 control shelter 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 leash, cord, chain or voice command.

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 Committee to be potentially

dangerous because the dog has engaged in one or more of the behaviors listed under "Potentially Dangerous Dog"

definition. Any dog owned or harbored primarily or 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 or combination thereof.

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 a member of the county animal control division or other peace officer shall not be deemed

the owner of the animal.

Public nuisance 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) Is vicious.

CH) Causes fouling of the air by odors.

(15) Causes unsanitary condition of enclosures or surroundings.

(6) By virtue of number or type is offensive or dangerous to public health, safety or welfare.

(-56) Excessively makes disturbing noises.

(8) Is diseased and dangerous to the public health.

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 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:

Q_. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or

Q., 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 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.

Sec. 10-107. - Running at large.

It shall be unlawful for any owner to allow his dog to be at large in the city limits while not under the control of the

owner, a member of the owner's immediate family or designee by means of a leash, cord, chain or voice command as

required in this article. 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:

- (a) enclosed within an automobile, or
- (b) enclosed within a designated fenced area on the premises of a city dog park, or
- (c) 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.

Sec. 10 108. Female dogs in heat.

It shall be unlawful for any person who owns or keeps a female dog to allow such dog to run at large while in heat.

Sec. 10–109. – Dangerous, vicious and M_mischievous dogs.

(a) No dog of dangerous, vicious, fierce or 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.

(b) If any dog bites or attempts to bite any person while such dog is at large, then such dog shall be conclusively

presumed to be a dangerous dog and a dog of dangerous propensities and tendencies.

(c) If any dog attack, or attempts to attack any other dog or other animal while such dog is at large, or chases or otherwise attempts to catch a person, then such dog shall be conclusively presumed to be a vicious dog and to have vicious propensities and tendencies.

(Qd) 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.

Sec. 10–110. – Destruction of Qdangerous, vicious/potentially dangerous dogs restricted.

(a) 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. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Henderson County Animal Service Center .

.L Reporting requirement. Any attack or biting by a dog upon a person, livestock, or domestic animal; transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog;

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confinement to a Veterinary facility; removal from territorial jurisdiction of the county; animal's death must be

reported by any of the following individuals:

Q_, owner, keeper, harbinger of a dog deemed dangerous/ potentially dangerous or of a dog who has

attacked or bitten a person or domestic animal;

Q., victim of or person witnessing such of an attack or biting;

!,,, veterinarian treating a domestic animal for such an attack or biting;

g., Health care professional treating a person for such an attack or biting.

2. The report must be made to the Police Department within 24 hours of the event.

3. Failure to report an incident within 24 hours may result in criminal and civil penalties under this Ordinance and personal liability in subsequent incidents.

(b) Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:

1. Used by law enforcement agencies to carry out official law enforcement duties;
- 2., 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;

J., Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;

1., Protecting itself or its young from assault torment, or abuse.

(c) Declaration of dangerous/potentially dangerous dog. The Police Chief or 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 ordinance and may impose reasonable conditions to maintain the public health and safety.

(d) 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 Committee .

.L 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 5 calendar days of the receipt by the owner of notice of the declaration.

2., Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 10–110E.

J., Hearing procedures. Once properly appealed, the Animal Services Advisory Committee shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct.

1., Outcome. If the dog is affirmed by the Animal Services Advisory Committee as being dangerous/potentially dangerous, then the owner shall comply with the terms of § 10– 110E, F, G. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Services Advisory Committee or its designee has the right to appeal this determination to the Superior Court.

(e) 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:

.L 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:

Q., Confine the dog within the owner's residence; or,

Q., 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 secured by a 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 of the appropriate size for the animal and must be of a type and model 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.

g., Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks or greenways.

2., The owner must post a warning 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.

J., Microchip. Within 10 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.

1., 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 Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.

-5., Control Measures.

Q., 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 section

l(b) 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.

Q., 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

Enforcement at the owner's expense.

(f) Notification. Within 24 hours:

.L 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, stating the full name if there's a

new owner, address, and location of the new owner of the dog.

2., 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.

(g) 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,

.L 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 dangerous/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.

J., The owner must comply with any local regulations regarding dangerous dogs in the new location.

(h) Immediate impoundment. Any dangerous/potentially dangerous dog kept in violation of this section may be

immediately impounded upon issuance of 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 .

.L 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 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.

2., Release from impoundment.

Q., No dog deemed dangerous 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 Ordinance have been met as verified by Animal

Enforcement. This shall not apply in instances where criminal charges have been brought against the owner.

Q., If criminal charges have been brought against the owner for failure to comply with this Ordinance 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.

!;,,, No dog deemed dangerous or potentially dangerous may be adopted.

g., All dogs deemed dangerous or potentially dangerous must be altered within 30 days of the

determination.

Any dangerous or vicious dog or dog having dangerous or vicious propensities and tendencies found at large, after

the owner thereof has previous knowledge or notice that such dog is dangerous or vicious or has dangerous or vicious propensities and tendencies, may be killed by any police officer of the city without such officer having to catch or impound such dog.

