

Chapter 4

ANIMALS*

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***Cross references**—Tax Collector, § 2-136 et seq.; licenses and business regulations, ch. 16; motor vehicles and traffic, ch. 18; animal riders or drivers, § 18-2; animals restricted in cemeteries, § 8-18.

Federal law reference—"Service animal" defined for purposes of Americans with Disabilities Act, 28 CFR 36.104.

State law references—Cruelty to animals, G.S. 14-360 et seq.; protection of livestock running at large, G.S. 14-366 et seq.; protection of animals, G.S. ch. 19A; dogs, G.S. ch. 67; fences and stock law, G.S. ch. 68; owners of stock to register brands or marks, G.S. 80-45; agriculture, G.S. ch. 106; rabies, G.S. 130A-184 et seq.; time of rabies vaccination, 10A NC Admin. Code 41G.0101; abuse of animals, G.S. 160A-182; regulation of domestic animals, G.S. 160A-186; animal taxes, G.S. 160A-212; animal shelters, G.S. 160A-493; control of livestock diseases, G.S. 106-400 et seq.; animal diseases, G.S. ch. 106, art. 34; public health, G.S. ch. 130A.

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ARTICLE I. IN GENERAL**Sec. 4-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Stockyard means any place or building where as many as ten (10) farm animals are confined or penned up while awaiting sale or slaughter.

(Code 1972, § 3-6; Code 1993, § 3-1)

Sec. 4-2. Stockyards declared nuisance.

The construction, operation or maintenance of a stockyard in the city or within its extraterritorial jurisdiction is hereby declared to be a nuisance to adjacent property and to the general public, and the same is hereby prohibited.

(Code 1972, §§ 3-6, 3-7; Code 1993, § 3-2)

State law reference—Municipal abatement of public health nuisances, G.S. 160A-193.

Sec. 4-3. Keeping farm animals, fowl.

It shall be unlawful for any person to keep at any time any type of farm animal or fowl within the city.

(Code 1972, § 3-2; Code 1993, § 3-3)

Sec. 4-4. Running at large.

It shall be unlawful for any person to allow animals, livestock or fowl to run at large within the city, except as otherwise provided in this chapter.

(Code 1972, § 3-1; Code 1993, § 3-4)

Sec. 4-5. Hog lots or pens prohibited.

It shall be unlawful for any person to construct or maintain a hog lot or pen within the city.

(Code 1972, § 3-10; Code 1993, § 3-5)

Sec. 4-6. Construction and maintenance of stables, barns, etc.

It shall be unlawful for any person to construct or maintain any public or private stall, shed or barn for any domestic animal within the city at a distance closer than one hundred (100) feet to the nearest point of any residence or other building used for the purpose of human habitation. Each animal pen constructed under this section must be cleaned of all waste once per day. Such waste shall be placed in a flyproof container and disposed of biweekly.

(Code 1972, § 3-9; Code 1993, § 3-6)

Sec. 4-7. Maintenance of stalls, barns, etc.

Any person owning or using any public or private stall, shed or barn within the city where animals are kept shall maintain such place in a clean and sanitary condition in order to protect the adjacent property and the general public. All stables, barns and sheds shall be maintained in accordance with the requirements of the city's Enforcement Officer.

(Code 1972, § 3-8; Code 1993, § 3-7)

Sec. 4-8. Bird sanctuary.

(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 that if starlings, pigeons 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 authorities of the city, then in such event such birds may be destroyed by or under the supervision of the Chief of Police.

(Code 1972, § 3-5; Code 1993, § 3-8)

State law reference—Bird sanctuaries, G.S. 160A-188.

Secs. 4-9—4-34. Reserved.**ARTICLE II. DOGS AND CATS*****Sec. 4-35. Public nuisance animals.**

The presence of stray animals, nuisance animals, and diseased animals within the corporate limits of the city is hereby declared to be a public nuisance. Such animals are a threat to the health of the community and to the safety of persons and property alike. In order to abate and control this nuisance, there is hereby created within the Police Department of the city, an Animal Control Division, to be constituted and composed of such municipal enforcement personnel of the Police Department as the City Council may determine.

(Code 1993, § 3-26; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-26), 2-14-2005)

Sec. 4-36. Responsibilities of the Animal Control Division.

(a) The Animal Control Division shall be charged with the responsibility of:

- (1) Cooperating with the county Health Department and the county animal control officers with regard to the control of animals.
- (2) Investigating original complaints and following up complaints handled by sworn officers with regard to animals covered by this article.

*State law reference—Dogs, G.S. ch. 67.

