Chapter 3 - ANIMALS AND FOWL

**State Law reference—** Authority to regulate domestic animals, G.S. § 160A-186; authority to prohibit  abuse of animals, G.S. § 160A-182; authority to create bird sanctuary, G.S. § 160A-188; authority to tax  animals, G.S. § 160A-212; authority to establish animal shelters, G.S. § 160A-493; authority to regulate  dangerous animals, G.S. § 160A-187; rabies control, G.S. § 130A-184 et seq.

ARTICLE I. - IN GENERAL

Sec. 3-1. - Bird sanctuary—Designated.

The area embraced within the corporate limits of the Town and the lands owned and leased by the Town is hereby designated as a bird sanctuary.

Sec. 3-2. - Same—Trapping, hunting, etc., birds within an area.

It shall be unlawful for any person to trap, hunt, shoot or otherwise kill, within the sanctuary  established by Section 3-1, any wild bird; provided, that it shall be lawful to trap Starlings or other similar  birds or fowl when such birds or fowl are found to be congregating in such numbers in a particular locality  that they constitute a nuisance or a menace to health or property.

Sec. 3-3. - Same—Signs giving notice of provisions.

The bird clubs of the Town are hereby granted permission to erect such artistic signs, giving notice of the regulations provided in sections 3-1 and 3-2, at such places and of such design as may be approved by the Planning Board.

Sec. 3-4. - Keeping livestock.

(a) It shall be unlawful for any person with less than two acres of land to keep, harbor or maintain horses, mules, cattle, goats, sheep, or other domestic animals classified as "livestock" within the corporate limits.

(b) It shall be unlawful for any person to keep, harbor, or maintain any swine or rooster within the Town.

Sec. 3-5. - Livestock at large.

It shall be unlawful for any person to permit any horse, cow, mule, sheep, goat, or other livestock owned or controlled by such person to run at large within the Town.

Sec. 3-6. - Vicious or dangerous animal at large.

No person owning or having the custody of any vicious or dangerous dog or other animal shall allow such dog or other animal to run at large.

**State Law reference—** Female dogs in heat at large, G.S. § 67-2; allowing dogs to run at large at night, G.S. § 67-12; authority to regulate dangerous animals, G.S. § 160A-187; confinement or leashing of vicious animals, G.S. § 130A-200.

Sec. 3-7. - Domestic fowl at large.

It shall be unlawful for the owner or person having custody of any turkeys, geese, ducks, chickens, pigeons, or other domestic fowl to permit the same to run at large in the Town.

Sec. 3-8. - Pens and enclosures—Cattle, etc.; cleanliness.

Every stable or other place where cattle, horses or other animals are kept in the Town shall be maintained at all times in a clean and healthful condition.

Sec. 3-9. - Same—Poultry; proximity to church or school.

No person shall open, maintain, operate or conduct, within 200 feet of any church or Sunday School  or any public school building in the Town any poultry yard or poultry house or carry on any poultry  business, wherein is kept live chickens, ducks, geese, turkeys or other fowl for sale, barter or exchange,  nor shall any person buy and sell live chickens, ducks, geese, turkeys or other fowl or unload the same or  place the same within any building within 200 feet of any church, Sunday School, or public school. This section shall not prohibit retail or other dealers keeping on hand such fowl as are needed in their daily business, not exceeding, however, 20 at any one time.

**Cross reference—** For zoning generally, see Appendix A.

It shall be the duty of the Animal Control Officer to seize and impound any dog, horse, mule, cow, sheep, goat, or other animal which is running at large. A fee of fifty ($50.00) dollars for capture of the animal, and any charges of the Animal Shelter may charge.

**State Law reference—** Authority to establish animal shelter, G.S. § 160A-493.

Sec. 3-11. - County's animal control ordinance; adopted by reference.

The County's animal control ordinance is hereby adopted by reference to include all amendments and updates made in the future and is on file in the office of the Town Administrator. Pursuant to G.S. 153-A-122, the Animal Control Ordinance adopted by Burke County on August 6, 2019, shall be applicable within the Town of Glen Alpine municipal limits and enforced within the Town of Glen Alpine by proper officers and employees of the County of Burke according to the terms of the County's ordinance and pursuant to G.S. 153-A-123.

Sec. 3-12. – Animal Control Officer.

The provisions of this Ordinance shall be enforced by an Animal Control Officer. The Town Board of Aldermen is hereby authorized to appoint one or more Animal Control Officer, or to contract with Burke County or any other governmental unit for the provision of services on an Animal Control Officer within the Town of Glen Alpine. The Town may designate any such Animal Control Officer as an officer with police powers.

