

ORDINANCE NO. 217

AN ORDINANCE PRESCRIBING PROCEDURES FOR ANIMAL CONTROL IN CITY  
LIMITS OF OLD FORT, NORTH CAROLINA

BE IT ORDAINED by the Board of Alderman of the Town of Old Fort:

ARTICLE A

Section 1 Cruelty to animals generally. It shall be unlawful to mistreat any animal by causing or permitting that animal unjustifiable physical pain, suffering or death, either by act of omission or neglect. Lawful taking of game animals or activities lawfully conducted for biomedical research or training is exempted from the provisions of this section.

Section 2 Animal and chicken fights. No person shall incite or cause any dogs or other animals or any chickens to fight.

Section 3 Keeping pigeons. It shall be unlawful to keep pigeons, except when such pigeons are properly kept in a cage or enclosure at all times.

Section 4 Maintaining stables, barns, etc., generally. Every person owning, or using or occupying any public or private stall, shed or barn within the town where any horse, pony, mule, cattle, sheep, goat, chickens or other domestic animal shall be kept, shall maintain such place in a clean and sanitary condition in order to protect the public health. All stables, barns, etc., shall be maintained in accordance with recommendations of the state board of health. All persons failing or refusing to comply with such recommendations in a reasonable time shall be guilty of violating this chapter.

Section 5 Same; location and maintenance requirements generally; complaints, removal of health menaces.

- a) No stall, stable, shed, barn, chicken roost, chicken lot or like building of any person shall be located within 100 feet of any dwelling or street other than his own, or within 50 feet of any well, spring or any other source of water used for drinking or culinary purposes, or any natural drain or gutter within the town possessed or owned by other person.
- b) The offal therefrom shall be heaped in a pile and carried off the premises at least twice a week; no water shall be allowed to collect and stand around such pen or sty; and the owner of such building shall keep such pen, stall or shed in an absolute sanitary condition in every respect, so as not to offend any persons within the town.
- c) This section shall not apply to animals located within the city prior to the date of adoption of the ordinance from which this section derives. However, the number of animals shall not be increased nor shall the animals be replaced or relocated to some other property in violation of this section.
- d) If a complaint is filed in writing at the town hall or to an officer of the town by an adjoining property owner or tenant thereof, setting forth the basis of this complaint, and if the basis thereof is violation of the restrictions herein set forth, and if the person offending shall fail to comply with the restrictions herein set forth within two (2) days on

being notified to do so by the Police Chief, or any officer of the town, he shall be subject to a penalty of a fine not to exceed \$50 or to be imprisoned for a period not to exceed 30 days, one or both, within the discretion of the court.

- e) Any stall or pen within the town that shall be declared a menace to health upon the certificate of a practicing physician in good standing in the county medical association shall be removed outside of the town by the owner thereof, after 48 hours' notice shall have been given him by the Police Chief. All persons failing to remove such nuisance after such notice shall be subject to a penalty of a fine not to exceed \$50 or the imprisoned for a period not to exceed 30 days, or both, within the discretion of the court.
- f) Fowl running at large prohibited. It shall be unlawful for any person to permit turkeys, geese, ducks, chickens, or other domestic fowl to run at large upon any land in the city.
- g) Hitching animals. No person shall hitch any horse or other animal to any of the trees, lampposts, electric lights, power, telephone or telegraph poles, mailboxes, wires or hydrant on any of the streets, sidewalks, squares parks in the city.

### DO WE NEED A N EXCEPTION DURING PARADES OR FESTIVALS

Section 6 Bird Sanctuary; eradication of pests.

- a) The entire area embraced within the corporate limits of the city is hereby designated as a bird sanctuary.
- b) It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any bird or wild fowl or to rob bird nests or wild fowl nests; provided, however, that if starlings or similar birds are found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property in the opinion of the city council, then the city council may bring the matter to the attention of the state commissioner of agriculture or state pesticide board which shall make such disposition of the matter as may be appropriate pursuant to the provisions of G.S. section 113-300.2.

