

ARTICLE IV. - ANIMAL CONTROL<sup>31</sup>

Footnotes:

--- (3) ---

**State Law reference**— Cruelty to animals, G.S. § 14-360 et seq.

Sec. 4-61. - 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:]

*Adequate supply of water:* An animal must always have access to a constant supply of clean, fresh water. The container of water must be secured, if necessary, in a way that it can not be easily overturned.

*Animal:* Every living creature, domestic or non-domestic, but does not include humans.

*Animal control shelter:* Any premises designated by the city council for the purpose of impounding and caring for animals.

*Animal destroyed in a human manner:* Euthanasia by injection or other professionally accepted method by a qualified and trained person.

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

*Commercial animal establishment:* Any pet shop, grooming shop auction, riding school or stable, zoological park, circus, animal exhibition or kennel.

*Exposed to rabies:* An animal shall be deemed to have been exposed to rabies if it has been bitten by or been in the presence of any animal known or suspected to have been infected with rabies.

*Health department:* Lenoir County Health Department.

*Health director:* Health director of the Lenoir County Health Department.

*Impoundment:* Any animal in custody of a person or animal shelter duly authorized by city council.

*Keeper:* A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

*Kennel:* Any premises where a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition or the guarding or protection of the owner's property when no more than five (5) dogs per year are sold by such owner.

*Nuisance:* An animal or group of animals shall be considered a nuisance if it:

- (1) Damages, soils or defiles private or public property.
- (2) Interferes with, molests or attacks person or other animals.
- (3) Is repeatedly at large, three (3) or more times within a six-month period.
- (4) Causes unsanitary, dangerous or offensive conditions, including fouling of the air by odors.
- (5) Chases, snaps at, harasses or impedes pedestrians, bicyclists or vehicles.
- (6) By virtue of number or type, is offensive or dangerous to the public health, safety or welfare.
- (7) Is diseased or dangerous to the public health.

- (8) Female animals in season not confined in a building or secure enclosure.
- (9) Barks, whines or howls in an excessive, continuous or untimely fashion.

*Owner:* A person having the right of property in an animal.

*Person:* Any individual, corporation, partnership, organization or institution commonly recognized by law as a unit.

*Pet:* Any animal kept for pleasure rather than utility.

*Proper shelter:* A non metallic structure to provide protection of (domestic) animal from the sun, wind, rain, and cold. Structure should consist of three (3) walls, a top and a floor (which is raised off the ground) or a similar non metallic structure which will provide protection from the elements.

*Restraint:* Any animal shall be considered under restraint if it is within the real property limits of its owner, secured by leash or lead or confined.

*Sufficient and wholesome food:* An amount of nutritious food to sustain a reasonable quality of life.

*SPCA:* Society for the Prevention of Cruelty to Animals.

*Stray:* Any (domestic) animal not under restraint and found off the property of its owner or keeper.

(Ord. No. 51-90, 11-5-90; Ord. No. 43-2003, 6-16-03; Ord. No. 19-2006, 5-15-06)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 4-62. - Agency authority and responsibility.

- (a) Authority is hereby granted to the SPCA of Lenoir County to continue to maintain an animal control shelter. The SPCA shall have authority to collect monies derived from fees or other sources pertaining to the SPCA animal shelter.
- (b) The SPCA of Lenoir County shall keep or cause to be kept accurate and detailed records of:
  - (1) Impoundment and disposition of all animals coming into the custody of the SPCA by the animal control program of Kinston;
  - (2) All monies belonging to the SPCA of Lenoir County which are derived from fees paid to the animal shelter;
  - (3) Any other matters deemed necessary by the city council and the health director.

(Ord. No. 51-90, 11-5-90)

Sec. 4-63. - Animal control officer position.

- (a) The position of animal control officer is hereby established or affirmed. The animal control officer(s) shall be under the supervision of the director of the department of public safety.
- (b) The compensation of the animal control officer(s) shall be in an amount to be fixed by the pay plan of the city.
- (c) The animal control officer(s) shall be charged with the responsibility and duty of:
  - (1) Enforcing all laws of North Carolina and all ordinances of the city or county pertaining to animals within the city limits. The animal control officer shall also assist any citizen, who wishes to pursue legal prosecution, in cases when the animal control officer has not observed the violation and can not by North Carolina law prosecute.