Sec. 3-13. – Authority of Police Officers.

Members of the Police Department of the Town of Glen Alpine shall be empowered to perform the duties of the Animal Control Officer.

Sec. 3-14. – Responsibility of Owner.

Owners of animals are responsible for the acts of their animals. The owner of any animal which commits a nuisance upon the property of another person, or which damages another person’s property or person, is fully responsible and accountable for those acts. Nothing in this Ordinance shall change or limit such liability or responsibility.

Sec. 3-15. – Inoculation.

No dog or cat shall be permitted within the corporate limits of the Town unless it shall have been inoculated against rabies as required by the General Statutes of North Carolina, and proof of such inoculation shall be attached to said dog or cat.

Sec. 3-16. – Obstruction or Interference with an Animal Control Officer.

It shall be unlawful for any person to obstruct or interfere with in any way the performance by any Animal Control Officer of his or her duties under this Ordinance. It shall be unlawful for any person to obstruct or interfere with in any way the impoundment of any dog or cat found in violation of the provisions of this Ordinance. It shall be unlawful for any person to release, or attempt to release, any dog or cat which has been impounded, without having met the requirements of this Ordinance for such release.

3-17—3-30. - Reserved.

ARTICLE II. - ABATEMENT OF NUISANCES

**State Law reference—** Authority to abate nuisances, G.S. §§ 160A-174, 160A-175, 160A-192, 160A 193.

Sec. 3-31. – Definitions

The following words, whenever they are used in this article, shall be deemed to have the following meanings:

*Animal Control Officer.* The person or persons employed by the County or Town as its enforcement officer(s), either full-time or designated temporarily.

*Animal Services Director.* The person designated by the Burke County Board of Commissioners and the County Manager in Burke County and where appropriate, his or her designee, charged with the responsibility, discretion, and authority to interpret, implement, and enforce the animal services programs in Burke County. The animal services director is the person charged with the supervision, administration, and operation of the Burke County Animal Services Center; and who has final determination on the care, treatment, control, impounding, and disposition of animals.

*At large.* Any animal shall be deemed to be at large when it is not under restraint and is off the property of its owner or keeper.

*Owner.* Any person, groups of persons, or corporation that owns, keeps, or harbors a dog or dogs or other animals.

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

(1) Confined in a fenced enclosure, building, or house and unable to escape.

(2) Restricted by leash, cable, rope, or similar device under the control of the owner or keeper. (3) Confined within a vehicle and unable to escape.

(4) Under voice command of the owner, or other persons, the animal is expected to obey the voice command.

Sec. 3-32. - Conditions declared to constitute public nuisance.

The existence of any of the following conditions within the corporate limits is hereby declared to be dangerous and prejudicial to the public health, welfare, or safety and to constitute a public nuisance; any animal or groups of animals which:

(1) Is found at large and off the property of its owner or keeper and not under physical restraint; (2) Damages, soils, or defiles person or property of anyone other than its owner; (3) Is vicious, or interferes with, molests, or attacks persons or other animals;

(4) Causes fouling of the air by odors;

(5) Causes unsanitary conditions of enclosures or surroundings;

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

(7) Excessively makes disturbing noises;

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

(9) Chases, snaps at, harasses, or impedes pedestrians, bicyclists, or vehicles.

Sec. 3-33. – Running at-large prohibited.

Animals shall not be permitted to run at-large within the Town of Glen Alpine municipal limits.

Sec. 3-34. - Impoundment.

Animals found running at large shall be taken up by either the Burke County Animal Control Officer or designated Town official and impounded in a properly designated facility.

Sec. 3-35. - Investigation.

The Town Administrator, upon notice from any person of the possible existence of any of the conditions described in section 3-32, shall cause to be made by the appropriate County Health Department official, or designated Town official, such investigations as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in section 3-32.

Sec. 3-36. - Right of Animal Control Officer to enter for inspections, etc.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any  duty imposed by this chapter, or other applicable law, or whenever the Animal Control Officer or  designated Town official has reasonable cause to believe that there exists in any building or upon the  premises any violation of the provisions of this article or other applicable law, the Animal Control Officer  or his authorized representative is hereby empowered to enter such property at any reasonable time  and to inspect the same and perform any duty imposed upon the Animal Control Officer or designated  Town official by this article or other applicable law, but only if the consent of the occupant or owner of  the property is freely given or a search warrant is obtained as hereinafter provided:

(1) If such property is occupied, he shall first present proper credentials to the occupant and request entry, explaining his reason therefor;

(2) If such property is unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge or control of the property, present proper credentials, and request entry, explaining his reasons therefor; and

(3) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the animal control officer or designated Town official shall obtain a warrant to conduct a search or inspection of the property.