Sec. 10-111. – Muzzling. Destruction of animals that cannot be seized or confined by reasonable means.

(a) Notwithstanding any other provision of this Chapter, a dog or cat that cannot be seized by reasonable and normal means, 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 .

(Q) Vicious, dangerous/potentially dangerous animals so designated, wild animals, or an animal attacking a human being, another pet, or livestock may be immediately destroyed, if such destruction is necessary for the protection of the public health and safety or that of City staff.

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless such dog shall have a muzzle of sufficient strength to prevent its biting any person.

Sec. 10-112. – Procedure upon suspicion of rabies.

(a) 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 chain 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 city animal control officer of the fact that his dog has been exposed to rabies, and, at 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.

(b) 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 city animal control officer.

Every owner, or other person, upon ascertaining 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.

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.

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.

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.

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 watershall mean the ready 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.

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

Tethering refers to the practice of securing 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 for

temporary grooming or other professional services.

Sec. 10-152. – Mistreatment of animals prohibited.

(a) [Unlawful treatment.] It shall be unlawful for any person to deprive or cause to be deprived any domestic animal

of adequate food, water, necessary medical attention and adequate shelter.

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

(2) Necessary medical attention. No person owning or responsible for any domestic animal shall fail to supply

the animal with necessary medical attention when the animal suffers from illness, injury, or disease.

(3) Adequate shelter, protection from the weather and humanely clean conditions. No persons owning or

responsible for any domestic animal shall fail to provide the animal with appropriate shelter, protection from the

weather and humanely clean conditions as prescribed in this section.

(b) When confinement prohibited. No animal may intentionally be confined in a building, enclosure, car, boat,

vehicle or vessel of any kind when to do so would expose the animal to heat or cold harmful to its health.

(c) Tethering. Domestic animals may be tethered to a stationary object only if all of the conditions numbered (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 & 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.
- (11) No animal shall be tethered more than two hours in any continuous 12 hour period. 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.
- (12) Exemptions. Citizens residing in townhomes, apartments, condos or similar multi-family housing units with lot sizes insufficient to meet the length and property line requirements specified in sections (2), (8) and (9) above, may only tether domestic animals for temporary exercise and relief.
- (d) 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.
- 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 comply with the law.

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.

Sec. 10-154. – Enforcement.

(a) The animal service director, animal service officers, sheriff, or sheriff's deputies or 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 county animal service director and 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.

Sec. 10-155. – Enumerated civil penalties.

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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.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent

jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance. This ordinance does not purport to cover treatment of animals where such treatment has been preempted by federal or North Carolina law.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption.

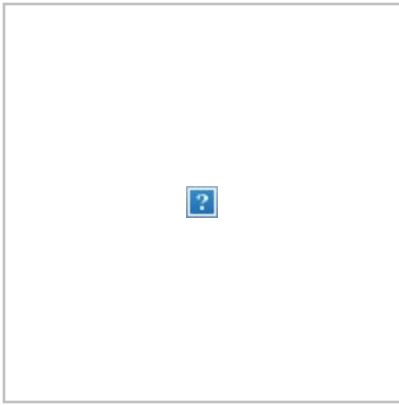
Adopted this sixth day of February 2020.

/s/Barbara G. Volk, Mayor

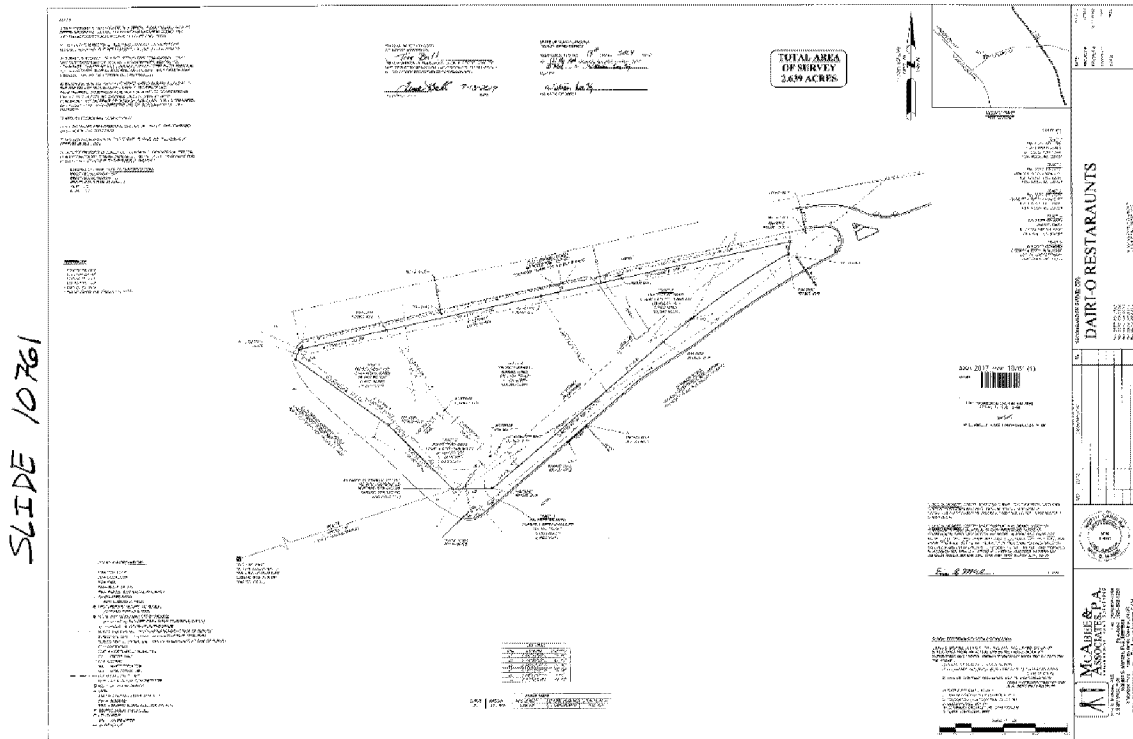
Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