Section 7 Restriction as to certain animals in public places. No person shall permit his horse, mule, donkey, hog, sheep, goat, or cattle of any kind, to run at large in the streets, sidewalks, parks, squares or cemeteries of the city. Horses or mules which are being used for riding or driving may be fastened to hitching posts or blocks, but no person shall stake or otherwise fasten any such animal, for grazing purposes, in any of the streets, sidewalks, parks, squares, or cemeteries of the city, nor shall any person feed any such animal in any of the streets, sidewalks, parks, or squares of the town.

### DO WE NEED A N EXCEPTION DURING PARADES OR FESTIVALS

Section 8 Maintaining kennels; generally. Every person owning, using, or occupying any public or private kennel within the town where dogs or cats shall be kept, shall maintain such place in a clean and sanitary condition in order to protect the public health. All kennels shall be maintained in accordance with recommendations of the state board of health. All persons failing or refusing to comply with such recommendations in a reasonable time shall be guilty of violating this chapter.

Section 9 Same; definition of maintaining a kennel. Any person, firm or corporation owning or having the custody of more than two (2) dogs and/or cats over 12 weeks of age shall be deemed to be maintaining a kennel and shall comply with the requirements of this article. Any person in charge of a household shall be deemed to be the owner of the dogs and/or cats housed therein and shall be the responsible party for the purpose of sections 8, 9, 10.

Section 10 Same; location and maintenance requirements of kennels generally; complaints; removal of health menaces.

- a) No kennel of any person shall be located within 100 feet of any dwelling other than his own, or within 50 feet of any well, spring or any other source of water used for drinking or culinary purposes, or any natural drain or gutter within the town, or within 50 feet of property line in the town possessed or owned by another person.
- b) Any person owning, using or occupying any kennel shall provide a suitable pen or other enclosure for the dogs and/or cats being maintained in a dwelling used for human habitation.
- c) Persons, firms or corporations maintaining a kennel shall not allow the dogs and/or cats to run at large at any time.
- d) If a complaint is filed in writing at the town hall or to an officer of the town by a property owner or a tenant in the immediate vicinity of a kennel, setting forth the basis for such complaint, and if the basis thereof is in violation of the restrictions herein set forth, and if the attending party shall fail to comply with the restrictions herein set forth within 10 days of being notified to do so by the Police Chief, or any officer of the town, he shall be subject to a penalty of a fine not to exceed \$50 or imprisoned for a period no to exceed 30 days, one or both, within the discretion of the court.
- e) Any kennel within the town which shall be declared a menace to health upon a certificate of a practicing physician and in good standing in the county medical association or the McDowell County Board of Public Health shall be removed from the town by the owner thereof after 48 hours' notice shall have been given him by the Police Chief. All persons failing to remove such nuisance after such notice within said period of time shall be subject to a penalty of a fine not to exceed \$50 or imprisoned for a period not to exceed 30 days, or both, within the discretion of the court.

Section 11 Tying animals to trees and poles. The tying of horses, mules or other animals to any of the shade trees, electric light and telephone poles or fences in the town, or the feeding of any of said animals on the streets is forbidden.

Section 12 Animals running at large. It shall be unlawful for any person to allow any animals or fowls to run at large, or to be tethered on any of the streets or public lots.

Section 13 Keeping of Hogs, unlawful. It shall be unlawful for any person, to keep or maintain pigs or hogs on pens or otherwise, within the corporate limits of the town.

## ARTICLE B Dogs

Section 14 Vaccination and collar with vaccination tag required.

- a) Every person within the town who owns, controls or harbors a dog shall have such dog vaccinated annually against hydrophobia; provided, that in any case wherein the vaccination affords Immunity to hydrophobia for a period longer than one year such dog need not be revaccinated until the termination of such period of immunity; and in every case the vaccination certificate shall state the type and quantity of serum administered and the period of immunity to hydrophobia afforded thereby.
- b) Every person within the town who owns, controls or harbors a dog shall be responsible for the wearing by such dog at all times of a collar on which is prominently displayed a vaccination tag indicating a vaccination which currently affords such dog immunity to hydrophobia.

Section 15 Declaration of nuisances.

- a) The keeping or maintenance outside a proper enclosure of any dog or dogs having dangerous or destructive propensities is hereby declared to be a public nuisance, and shall be abated as provided in this article.
- b) The keeping or maintenance of any dog or dogs which by prolonged and habitual barking, howling, or whining cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the public streets, sidewalks or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided in this article.