(b) Notwithstanding any other provision of this article, the Animal Control Officer or designated Town official shall have the authority to enter upon any property to enforce the provisions of this article, or other applicable law if a violation of such law is being committed in the presence of such officers. "Committed in the presence of such officers" shall not be construed to refer to any alleged violation of this article or other applicable law which is committed within any building or other enclosed structure unless such officer is also lawfully within such building or enclosed structure. The Police Department will assist the Burke County Animal Control Officer and the designated Town official when necessary.

Sec. 3-37. - Notice to the owner; hearing.

If such conditions exist, the Town Administrator shall cause to be delivered or mailed to the owner of the property upon which the conditions exist, or the owner of the animal, a notice stating the reasons why the conditions may constitute a violation and giving 48 hours from the time of notification to abate the violation. The owner or any parties in interest shall have the right to file an answer to the notice and request a hearing before the Town Administrator and to appear in person, or otherwise give evidence at the place and time fixed in the notice. The hearing will be held before the Town Administrator at a place therein fixed and such hearing is to be held in not less than ten, nor more than 30 days after the delivery or mailing of the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

Sec. 3-38. - Notification of public nuisance conditions; order to abate.

If, after a hearing, a determination is made that such conditions, constituting a public nuisance, exist,  the Town Administrator shall notify, in writing, the owner of the premises in question, or the owner of the  animal, of the conditions constituting such public nuisance and shall order the prompt abatement thereof  within 15 days from the receipt of such written notice.

Sec. 3-39. - Failure to abate nuisance; removal by Town.

If the owner, having been ordered to abate or remove the condition constituting the nuisance within  15 days from receipt of the order, [fails to do so], the Town Administrator shall cause the condition to be  removed or otherwise remedied by having employees of the Town to go upon the premises and remove  or otherwise abate such nuisance under the supervision of an officer or employee designated by the

Town Administrator. Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request the Town in writing to remove such a condition, the cost of which shall be paid by the person making such request.

Sec. 3-40. - Cost of abatement to be borne by the owner.

(a) *Statement of charges mailed to owner; when due and payable.* The actual cost incurred by the Town  and/or the County in removing or otherwise remedying a public nuisance shall be charged to the owner  of such lot or parcel of land or animal, and it shall be the duty of the Town Administrator to mail a  statement of such charges to the owner or other person in possession of such premises with  instructions that such charges are due and payable within 30 days from the receipt thereof.

(b) *Unpaid charges to become lien; collected as unpaid taxes.* In the event charges for removal or abatement of a public nuisance are not paid within 30 days after receipt of a statement or charges as provided in subsection (a), such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

Sec. 3-41. - Impoundment and disposition.

General regulation.

Any animal which appears to be lost, stray, unwanted, or which is found not wearing a valid rabies  vaccination tag as required by state law or this chapter, and not under restraint in violation of this chapter,  shall be impounded by the animal control division by any means necessary and confined in the county  animal services center in a humane manner. Impoundment of such animals shall not relieve the owner thereof from any penalty which may be imposed for violation of this chapter. All impounded animals will be scanned for a microchip to aid in the notification of the legal owner.

Sec. 3-42. - Notice to the owner.

Immediately upon impounding an animal, the animal control officer / animal services employees shall make reasonable effort to notify the owner and inform such owner of the impoundment. If the owner is unknown or cannot be located, animal services shall hold the animal for a minimum of 72 hours and then make the animal available for adoption, transferred to a rescue, transferred to a foster or, barring extenuating circumstances pursuant to G.S. 19A-32.1(b)(2), euthanization after the five-day impoundment period.

If an animal shelter transfers possession of an animal under this subsection, at least one photograph depicting the head and face of the animal shall be displayed at the animal services center in a conspicuous location that is available to the general public during hours of operation, and that photograph shall remain posted until the animal is disposed of.

Sec. 3-43. - Redemption by owner.

(a) The owner of an animal impounded under this article may redeem the animal and regain possession thereof within 72 hours from the time notification of impoundment is given by complying with all applicable provisions of this chapter and paying any necessary veterinary fees and boarding fees set and approved by the County Board of Commissioners.

(b) No owner may be permitted to adopt his own animal under the provisions of this article to reclaim an animal that has been impounded pursuant to state law or this article in order to avoid paying the applicable fees associated.

(c) The owner of any animal that is turned over to animal services will be able to retrieve the animal after the release form has been signed. The owner will be responsible for paying the $25.00 handling fee the day that said animal was turned in.

Sec. 3-44. - Adoption or euthanization of unredeemed animals.