Caroline Cell- 828.243.7557



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8. Public Hearing - Consideration of a New Subdivision Ordinance: The City Council received a presentation from Mr. Chad Meadows, Principal of Code Wright Planners on a new Subdivision Ordinance. He provided some background stating the current ordinance is difficult to administer, lack some information that allows staff to administer the regulations and may slow the development process and is missing some provisions for infrastructure.

Mr. Meadows stated they worked with a steering committee on draft language in 2019. They have presented it to the Business Advisory Committee, the Planning Board, a local engineering firm and the Water/Sewer Advisory Council. He stated they are looking for more clarity, good governance and integrating best practices.

Mr. Meadows stated there is a new chapter structure. He stated significant details were added and non-regulatory language was removed. He reviewed key changes in each of the articles.

Discussion included developers making a payment-in-lieu of required infrastructure, gated communities, and providing examples of some requirements.

Mr. Meadows stated topics for Council's consideration:

- Land dedication for public parks
- Variance provisions
- Limits on gated communities/private streets
- Steep slope rules, including 2,600 AMSL limit
- HOA reserve fund requirement/how to handle small subdivisions

The public hearing was opened at 7:20 p.m. by Mayor Volk in accordance with North Carolina General Statutes (NCGS) by notice published in the Times News. The following addressed the Council:

Ken Fitch, 1046 Patton Street, stated there has been a need for an update and expansion of this ordinance for some time. He proposed some revisions to the language.

- Section 1.04 to read: "Protect open space, natural and cultural/historic resources and historic and/or rural character where appropriate."
- Section 2.04 B, 5. Administrative Adjustment Review Standards: An addition to read: "Preserves environmentally sensitive lands and habitat."
- Conservation Subdivision 2.04 D an addition to read: "areas with mature hardwood trees, wildlife habitat and watersheds."
- Area of inconsistency: sidewalks on only one side of street.

No one else expressed a desire to speak. The public hearing was closed at 7:25 p.m.

There was discussion on review by the Tree Board. Mr. Heyman explained the Zoning Ordinance mentions review by the Tree Board in conditional zoning districts in which they may recommend conditions. Mr. Meadows will submit draft language for Council to review/reflect on. **No action was taken.**

9. Consideration of Revisions to the Animal Control Ordinance: Police Captain Chris LeRoy explained staff was asked to review and propose revisions to the City's animal control ordinance. He stated there

are some conflicts with Henderson County's animal ordinance and there have been problems with criminally prosecuting violations of this ordinance.

Captain LeRoy reviewed the revisions to the ordinance including:

- Section 10-8 because Henderson County no longer enforces any animal ordinances within the City limits,
- Provide clear definitions for dangerous and mischievous dogs,
- a new Animal Services Advisory Committee was added,
- Section 10-152 Mistreatment of animals: some sections were removed because they could not be criminally enforced regarding tethering, adequate shelter and potable water,

The Council discussed the tethering and conditions to allow tethering and the necessity to tether on occasion. Mr. Connet explained to enforce criminally the City would have to show intent of "cruel and inhumane." He stated there is not a standard for tethering, and it is difficult for officers to enforce a time limit on tethering. Council Member Hensley asked if violators may continue to be cited even if not convicted. Captain LeRoy stated violators can be cited and sent through the court process. Discussion followed on enforcement and conviction the fence-building program through the Humane Society.

Captain LeRoy explained another amendment to the ordinance is the creation of the Animal Services Advisory Committee who will provide guidance to the Council and the staff and is part of the appeals process when a dog is deemed dangerous and the decision can also be appealed to the courts. Mr. Connet stated there is also a civil process whereby an animal can be taken. Discussion followed on establishing the committee. Mayor Pro Tem Smith commented the first task of the committee should be to review the ordinance.

