ORDINANCE #

AN ORDINANCE TO AMEND CHAPTER 6, ANIMALS, SECTION 6-6, PUBLIC NUISANCE, AND SECTION 6-19, CIVIL PENALTY

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January 2010; and

NOW, THEREFORE, BE IT RESOLVED THAT Chapter 6, Animals, Section 6-6, Public Nuisance, and Section 6-19, Civil Penalty, be amended to the following:

Chapter 6 – Animals

Sec.6-6. Public nuisance.

The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance ~~shall~~ **will** include, but not be limited to, the following:

(1) Unsightly litter, foul or offensive odors of any animal which remains upon or emanate from the property of the owner of such animal.

(2) The keeping of any animal which frequently is at large.

(3) ~~The keeping, possession or harboring of any animal which is dangerous to persons or property.~~ **The keeping, possession, harboring, feeding, or attracting of animals, wild, feral or domesticated, which threaten the public health, safety and welfare of the community in a manner including, but not limited to, attracting the presence of bears or wild animals that creates a danger to huma, wildlife, or domestic animals, or causes damage to other properties; provided, that nothing herein will be construed to prohibit keeping or maintaining a bird feeder, or from feeding birds, unless said activity constitutes an attractant and unless its cessation is ordered by the animal control officer or a law enforcement officer, pursuant to this chapter.**

a. For the purpose of this section, danger ~~shall~~ **will** mean the potential for human injury or death, the potential for increased risk of disease transmission between animal species and humans, or the increased potential for death or injury to the bears, livestock or companion animals.

(4) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, that this setback requirement ~~shall~~ **will** not be applicable where the placing of the cage or pens within the ten-foot area does

not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This subsection ~~shall~~ **will** not apply to the fencing of all or a major portion of a lot.

(5) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another.

(6) Maintaining animals in an unsanitary environment which results in offensive odors, or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.

(7) Maintaining animals in such a manner and location that animal waste can accumulate and run off onto another's property or stream.

(8) Maintaining the owner's property in a manner that is offensive, annoying or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density or location of the animals on the property.

(9) Maintaining an animal that is diseased and dangerous to the public health through transmission of a zoonotic disease.

(10) Failing to confine a female dog or cat while in heat in a secure enclosure in such a manner that will prevent the animal from coming into contact with a male if its species or attract other animals; provided, however, that this section ~~shall~~ **will** not be construed to prohibit the intentional breeding of animals within a securely enclosed area on the premises of the owner of the animal which is being bred.

Sec. 6-19. Civil Penalty

(a) Except as otherwise provided herein, any person who violates any provision of this chapter ~~shall~~ **will** be subject to a civil penalty for each level of violation in accordance with subsection (c) of this section. Fines ~~shall~~ **will** be established by the county board of commissioners based on the nature of the violation and number of repeat offences. If the violation is continued, each day's violation ~~shall~~ **will** constate a separate offense. For the purposes of this section, repeat violations occur where the agency has issued a fine for the same offense within a 24-month period. Nothing in this section ~~shall~~ **will** prevent agency representatives from issuing warning violations.

(b) The animal owner or keeper ~~shall~~ **will** be issued a written notice of violation and penalty and ~~shall~~ **will** be required ~~to make payments to the animal shelter~~ **cease the violating condition and make payment** within ten days of receipt of notice. Notice of the civil penalty and violation ~~shall~~ **will** be delivered in person to the violator or mailed by certified mail, return-receipt requested, to the violator's last

known address. If the applicable civil penalty is not paid within the period prescribed, a civil action may be commenced to recover the penalty and costs associated with the collection of the penalty.

(c) The severity of violations of the provisions of this chapter ~~shall~~ **will** be as follows:

(1) Violation of the following ~~shall~~ **will** constitute a level I violation:

a. Section 6-5(c)(1), “Animal bite.”
b. Section 6-6(1), “Unsightly litter, foul or offensive odors.”
c. Section 6-6(3), “Feeding birds in a manner that constitutes an attractant and that is taking place subsequent to an order by the animal control officer or a law enforcement officer to cease said activity.”
~~c.~~ **d.** Section 6-6 (4), “Keeping a cage too close to the property line.”
~~d.~~ **e.** Section 6-6(5), “Animal causing property damage.”
~~e.~~ **f.** Section 6-6(6), “Maintaining animals in an unsanitary environment.”
~~f.~~ **g.** Section 6-6(7), “Maintaining animal wastes.”
~~g.~~ **h.** Section 6-11, “Failure to dispose of a dead animal.”
~~h.~~ **i.** Section 6-15, “Animal at large.”

(2) Violation of the following ~~shall~~ **will** constitute a level II violation:

a. Section 6-6(2), “Animal frequently at large.”
b. Section 6-6(10), “Failure to confine a dog in heat.”
c. Section 6-7(a), “Failure to provide care of an animal.”
d. Section 6-7(e), (f), “Unsafe transport of animal.”
e. Section 6-7(g), “Unsafe confinement of an animal in a vehicle.”
f. Section 6-7(h), “Intentionally striking an animal with a motor vehicle.”
g. Section 6-7(i), “Failure to report striking an animal with a motor vehicle.”
h. Section 6-7(k), “Giving away an animal as an inducement/contest prize.”
i. Section 6-7(l), “Bird sanctuaries.”
j. Section 6-7(m), “Distribution of unweaned cats and dogs prohibited.”
k. Section 6-7(n), “Distribution of underage fowl prohibited.”
l. Section 6-7(o), “Dyeing of animals prohibited.”
m. Section 6-14, “Prohibition against giveaways in public places.”

(3) Violation of the following ~~shall~~ **will** constitute a level III violation:

a. Section 6-4(b), “Interference with an animal control officer.”
b. Section 6-4(c), “Concealment of an animal.”
c. Section 6-5(a), “Vaccination of dogs and cats required; vaccination of other pets.”
d. Section 6-5(b), “Vaccination tag and other certification.”
e. Section 6-6(3), “Keeping of a dangerous animal.”

f. Section 6-6(3), "Attracting of animals which threaten the public health, safety and welfare."

~~f.~~ g. Section 6-6(8), "Maintaining property in an offensive, annoying or dangerous manner."

~~g.~~ **h.** Section 6-6(9), "Maintaining diseased animals."

~~h.~~ **i.** Section 6-7(b), "Cruelty to animals."

~~i.~~ **j.** Section 6-7(c), "Promoting animal cruelty."

~~j.~~ **k.** Section 6-7(d), "Abandoning an animal."

~~k.~~ **l.** Section 6-7(j), "Animal used for unnatural behavior."

~~l.~~ **m.** Section 6-10, "Keeping a wild animal."

~~m.~~ **n.** Section 6-12, "Unaltered animal permit required."

~~n.~~ **o.** Section 6-16(d), "Failure to comply with a dangerous dog order."

READ, APPROVED AND ADOPTED, by a vote of _____ to _____ on this the 12th day of October 2026.

_____
C. Michael Sobol, Mayor

ATTEST:

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Wesley M. Barker, Town Clerk