Section 16 Definitions.

- a) For the purposes of this article, the term "proper enclosure" shall mean a building or other structure from which a dog cannot escape, or an outside area enclosed by a fence at least six (6) feet in height secured to the ground in a manner so that a dog cannot escape.
- b) For the purpose of this article, a "dog having dangerous or destructive propensities" shall mean a dog which has been trained or taught to attack humans or other animals, or a dog which habitually turns over garbage receptacles, habitually destroys shrubs, flowers, grass and other plant growth, habitually kills other animals, habitually attacks or attempts to attack persons, or habitually performs other similar acts.

Section 17 Enforcement.

- a) Complaint and notice. Upon receipt of a written detailed and signed complaint being made to the police department by any resident or residents that any person is maintaining a public nuisance as described in section 15 above, the chief of police shall cause the owner or keeper of the dog or dogs in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating officer
- b) Abatement. If the written findings of the investigating officer indicate that the complaint is justified, then the chief of police shall cause the owner or keeper of the dog or dogs in question to be so notified in writing and ordered to abate such nuisance within 48 hours by destruction or removal of such dog or dogs, or by construction of a proper enclosure, as the case may necessitate. In the event the owner or keeper of the dog or dogs is unknown and cannot be ascertained, such notice and order, along with a general description of the dog or dogs, shall be posted for 48 hours at the town hall.

- c) Impoundment upon failure to abate; destruction. If any person being the owner or keeper of a dog or dogs hereinabove described, shall fail or refuse to abate such nuisance upon order of the chief shall cause the dog or dogs in question to be apprehended and impounded in a suitable place, and the owner or keeper shall so request, the dog or dogs shall be released to him upon his execution of a written agreement to comply with the abatement order. If no such request and execution is made by the owner or keeper within five (5) days after written notice, the chief of police shall cause such dog or dogs to be destroyed. In the event of a dog or dogs, the owner or keeper of which was unknown, the chief shall cause apprehension and impoundment to be carried out if no one claims such dog within 48 hours after the notice, order and description were posted, and shall cause a notice of impoundment, along with a general description of the dog or dogs, to be posted for five (5) days at the town hall; if no request for release of such dog or dogs and execution of agreement to comply with the order of abatement respecting such dog or dogs is made within such five (5) day period the chief shall cause such dog or dogs to be destroyed.

Section 18 Penalties.

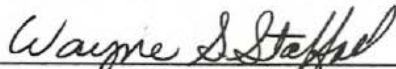
- a) If any person, being the owner or keeper of a dog or dogs, respecting which an order of abatement has been issued, shall fail or refuse to abate the nuisance as ordered, he shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or by Imprisonment of not more than 30 days.
- b) In addition, enforcement of this article may be by injunction, restraining order, or order of abatement in a court of competent jurisdiction, as provided by G.S. 160A-175(d) and (e).

Section 19 Female Dogs in heat. No person who is the owner of any female dog in heat shall permit the same to run at large.

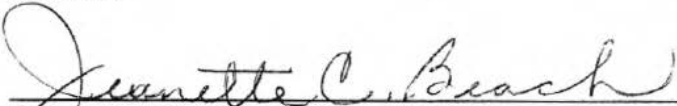
Section 20 Violation.

- a) Any owner found violating any provision of this article shall be guilty of a misdemeanor and upon conviction thereof shall punished as set out in the General Statutes of North Carolina.
- b) It shall be a misdemeanor for any person, other than the owner or lawful possessor, to remove the collar, or rabies vaccination tag from the neck of the dog or to entice any dog out of the enclosure or house on the premises of its owner or lawful possessor; to seize or molest any dog while held or led by its owner or lawful possessor. Upon conviction thereof punishment shall be as prescribed above.
- c) Anyone found violating any provision of these articles shall be subject to a penalty of a fine not at exceed \$50 or to be imprisoned for a period not to exceed 30 days, one or both, within the discretion of the court.

Adopted this 22nd. day of March, 1993.

  
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Wayne S. Stafford, Mayor  
Town of Old Fort

ATTEST:

  
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Jeanette C. Beach, Clerk & Finance Officer  
Town of Old Fort, N.C.