Mayor Pro Tem Smith asked about a specific definition for "at large", distance, regulations for the Greenway, etc. Mr. Connet suggested "under voice control" could be removed from the ordinance so animals must be on a leash.

There was a brief recess to allow the drafting of additional language for the ordinance. The majority consensus of the Council was to amend the proposed ordinance and ask the Committee to review it and make recommendations to the Council. After further discussion of tethering, Mayor Pro Tem Smith suggested a person wanting to tether their dog could seek a permit to do so.

Mayor Volk asked the Council if their want to amend the draft ordinance with the one change and then have the committee make a recommendation as soon as possible. Council Member Hensley stated she does not support the ordinance as presented. She voiced support of banning tethering completely. Mayor Pro Tem Smith suggested instead of prohibiting tethering, the committee can create criteria and require a get permit.

Mayor Pro Tem Smith moved to City Council to adopt an Ordinance amending Chapter 10 of the Code of Ordinances with Respect to the Welfare of Domestic Animals.

Mayor Pro Tem Smith amended the motion to revise Section 10-107 as follows: 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:

- (a) enclosed within an automobile, or**
- (b) enclosed within a designated fenced area on the premises of a city dog park, or**
- (c) 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.**

The vote on the proposed amendment was unanimous. Motion carried.

The vote on the ordinance including the revision by Mayor Pro Tem Smith was four in favor; one opposed (Hensley). Motion carried.

Mayor Volk expressed appreciation to the members of the Blue Ridge Human Society and all who have provided assistance in the drafting of the ordinance.

Ordinance #20-0206

**AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES WITH RESPECT
TO THE WELFARE OF DOMESTIC ANIMALS**

WHEREAS, the State of North Carolina has declared that municipalities may define and regulate animal cruelty; and

WHEREAS, the City of Hendersonville has determined that cruelty to animals is a danger to the public health, safety and welfare; and

WHEREAS, the City Council has determined that its current ordinance with respect to the welfare and protection of domestic animals is in many cases unenforceable; and,

WHEREAS, the City Council believes that the protection of animals is best effect with an enforceable ordinance,

NOW THEREFORE, be it ordained by the City Council of the City of Hendersonville:

SECTION 1. Chapter 10 of the Hendersonville Code of Ordinances is hereby amended to read as follows:

Chapter 10 ANIMALS
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.

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 predatory by the state law or by the wildlife resources commission nor shall it extend to English Sparrows, pigeons, crows or starlings.

Sec. 10-3. - Protection of squirrels.

(a) 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.

(b) 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.

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.

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.

Sec. 10-6. - Dogs and cats fouling public grounds.

It is hereby declared to be unlawful for any owner, keeper or walker of any 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. 10-7. - Animals at special events.

(a) It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46-84, below, during the hours of operation of such special event.

(b) The following animals are exempted from the prohibition contained in subsection (a):

(1) Service dogs;

(2) Animals under the control of on-duty law enforcement personnel;

(3) Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14-284, below.

(4) Dogs exempted under (b) (1), (2), and (3) must be that are properly restrained and are at all times be under the full control of their handler at all times.

(c) The special events committee, as established in section 46-85, may require the suspension of the exemption for domesticated dogs contained in subsection (b) item (4) above under either of two conditions.

(1) The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or

(2) The event organizer requests that dogs be excluded from the event.

~~Sec. 10-8. — Enforcement by Henderson County.~~

~~Pursuant to N.C.G.S. § 153A-122, Henderson County shall be authorized and permitted to enforce the provisions of Chapter 66A of the Henderson County Code within the corporate limits of the city. In the event of a conflict between the provisions of chapter 66A of the County Code and the provisions of this chapter, the provisions of chapter 66A shall prevail.~~

ARTICLE II. - KEEPING ANIMALS
DIVISION 1. - GENERALLY

Sec. 10-41. - Compliance with article.

No sheep, cattle, goats or other livestock shall be kept or maintained by any person within the city except as provided in this article.

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.

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

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

Sec. 10-44. - Location restrictions.

No person shall keep any animal within 150 feet of any building in the city occupied and used as a residence.

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.

DIVISION 2. - FOWL

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

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

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.

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.

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:

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 shall be the designated individual who, 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 control shelter 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 leash, cord, chain or voice command.

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 Committee to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under "Potentially Dangerous Dog" definition. Any dog owned or harbored primarily or 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 or combination thereof.

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 a member of the county animal control division or other peace officer shall not be deemed the owner of the animal.

Public nuisance 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) Is vicious.
- (34) Causes fouling of the air by odors.
- (45) Causes unsanitary condition of enclosures or surroundings.
- (6) By virtue of number or type is offensive or dangerous to public health, safety or welfare.
- (56) Excessively makes disturbing noises.
- (8) Is diseased and dangerous to the public health.

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 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 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.

Sec. 10-107. - Running at large.