- (3) Enforcing within the city all of the city ordinances for the care, control and custody of animals covered by this article, except the animal control officer has no power to make summary arrests, unless the officer is a sworn police officer with the city.
- (4) Wearing the prescribed uniform with a badge of a size and design to be determined by the Chief of Police while performing his duties.

(b) The animal control officer shall be authorized to carry and utilize equipment deemed necessary to enforce sections of this article or other applicable law for the control of wild, vicious, nuisance, diseased or potentially dangerous animals.

(Code 1993, § 3-27; Ord. No. 97-10, 6-23-1997; Ord. No. 98-18, 11-9-1998; Ord. No. 05-3, § 1(3-27), 2-14-2005)

Sec. 4-37. 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:

Abandon means to intentionally, knowingly, recklessly or negligently leave an animal at a location for more than forty-eight (48) consecutive hours without providing for the animal's continued care.

Animal control shelter means any holding or other facility designated by the City Council for the detention of animals.

Dangerous dog means, pursuant to G.S. 67-4.1, a dog that:

- (a) Without provocation, has killed or inflicted severe injury on a person;
- (b) Is determined by the animal control officer to be potentially dangerous because the dog has engaged in one (1) or more of the behaviors listed under the term "potentially dangerous dog;" as defined in this section; or
- (c) Is owned or harbored primarily or in part for the purpose of dogfighting, or a dog trained for dogfighting.

Owner means any person, group of persons or any entity owning, possessing, keeping, having charge of, sheltering, feeding, harboring or taking care of any dog or cat.

Owner's real property means any real property owned or leased by the owner of the dog or cat, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

Potentially dangerous dog means, pursuant to G.S. 67-4.1, a dog that the animal control officer determines to have:

- (a) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;
- (b) Killed or inflicted severe injury upon a domestic animal when not on the owner's real 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.

Public nuisance means any dog or cat which:

- (a) Habitually or repeatedly chases, snaps at or barks at pedestrians, cyclists or vehicles or other animals, or frightens individuals;
- (b) Spreads garbage or trash container contents;
- (c) Sits on other people's vehicles;
- (d) Damages grass, gardens or shrubbery or other real or personal property of others;
- (e) Causes an unsanitary condition or smell emanating from enclosures or surroundings;
- (f) Bites anyone without provocation;
- (g) Is diseased or dangerous to public health.

Restraint. A dog shall be considered under restraint, within the meaning of this article, if it is:

- (a) Controlled by a leash;
- (b) At heel beside a competent person and obedient to that person's commands;
- (c) Within a vehicle being driven or parked on the city streets and unable to bite a person outside of the vehicle;
- (d) Within the property limits of the owner or its keeper;

A person providing restraint should be of proper age and size to effectively cause restraint (i.e., eight (8) year old child with eighty (80) pound animal does not meet proper restraint").

Run at large means:

- (a) Any animal found off of the property of its owner and not under restraint;
- (b) Any animal previously determined to be potentially dangerous or dangerous that is not under restraint when off the property of its owner or is not confined to a secure enclosure while on the property of its owner.

Severe injury means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.

Shelter means a moistureproof and windproof structure with at least three (3) sides and a roof or a barrel, chocked so it will not roll, large enough for the animal to stand up, turn around and lie down in a normal manner for said animal. Automobiles shall not be used as animal shelters.

Vicious dog means a dog that has been declared a potentially dangerous dog or a dangerous dog, as defined in this section, that:

- (a) After having once committed an act making it a potentially dangerous or dangerous dog commits a subsequent attack on a person or domestic animal; or

- (b) Is determined by the animal control officer upon the first offense to have committed an act so severe to be designated a vicious dog.
(Code 1993, § 3-28; Ord. No. 93-5, § 1, 4-12-1993; Ord. No. 97-10, 6-23-1997; Ord. No. 98-16, 9-14-1998; Ord. No. 05-3, § 1(3-28), 2-14-2005)

Sec. 4-38. Negligent care of animals.

(a) It shall be unlawful for any owner or keeper to fail to provide his animal with proper shelter and protection from the weather, sufficient and wholesome food and water to keep his animal in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care and treatment.

(b) When sunlight is likely to cause overheating or discomfort of any animal, shade shall be provided by natural or artificial means to allow protection from direct rays of the sun, but still allow air to pass to keep the animal cool.

(c) Dogs and cats kept outdoors for more than one hour at a time shall be provided with moistureproof and windproof shelter. Whenever the outdoor temperature is below forty (40) degrees Fahrenheit, clean, dry bedding material shall be provided in such shelters for insulation and to retain the body heat of the animal.

(d) The size of a pen holding an animal shall be large enough for the shelter and for the animal to move about in a normal manner.