(a) If an impounded animal is not redeemed by the owner within the period described in this article, it shall become the property of the County and will be:

(1) Transferred to an approved nonprofit rescue/adoption group registered with the County's animal services division for domesticated animals only, thus excluding wild animals;

(2) Offered for adoption to individuals who have paid the current adoption fees; or

(2.5) Transferred to an approved foster. If the animal services center places an animal in foster care, the animal services center may, in writing, appoint the person or organization possessing the animal to be an agent of the center. After the expiration of the minimum holding period, the center may (i) direct the agent possessing the animal to return it to the center, (ii) allow the agent to adopt the animal consistent with the center's adoption policies, or (iii) extend the period of time that the agent holds the animal on behalf of the center. The animal services center may terminate an agency created under this subsection at any time by directing the agent to deliver the animal to the center. The animal services center, as principal in the agency relationship, shall not be liable to reimburse the agent for the costs of care of the animal and shall not be liable to the owner of the animal for harm to the animal caused by the agent, absent a written contract providing otherwise.

(3) Euthanized in a humane manner after the five-day impoundment period, space permitting and barring extenuating circumstances pursuant to G.S. 19A-32.1(b)(2).

(b) No animal which has been impounded by reason of its being a stray, unclaimed by its owner, shall be allowed to be adopted from the animal services center during a period of emergency rabies quarantine invoked pursuant to article II of this chapter, except by special authorization of the County Health Director.

(c) Adoption contract. Any eligible individual adopting a dog or cat from the animal services center shall be required to sign an adoption contract with the animal services center which states that the applicant accepts all ownership responsibilities and liabilities associated with the adoption. Spay and neuter will be mandatory for all animals adopted from the animal services center.

Any eligible rescue or approved foster accepting an animal from the animal services center shall complete the required transfer contract.

(d) Exceptions from adoption policy.

(1) Animal services may refuse adoption of animal to a person less than 18 years of age. (2) Persons who have previously been cited under this chapter.

(3) Person/household that has adopted three animals in a calendar year.

(4) Animals that exhibit non-person aggressive behavior will be deemed adoptable with full disclosures made to rescues and potential adopters of the aggression type (i.e., food, territory, small prey, etc.).

(e) Animals that exhibit fierce, dangerous, or person-aggressive behavior shall not be offered for adoption.

(f) Any animal officially surrendered by the owner to animal services may be placed for adoption as authorized in this section. No animal will be euthanized prior to the state mandated three-day  impoundment period or the County's five-day impoundment period if space is available in the animal  services center, barring extenuating circumstances as deemed by the animal services director  pursuant to G.S. 19A-32.1(b)(2), which is applicable when "the animal is seriously ill or injured, in  which case the animal may be euthanized before the expiration of the minimum holding period if the  manager of the animal services center determines, in writing, that it is appropriate to do so. The writing shall include the reason for the determination."

(g) Any animal impounded that is gravely injured or seriously ill and has no identification can be euthanized in a humane manner pursuant to G.S. 19A-32.1(b)(2). If the animal has identification, an animal control officer or animal services employee shall attempt to notify the owner before euthanizing; but if the owner cannot be reached readily and the animal is enduring prolonged, unnecessary suffering, the animal control officer certified to euthanize, or animal services employee certified to euthanize may euthanize the animal in a humane manner.

Sec. 3-41. – Civil Penalties.

(a) Any person, firm, or corporation violating any provision of this Ordinance shall be subject to the imposition by citation of a Civil Penalty for each such violation in the amount of One Hundred Dollars ($100.00) which shall be paid in full within seventy-two (72) hours of the service of the citation in accordance with North Carolina General Statute § 160A-175.

(b) Any person, firm, or corporation violating any provision of this Ordinance shall further be subject to Glen Alpine enforcing the provisions of this Ordinance by applying to a court of competent jurisdiction in the General Court of Justice for equitable relief including, but not limited to mandatory or prohibitory injunctions and/or orders in accordance with North Carolina General Statute § 160A-175.

(c) Each day of violation shall be considered a separate and distinct offense for the purpose of the enforcement of this Ordinance.

(d) Failure to make payment and to correct the violation within the Seventy-Two (72) hour period will result in an additional fine of Twenty-five Dollars ($25.00) per day for a total of Fifteen (15) days. The penalty and delinquent charge may be recovered by the Town in a civil action.

(e) Violation of this Ordinance shall not constitute a misdemeanor of infraction punishable under North Carolina General Statutes § 14-4.

(f) After five (5) violations of this Ordinance within one (1) year of receiving the first (1) penalty, owner of the animal will be prohibited from having domestic animals within the corporate limits of the Town or at the same physical address of violations.