It shall be unlawful for any owner to allow his dog to be at large in the city limits while not under the control of the owner, a member of the owner's immediate family or designee by means of a leash, cord, chain or voice command as required in this article. 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:

- (a) enclosed within an automobile, or
- (b) enclosed within a designated fenced area on the premises of a city dog park, or
- (c) 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.

Sec. 10-108. - Female dogs in heat.

It shall be unlawful for any person who owns or keeps a female dog to allow such dog to run at large while in heat.

Sec. 10-109. - Dangerous, vicious and Mischievous dogs.

- (a) No dog of dangerous, vicious, fierce or 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.
- (b) If any dog bites or attempts to bite any person while such dog is at large, then such dog shall be conclusively presumed to be a dangerous dog and a dog of dangerous propensities and tendencies.
- (c) If any dog attacks or attempts to attack any other dog or other animal while such dog is at large, or chases or otherwise attempts to catch a person, then such dog shall be conclusively presumed to be a vicious dog and to have vicious propensities and tendencies.
- (bd) 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.

Sec. 10-110. - Destruction of Dangerous, vicious/potentially dangerous dogs restricted.

- (a) 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. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Henderson County Animal Service Center.
 1. Reporting requirement. Any attack or biting by a dog upon a person, livestock, or domestic animal; transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog;

confinement to a Veterinary facility; removal from territorial jurisdiction of the county; animal's death must be reported by any of the following individuals:

- 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.

2. The report must be made to the Police Department within 24 hours of the event.

3. Failure to report an incident within 24 hours may result in criminal and civil penalties under this Ordinance and personal liability in subsequent incidents.

(b) Exemptions. The provisions of this chapter do not apply to dogs causing injuries when:

1. Used by law enforcement agencies to carry out official law enforcement duties;
2. 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;
3. Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
4. Protecting itself or its young from assault, torment, or abuse.

(c) Declaration of dangerous/potentially dangerous dog. The Police Chief or 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 ordinance and may impose reasonable conditions to maintain the public health and safety.

(d) 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 Committee.

1. 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 5 calendar days of the receipt by the owner of notice of the declaration.
2. Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of § 10-110E.
3. Hearing procedures. Once properly appealed, the Animal Services Advisory Committee shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct.
4. Outcome. If the dog is affirmed by the Animal Services Advisory Committee as being dangerous/potentially dangerous, then the owner shall comply with the terms of § 10- 110E, F, G. Any person who owns a dog affirmed dangerous/potentially dangerous by the Animal Services Advisory Committee or its designee has the right to appeal this determination to the Superior Court.

(e) 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:

1. 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:
 - a. Confine the dog within the owner's residence; or,
 - b. 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 secured by a child-resistant lock. Pending construction of such pen, the dog must be confined within the owner's residence; or
 - c. 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 of the appropriate size for the animal and must be of a type and model 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.
 - d. Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks or greenways.
2. The owner must post a warning 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.
3. Microchip. Within 10 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.
4. 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 Ordinance. The owner must permit these inspections at any reasonable time without notice to the owner from the Animal Enforcement Officers.
5. Control Measures.
 - a. 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 section 1(b) 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 Enforcement at the owner's expense.

(f) Notification. Within 24 hours:

1. 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, stating the full name if there's a new owner, address, and location of the new owner of the dog.
2. 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.

(g) 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 dangerous/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.

(h) Immediate impoundment. Any dangerous/potentially dangerous dog kept in violation of this section may be immediately impounded upon issuance of 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.

1. 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 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.
2. Release from impoundment.
 - a. No dog deemed dangerous 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 Ordinance have been met as verified by Animal Enforcement. This shall not apply in instances where criminal charges have been brought against the owner.
 - b. If criminal charges have been brought against the owner for failure to comply with this Ordinance 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.
 - c. No dog deemed dangerous or potentially dangerous may be adopted.
 - d. All dogs deemed dangerous or potentially dangerous must be altered within 30 days of the determination.

Any dangerous or vicious dog or dog having dangerous or vicious propensities and tendencies found at large, after the owner thereof has previous knowledge or notice that such dog is dangerous or vicious or has dangerous or vicious propensities and tendencies, may be killed by any police officer of the city without such officer having to catch or impound such dog.

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

(a) Notwithstanding any other provision of this Chapter, a dog or cat that cannot be seized by reasonable and normal means, 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.

(b) Vicious, dangerous/potentially dangerous animals so designated, wild animals, or an animal attacking a human being, another pet, or livestock may be immediately destroyed, if such destruction is necessary for the protection of the public health and safety or that of City staff.

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia, the mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a dog to confine it securely on his premises unless such dog shall have a muzzle of sufficient strength to prevent its biting any person.

Sec. 10-112. - Procedure upon suspicion of rabies.

(a) 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 chain 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 county animal control officer of the fact that his dog has been exposed to rabies, and, at 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.