(e) The size of any chain used to restrain an animal shall be no larger than needed to restrain said animal without putting undue stress on said animal to freely move about.

(f) The length of any chain used to restrain an animal shall be, at a minimum, the length of the animal from tip of nose to tip of tail plus two (2) feet.

(g) The area shall be kept clear of debris and feces to help maintain the health of the animal.

(h) It shall be a violation for any owner of a dog or cat to allow such animal to be off the owner's premises, unless such animal is wearing a collar with the owner's name and address stamped on it or otherwise firmly attached to it.

(Ord. No. 05-3, § 1(3-29), 2-14-2005)

Sec. 4-39. Keeping stray animals.

Stray animals can be a source of rabies or other diseases since their history is not known. For the protection of the citizens, it shall be unlawful for any person in the city knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any dog or cat which does not belong to him, unless he has, within seventy-two (72) hours from the time such dog or cat came into his possession, done one of the following:

- (a) Notified the animal's owner, animal control, or person duly authorized by animal control. Upon receiving such notice, animal control shall take such dog or cat to the

county animal shelter. If the animal is unclaimed by its owner after being held for five (5) days, ownership of the animal is surrendered to county animal shelter to be disposed of according to current county ordinance.

- (b) Become the owner or keeper of the dog or cat by taking it to a veterinarian for rabies inoculation and check for disease and notify animal control.

(Ord. No. 05-3, § 1(3-30), 2-14-2005)

Sec. 4-40. Public nuisance.

(a) It shall be a violation for any owner of a dog or cat to allow such dog or cat to create a public nuisance, to run at large or for said owner or keeper to not keep his dog under restraint at all times when off the owner's property.

(b) It shall be a violation for any owner of a dog or cat to fail to remove feces deposited by such animal on any public street, highway, sidewalk or other public property or any private property without the permission of the owner of the property.

(c) It shall be a violation for any owner of a dog or cat to allow such dog, by prolonged or habitual barking, howling or whining, or for any owner of a cat to allow such cat, by prolonged yowling, to cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by such residents.

(Code 1993, § 3-31; Ord. No. 93-5, § 1, 4-12-1993; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-31), 2-14-2005)

Sec. 4-41. Animals in motor vehicles.

(a) *Persons having charge or custody of animals.* No person having charge or custody of an animal, as owner or otherwise, shall place or confine such animal or allow such animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, cold, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death.

(b) *Persons having dominion over motor vehicles.* No person having dominion or control over a motor vehicle, as owner or otherwise, shall place or confine an animal or allow an animal to be placed or confined or to remain in a motor vehicle under such conditions or for such period of time as may endanger the health or well-being of such animal due to heat, cold, lack of food or drink, or such other circumstances as may reasonably be expected to cause suffering, disability or death.

(c) *Transport of livestock excepted.* This section does not prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose.

(d) *Police or animal control officers finding violations of section provisions.* A police officer or animal control officer who finds an animal in a motor vehicle in violation of this section, where the animal is showing signs of heat-related or extreme cold-related stress, may break

and enter the motor vehicle if necessary to remove the animal. The officer removing the animal shall take the animal to a local animal hospital or veterinary clinic. In the event the person having custody cannot be otherwise contacted, the officer shall leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address and phone number of the veterinarian where the animal may be claimed by the owner thereof. The animal will be surrendered to the owner if the owner claims the animal within three (3) business days from the time the animal was removed from the motor vehicle and pays all reasonable charges that have accrued for the maintenance of the animal.

(e) *Owners failing to claim animals.* If the owner fails to claim the animal within three (3) business days after its removal from the vehicle or the owner cannot be contacted by the officer responsible for removing the animal, or the owner expresses no interest in reclaiming the animal, the veterinarian may dispose of the animal in any reasonable humane manner.

(f) *Carrying animals on outside of vehicles.* No person driving a motor vehicle shall transport any animal in the back of the vehicle in a space intended for any load on the vehicle on a street, unless the space is enclosed or has side and tail walls to a height of at least forty-six (46) inches extending vertically from the floor, or the animal is cross-tethered to the vehicle, or is protected by a secured container or cage in a manner which will prevent the animal from being thrown, falling or jumping from the vehicle.

(Ord. No. 05-3, § 1(3-32), 2-14-2005)

Sec. 4-42. Dogs and cats prohibited in certain places.

(a) It shall be a violation for any owner of a dog or cat to allow such animal onto any city-owned or city-leased athletic center, public park (dogs are allowed on the west side of Jack's Creek at Haven's Gardens) or city-owned cemeteries, except during official city-sponsored or city-approved animal shows or events.