- (2) Enforcing and carrying out the laws of North Carolina and all ordinances of the city pertaining to rabies control.
- (3) Being responsible for the investigation of all reported animal bites or the mandatory quarantine of any animal involved and suspected of having rabies for a period of not less than ten (10) days and for reporting to the health director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
  - a. The immediate impoundment and quarantine of any animal which has bitten and broken the skin of any person or animal.
  - b. Owners of animals who are quarantined at the SPCA or a veterinarian of owners choice must pay all applicable fees (impound fees, board, license) upon reclaiming their animal. The owner will be notified in writing by the animal control officer if the owner is known. If the owner is not known, a notice will be posted on the property where the animal was seized and property where animal is thought to live if it is known.
  - c. The animal control officer will attempt to determine the status of the animal rabies inoculation. If the animal has a current rabies inoculation which can be verified, a house quarantine for the same period of ten (10) days may be done at the health director's discretion with consideration given to circumstances and severity of the bites.
  - d. If animal does not possess a current rabies vaccination, it will be housed at the SPCA or local veterinary of the owners choice, at the owner's expense, for a period of ten (10) days from date of bite.
- (4) Being responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in the city involved in a violation of this chapter or any other county ordinance or state law.
- (5) Investigating allegations and charges of cruelty or abuse to animals.
- (6) Making such canvasses of the city, including the homes in the city, as necessary for the purpose of ascertaining compliance with this chapter or state statutes.

(Ord. No. 51-90, 11-5-90; Ord. No. 43-96, § 1, 7-15-96; Ord. No. 43-2003, 6-16-03; Ord. No. 2-2005, § 1, 1-3-05; Ord. No. 19-2006, 5-15-06)

Sec. 4-64. - Cruelty to animals.

- (a) It shall be unlawful for any person to molest, torture, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject any animal to conditions detrimental to its health or general welfare, or to abet, permit, cause or procure such action. The words "torture" and "torment" shall be held to include every act of omission or neglect causing or permitting unjustifiable physical pain, suffering or death; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulations of the wildlife resources commission nor to prohibit the animal control officers or person duly authorized by the health director, director of the department of public safety or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner.
- (b) It shall be unlawful for any owner or keeper to fail to provide his animal or animals with proper shelter and protection from the weather, sufficient and wholesome food, clean and adequate supply of water, keep his animal or animals in good health and comfort, provide the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering and humane care and treatment. In reference to domestic animals continually restrained in yards for extended time (more than two (2) hours), the physical restraint (rope, chain, pen, etc.) shall be no less than six (6) feet longer than the length of the dog from nose to tip of tail. (example: 2' dog needs 8' restraint)
- (c) It shall be unlawful for any person to sell or offer for sale, barter or give away within the city baby chickens, baby duckling or other fowl under six (6) weeks of age or rabbits under eight (8) weeks of

age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl or such rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes other than for pets or novelties.

- (d) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- (e) It shall be unlawful for any person to tether any fowl.

(Ord. No. 51-90, 11-5-90; Ord. No. 43-2003, 6-16-03; Ord. No. 2-2005, § 1, 1-3-05)

Sec. 4-65. - Animal waste.

The owner of every animal shall be responsible for the removal of any excreta deposited by his or her animal(s) on public walks, recreation areas, public or private property and school grounds, other than that of the owner or keeper thereof.

(Ord. No. 51-90, 11-5-90)

Sec. 4-66. - Confinement, muzzling and control of vicious or dangerous domestic animals.

It shall be unlawful for any person to keep any vicious, fierce or dangerous domestic animal within the city, unless it is confined within a secure building or enclosure or it is securely muzzled and under restraint by means of a leash, chain or rope and firmly under control of such person at all times.

(Ord. No. 51-90, 11-5-90)

Sec. 4-67. - Animals creating nuisance prohibited.

- (a) It shall be unlawful for an owner or keeper to permit an animal or animals to create by noise, odor, or other activity or condition a nuisance, or to maintain unabated a nuisance created by an animal or animals.
- (b) Compliance procedures shall be as follows:
  - (1) When an animal control officer, law enforcement officer or person duly authorized by the director of the department of public safety observes a violation of this section, the owner or keeper will be provided written notification and be given forty-eight (48) hours from the time of notification to abate the nuisance or condition creating a nuisance.
  - (2) Upon receipt of a written detailed complaint being made to the director of the department of public safety or animal control officer by any person or persons that another person is maintaining a nuisance as defined in this chapter, the director of the department of public safety shall cause the owner or keeper of the animal or animals to be notified that a complaint has been received and shall cause the activity or condition complained of to be investigated and a report and finding there on to be reduced to writing. The name of the complainant shall be confidential and not released to the public, except as may be required by law.
  - (3) If the written findings indicate the complaint is justified, the director of the department of public safety or person duly authorized by the director of the department of public safety shall cause the owner or keeper of the animal or animals in question to be so notified in writing and ordered to abate such nuisance within forty-eight (48) hours by whatever means may be necessary.
  - (4) In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be posted for forty-eight (48) hours on property of owner or keeper and the animal shelter. If

after forty-eight (48) hours the owner or keeper of the animal or animals remains unknown, the animal may be impounded or humanely destroyed.

- (c) It shall be unlawful for a person to abate the nuisance except as required by and defined in this chapter.

(Ord. No. 51-90, 11-5-90; Ord. No. 43-2003, 6-16-03; Ord. No. 2-2005, § 1, 1-3-05)

Sec. 4-68. - Luring, enticing, seizing, molesting or teasing an animal.