(b) 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 county animal control officer. Every owner, or other person, upon ascertaining 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 pound or summarily destroy it.

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.

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.

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.

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 ready 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.

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

Tethering refers to the practice of securing 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 for temporary grooming or other professional services.

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

(a) [Unlawful treatment.] It shall be unlawful for any person to deprive or cause to be deprived any domestic animal of adequate food, water, necessary medical attention and adequate shelter.

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

(2) Necessary medical attention. No person owning or responsible for any domestic animal shall fail to supply the animal with necessary medical attention when the animal suffers from illness, injury, or disease.

(3) Adequate shelter, protection from the weather and humanely clean conditions. No persons owning or responsible for any domestic animal shall fail to provide the animal with appropriate shelter, protection from the weather and humanely clean conditions as prescribed in this section.

(b) When confinement prohibited. No animal may intentionally be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when to do so would expose the animal to heat or cold harmful to its health.

(c) Tethering. Domestic animals may be tethered to a stationary object only if all of the conditions numbered (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 & 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.

(11) No animal shall be tethered more than two hours in any continuous 12-hour period. 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.

(12) Exemptions. Citizens residing in townhomes, apartments, condos or similar multi-family housing units with lot sizes insufficient to meet the length and property lines requirements specified in sections (2), (8) and (9) above, may only tether domestic animals for temporary exercise and relief.

(d) 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.

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 insure 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.

Sec. 10-154. - Enforcement.

(a) The animal-service director, animal-service officers, sheriff, or sheriff's deputies or 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 ~~county animal-service director and 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.

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.

SECTION 2. SEVERABILITY. If any provision of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the remaining provisions of this ordinance. This ordinance does not purport to cover treatment of animals where such treatment has been preempted by federal or North Carolina law.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after the date of its adoption. Adopted this sixth day of February 2020.

/s/Barbara G. Volk, Mayor

Attest: /s/Tammie K. Drake, City Clerk

Approved as to form: /s/Samuel H. Fritschner, City Attorney

10. Review/Update on Police Department Headquarters: Assistant Manager Brian Pahle provided an update on the Police Department Headquarters. He provided background information on the project that began with a space needs study in City Hall. He stated moving the police into a separate facility will provide needed space for customer service. The project has included multiple public input meetings. He stated a construction manager at risk was chosen in September 2018. The preliminary budget was established in January 2019 and the Council voted to continue with a 26,000 square foot plan with a 35-year financing for the project. He stated construction documents were completed in late September 2019 as well as estimated costs. Permit approvals were received in January 2020 and bid openings are scheduled for mid-February 2020.

Mr. Pahle reviewed the estimated budget for the project authorized by the Capital Project Ordinance is for \$11.5 million; \$8 for construction and \$1.2 million for soft costs, \$500,000 for land acquisition and \$1.2 million for special services and \$600,000 in contingencies. He stated the City will be seeking a USDA loan which increased the special services costs and the construction costs have increased to \$8.3 million but soft costs have been decreased.

Mr. Pahle stated with construction drawings staff has a firmer estimate and contingencies have dropped. He stated an independent cost estimator is working with the architect and construction manager. He stated there is only \$77,000 difference so staff is comfortable with the estimated costs.

After review, Mr. Pahle stated staff recommends cost control in the following areas: change the retaining wall from cast concrete to a segmented wall, eliminate the canopy at the back garage, reduce the generator size, reduce the front seat wall by 50%. The updated estimated cost is \$11.6 million with \$8.7 in hard cost, and contingencies of \$300,000. He stated there may be other funds available from 9-1-1 funds if needed.

Mr. Pahle reviewed updated renderings.

Mr. Pahle stated there are a variety of environmental awareness finishes including a bioretention pond, permeable pavers in the parking lots, low flow appliances, LED lighting and a white roof to reflect radiant sunlight with less impact on the microclimate. Mayor Pro Tem Smith asked if solar panels could be installed. Mr. Pahle stated it is too late in the process. Mayor Pro Tem Smith commented he would like solar panels added if possible. Mr. Pahle stated staff is investigating looking at solar panels in the City as a whole and how they can be incorporated in future and existing buildings.

Next steps: Mr. Pahle reported an RFP has been sent out for interim financing. He stated a bank may be selected in March, an application submitted to the LGC for approval for the loans in April along with a notice to proceed, site work completed in July 2020 and project completion in September 2021. He stated the USDA is in process of reviewing the City's application. **No action was required or taken.**

11. Presentation on Seventh Avenue Streetscape: Downtown Development Director Lew Holloway and Hunter Marks and Brook Alexander with Watermark Landscape Architecture shared the conceptual scope and design work of the Seventh Avenue streetscape, presented stakeholder feedback and requested Council's feedback on the project.

Mr. Marks provided an overview and scope of the project, phasing and design. Phase I will extend from Grove Street to the railroad tracks. The larger project will extend to the Oklawaha Greenway and include parts of Locust Street to Bearcat Boulevard.