(b) It shall also be a violation for any owner of a dog or cat to allow such animal onto any public area being used for special events such as the Summer Festival, July 4 Celebration, or similar public events.

(Code 1993, § 3-33; Ord. No. 97-10, 6-23-1997; Ord. No. 98-16, 9-14-1998; Ord. No. 05-3, § 1(3-33), 2-14-2005)

Sec. 4-43. Vicious dogs.

It shall be unlawful for any owner to keep a vicious dog within the city limits. Violation of this section is a misdemeanor.

(Code 1993, § 3-34; Ord. No. 93-5, § 1, 4-12-1993; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-34), 2-14-2005)

Sec. 4-44. Luring, enticing, seizing, molesting or testing an animal.

It shall be a violation for any person to entice or lure any animal out of an enclosure of the property of its owner, or to seize, molest or tease an animal while the animal is held or controlled by its owner or while the animal is on the property of its owner.

(Code 1993, § 3-35; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-35), 2-14-2005)

- b. Securely kept in a locked enclosure which has secure sides, top and bottom and is constructed out of materials and in a manner which will preclude escape by the dog and prevent entry by small children.
- c. While outside a building or enclosure described in this section, securely leashed with at least no longer than four (4) feet in length in the hands of and under the control of a responsible, competent person capable of such control and muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

No person owning, keeping or harboring a dog that has been declared potentially dangerous or dangerous shall remove such a dog from the real property of such person except to bring such dog to a veterinarian or to the animal shelter, to remove such dog permanently from the territorial jurisdiction of this article, or to provide bona fide exercise necessary for the dogs continued good health. In the event of such removal, such dog shall be securely restrained or enclosed as set forth in this section. Any owner of a potentially dangerous or dangerous dog shall erect a sign two (2) feet by two (2) feet on the enclosure housing the dog which shall read:

"BEWARE OF DOG

THIS DOG IS DANGEROUS

STAY AWAY!"

- (2) The animal control officer will inspect the pens of all animals deemed potentially dangerous or dangerous at least twice annually to ensure that the standards are maintained.
 - (3) An animal which has been declared potentially dangerous or dangerous may be impounded by the animal control officer for being out-of-doors, out of a secure enclosure and not controlled by means of a leash and muzzle, or for being in a location other than described in subsection (1) of this section.
- (e) If the owner of a potentially dangerous or dangerous dog transfers ownership or possession or the dog to another person, the owner shall provide written notice to:
- (1) The authority that made the determination under this article, stating the name and address of the new owner or possessor of the dog; and
 - (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
- (f) If the owner of a potentially dangerous or dangerous dog is unwilling or unable to comply with the regulations set forth in this section for keeping such an animal, he must have the animal immediately, humanely euthanized by animal control or by a licensed veterinarian.
- (g) Violation of this section is a class 3 misdemeanor.

(h) These rules and regulations shall not apply to:

- (1) A dog used by a public law enforcement agency for law enforcement purposes.
- (2) A dog that attacked, injured, or threatened a person who at the time:
 - a. Was committing a willful trespass or other tort upon the premises occupied by the dog's owner.
 - b. Was testing, tormenting, abusing or assaulting the dog or has in the past been observed doing so.
 - c. Was committing or attempting to commit a crime upon the dog's owner or upon the dog owner's property.
 - d. A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

(Ord. No. 05-3, § 1(3-42), 2-14-2005)

State law references—Definitions and procedures, G.S. 67-4.1(c); precautions against attacks by dangerous dogs, G.S. 67-4.2.

Sec. 4-52. Penalties.

(a) Any violation of this article shall subject the owner to a civil penalty in the amount of \$50.00. Violators shall be issued a written citation which must be paid to the office of the Collector of Revenue within five (5) days.

(b) For the purpose of enforcement, each and every day that the violation continues may be considered a new violation.

(c) Any violation of this article may be prosecuted as a misdemeanor in accordance with G.S. 160A-175.

(Code 1993, § 3-38; Ord. No. 93-5, § 1(3-43), 4-12-1993; Ord. No. 97-10, 6-23-1997; Ord. No. 05-3, § 1(3-43), 2-14-2005)

Sec. 4-53. Dogs on boardwalk and promenade.

It shall be unlawful to have a dog on a leash or not on a leash on the boardwalk, excluding seeing-eye dogs. Dogs are allowed on the promenade on a leash. Failure to remove feces is a violation of section 4-40(b) and subjects the violator to a penalty as more specifically provided for in section 4-52.

(Code 1993, § 3-39; Ord. No. 05-3, § 1(3-44), 2-14-2005)

Chapter 5

RESERVED