Mr. Marks presented the design that is oriented toward bring people and the history back, making it a destination, creating a green street with plantings and trees making it an attractive, inviting and usable space, stormwater features such as bio-swells and pervious paving. He discussed alternates for Locust Street stating the project will eventually link Ashe Street to the greenway.

Mr. Marks stated they were tasked with making this a greener street, and provide standards that is replicable, cost effective and can be used in other parts of the City.

Chapter 10 ANIMALS¹

This ordinance and other documents may be viewed online by visiting Municode at the following link:
https://library.municode.com/nc/hendersonville/codes/code_of_ordinances?nodeId=PTIICOOR_CH10AN

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 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.

- (a) 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.
- (b) 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

¹Editor's note(s)—Ord. No. 20-0206, § 1, adopted February 6, 2020, amended chapter 10Editor's note(s)— in its entirety to read as herein set out. Former chapter 10Editor's note(s)—, §§ 10-1Editor's note(s)—10-8, 10-41Editor's note(s)—10-45, 10-66Editor's note(s)—, 10-70Editor's note(s)—, 10-72, 10-106Editor's note(s)—10-115, 10-151Editor's note(s)—10-155, pertained to similar subject matter, and derived from §§ 6-1Editor's note(s)—6-3, 6-7Editor's note(s)—, 6-43—6-52 of the 1971 Code; Ord. of 8-8-96, §§ 1, 2; Ord. No. 02-0523, § 1, 5-9-02; Ord. No. 04-0214, § 1, 2-5-04; Ord. No. 09-0104, § 1, 1-8-09; Ord. No. 10-0409, § 1, 4-1-10; Ord. No. 10-1148, § 1, 11-4-10; Ord. No. 11-0312, § 1, 3-3-11; Ord. No. 15-0741, § 1, 7-2-15; Ord. No. 15-1286, § 1, 12-3-15; Ord. No. 17-0220, § 1, 2-9-17.

Cross reference(s)—Environment, ch. 20Cross reference(s)—; health and sanitation, ch. 26Cross reference(s)—; disposal of dead animals, § 44-47Cross reference(s)—; application of traffic chapter to persons riding animals, § 50-7Cross reference(s)—.

State law reference(s)—Authority to define and prohibit the abuse of animals, G.S. 160A-182; authority to regulate domestic animals, G.S. 160A-186.

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(s)—Streets, sidewalks and other public places, ch. 46Cross reference(s)—.

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(s)—Streets, sidewalks and other public places, ch. 46Cross reference(s)—.

Sec. 10-6. Dogs and cats fouling public grounds.

It is hereby declared to be unlawful for any owner, keeper or walker of any 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(s)—Parks and recreation, ch. 38Cross reference(s)—; streets, sidewalks and other public places, ch. 46Cross reference(s)—.

Sec. 10-7. Animals at special events.

- (a) It shall be unlawful for any person to allow or permit any animal owned, kept, or harbored by, or under the control of, such person to be present within the boundaries of any special event permitted pursuant to section 46-84, below, during the hours of operation of such special event.
- (b) The following animals are exempted from the prohibition contained in subsection (a):
 - (1) Service dogs;
 - (2) Animals under the control of on-duty law enforcement personnel;
 - (3) Animals explicitly authorized by the terms of a street vendor permit issued pursuant to section 14-284, below.
 - (4) Dogs exempted under subsections (b) (1), (2), and (3) must be properly restrained and under the full control of their handler at all times.

- (c) The special events committee, as established in section 46-85, may require the suspension of the exemption for domesticated dogs contained in subsection (b) item (4) above under either of two conditions.
- (1) The health, safety and welfare of the community or the dogs or both will be compromised should dogs be allowed, or
 - (2) The event organizer requests that dogs be excluded from the event.

(Ord. No. 20-0206, § 1, 2-6-20)

Secs. 10-8—10-40. Reserved.

ARTICLE II. KEEPING ANIMALS

DIVISION 1. GENERALLY

Sec. 10-41. Compliance with article.

No sheep, cattle, goats or other livestock shall 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 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 animal within 150 feet of any building in the city occupied and used as a residence.

(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.

(Ord. No. 20-0206, § 1, 2-6-20)

Cross reference(s)—Buildings and building regulations, ch. 12Cross reference(s)—.

Secs. 10-46—10-65. Reserved.*DIVISION 2. FOWL***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—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.

(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.

(Ord. No. 20-0206, § 1, 2-6-20)

Cross reference(s)—Environmental services, ch. 44Cross reference(s)—.

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:

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 shall be the designated individual who, 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 leash, cord, chain or voice command.

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 Committee to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under "Potentially Dangerous Dog" definition. Any dog owned or harbored primarily or 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 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 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 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(s)—Definitions generally, § 1-2Cross reference(s)—.

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:

- (a) Enclosed within an automobile, or
- (b) Enclosed within a designated fenced area on the premises of a city dog park, or
- (c) 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(s)—Streets, sidewalks and other public places, ch. 46Cross reference(s)—.

Sec. 10-108. Reserved.

Sec. 10-109. Mischievous dogs.

- (a) 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.
- (b) 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. 10-110. Dangerous/potentially dangerous dogs restricted.

- (a) *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. Notwithstanding any exemption listed below, any dog which has killed a person shall be immediately euthanized by the Henderson County Animal Service Center.
- (1) *Reporting requirement.* Any attack or biting by a dog upon a person, livestock, or domestic animal; transfer, gift, sale or other conveyance of ownership or possession of a dangerous or potentially dangerous dog; confinement to a veterinary facility; removal from territorial jurisdiction of the county; animal's death must be reported by any of the following individuals:
 - 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.
 - (2) The report must be made to the police department within 24 hours of the event.
 - (3) Failure to report an incident within 24 hours may result in criminal and civil penalties under this chapter and personal liability in subsequent incidents.
- (b) *Exemptions.* The provisions of this chapter do not apply to dogs causing injuries when:
- (1) Used by law enforcement agencies to carry out official law enforcement duties;
 - (2) 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;
 - (3) Protecting the owner or owner's premises from trespassers and other criminal perpetrators while on its owner's premises;
 - (4) Protecting itself or its young from assault, torment, or abuse.
- (c) *Declaration of dangerous/potentially dangerous dog.* The police chief or 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.
- (d) *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 committee.
- (1) *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 five calendar days of the receipt by the owner of notice of the declaration.
 - (2) Pending the appeal, the owner of a dog declared dangerous/potentially dangerous shall comply with the provisions of section 10-110(e).
 - (3) *Hearing procedures.* Once properly appealed, the animal services advisory committee shall conduct a public quasi-judicial hearing to determine whether the declaration of the animal as dangerous/potentially dangerous is correct.

- (4) *Outcome.* If the dog is affirmed by the animal services advisory committee as being dangerous/potentially dangerous, then the owner shall comply with the terms of section 10-110(e), (f), (g). Any person who owns a dog affirmed dangerous/potentially dangerous by the animal services advisory committee or its designee has the right to appeal this determination to the superior court.
- (e) *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:
- (1) 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:
 - a. Confine the dog within the owner's residence; or
 - b. 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 secured by a child-resistant lock. Pending construction of such pen, the dog must be confined within the owner's residence; or
 - c. 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 of the appropriate size for the animal and must be of a type and model 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.
 - d. Any dog deemed dangerous shall not be permitted in public recreation areas, including dog parks, parks or greenways.
 - (2) The owner must post a warning 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.
 - (3) 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.
 - (4) 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 enforcement officers.
 - (5) Control measures.
 - a. 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 subsection (e)(1)b. 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 enforcement at the owner's expense.
- (f) *Notification.* Within 24 hours:
- (1) 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, stating the full name if there's a new owner, address, and location of the new owner of the dog.
 - (2) 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.
- (g) *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.
- (h) *Immediate impoundment.* Any dangerous/potentially dangerous dog kept in violation of this section may be immediately impounded upon issuance of 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.
- (1) *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 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.
 - (2) *Release from impoundment.*
 - a. No dog deemed dangerous 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.
 - 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.
 - c. No dog deemed dangerous or potentially dangerous may be adopted.
 - d. 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.

- (a) Notwithstanding any other provision of this chapter, a dog or cat that cannot be seized by reasonable and normal means, 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.
- (b) Vicious, dangerous/potentially dangerous animals so designated, wild animals, or an animal attacking a human being, another pet, or livestock may be immediately destroyed, 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.

- (a) 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 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.
- (b) 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. Every owner, or other person, upon ascertaining 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(s)—Health and sanitation, ch. 26Cross reference(s)—.

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(s)—Health and sanitation, ch. 26State law reference(s)—.

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. 10-116—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 ready 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.

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

Tethering refers to the practice of securing 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 for temporary grooming or other professional services.

(Ord. No. 20-0206, § 1, 2-6-20)

Sec. 10-152. Mistreatment of animals prohibited.

(a) *[Unlawful treatment.]* It shall be unlawful for any person to deprive or cause to be deprived any domestic animal of adequate food, water, necessary medical attention and adequate shelter.

- (1) Adequate food and water, as defined herein, must be provided for all domestic animals.
- (2) Necessary medical attention. No person owning or responsible for any domestic animal shall fail to supply the animal with necessary medical attention when the animal suffers from illness, injury, or disease.
- (3) Adequate shelter, protection from the weather and humanely clean conditions. No persons owning or responsible for any domestic animal shall fail to provide the animal with appropriate shelter, protection from the weather and humanely clean conditions as prescribed in this section.

- (b) *When confinement prohibited.* No animal may intentionally be confined in a building, enclosure, car, boat, vehicle or vessel of any kind when to do so would expose the animal to heat or cold harmful to its health.
- (c) *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.
- (d) *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)