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

(Ord. No. 51-90, 11-5-90)

Sec. 4-69. - Dog identification tag.

Every dog must wear an identification tag at all times when off the premises of the owner. The identification tag must show the name and address of the owner. Failure of the dog owner to comply with this section will subject the owner to the penalty provisions of section 1-15 of this Code.

(Ord. No. 51-90, 11-5-90)

Sec. 4-70. - Impounding of animals and animals running at large.

- (a) It shall be unlawful for an animal to run at large, and any animal so running at large shall be apprehended by an animal control officer, police officer or any other authorized person and impounded at the SPCA animal shelter. Upon the impoundment of any animal the animal shelter employee shall make a registration for such animal, entering the breed type, most predominant color and sex of the animal.
- (b) Any animal found at large will subject its owner to the penalty provision of section 1-15 of this Code.

(Ord. No. 51-90, 11-5-90)

Sec. 4-71. - Unlawful killing or releasing of certain animals.

It shall be unlawful for any person to kill or release any animal under observation for rabies or any animal under observation for biting a human or to remove such animal from the county without written permission from the health director. Provided, however, a licensed veterinarian, the health director or persons duly authorized by the health director may authorize any animal to be killed for rabies diagnosis.

(Ord. No. 51-90, 11-5-90)

Sec. 4-72. - Failure to surrender animal for confinement or destruction.

It shall be unlawful for any person to fail or refuse to surrender any animal for confinement or destruction as required in this chapter when demand is made therefor by the health director.

(Ord. No. 51-90, 11-5-90)

Sec. 4-73. - Notice to owner or keeper of impounded animal.

- (a) Upon impounding an animal, notice of such impoundment shall be posted by the animal shelter staff or animal control officer at the animal shelter and the owner/keeper property for a minimum of seventy-two (72) hours, beginning with the time the animal entered the animal shelter, or until the animal is disposed of. Reasonable efforts shall be made by the animal control officer to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.
- (b) [Reserved.]

(Ord. No. 51-90, 11-5-90; Ord. No. 43-2003, 6-16-03)

Sec. 4-74. - Redemption of animal by owner or keeper.

- (a) The owner or keeper of an animal impounded under this chapter may redeem the animal within seventy-two (72) hours after notice of impoundment is posted as required by this chapter by complying with all applicable provisions of this chapter and paying the applicable fees.
- (b) An owner or keeper reclaiming an impounded dog or cat which has been spayed or neutered shall pay to the county SPCA shelter fees established by the city council and set out in the city's manual of fees and charges. The owner or keeper of the impounded dog must present to the SPCA satisfactory proof that the impounded dog has been spayed or neutered and a current rabies vaccination certificate.
- (c) An owner or keeper reclaiming an impounded dog or cat which has not been spayed or neutered shall pay the county SPCA animal shelter fees established by the city council and set forth in the city's manual of fees and charges. A current rabies vaccination certificate must also be presented to the SPCA.
- (d) An owner or keeper reclaiming an impounded dog which has not been spayed or neutered will be reimbursed the cost of spaying or neutering by the county SPCA. The amount reimbursed for spaying or neutering shall be established by the city council and set forth in the city's manual of fees and charges.
- (e) The owner or keeper must present to the county SPCA satisfactory proof from a veterinarian that the owner's or keeper's dog has been spayed or neutered and the cost thereof. A current rabies vaccination certificate must also be presented to the SPCA.
- (f) The owner or keeper of the dog shall be allowed three (3) months from the date of reclaiming the impounded dog to present proof of spaying or neutering to the county SPCA. All fees collected as per paragraph (c) of this section shall be forfeited to the county SPCA after three (3) months from the date the owner or keeper reclaims the impounded dog.
- (g) An owner or keeper reclaiming an impounded animal shall pay to the county SPCA animal shelter a fee established by the council and set forth in the city's manual of fees and charges.

(Ord. No. 51-90, 11-5-90)

Sec. 4-75. - Destruction or adoption of unredeemed animal.

If an impounded animal is not redeemed by the owner or keeper within the period described in section 4-74, it may be destroyed in a humane manner or shall become the property of the animal shelter and offered for adoption to a responsible adult who is willing to comply with this chapter and with policies promulgated by the SPCA.

(Ord. No. 51-90, 11-5-90)

Sec. 4-76. - Immediate placement for adoption or destruction of owner-surrendered animals.

Any animal surrendered by its owner to the SPCA or animal control officer of the department of public safety may be immediately placed for adoption or humanely destroyed by the SPCA or animal control officer of the department of public safety when:

- (1) The owner directs in writing that the animal be placed for adoption or humanely destroyed; and
- (2) The owner affirmatively represents in writing that he or she is in fact the legal owner of said animal; and
- (3) The owner agrees that he or she will indemnify and hold the city and/or the SPCA harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of said animal; and
- (4) The owner transfers ownership of said animal to the SPCA and releases the SPCA from any and all future claims with respect to said animal.

(Ord. No. 51-90, 11-5-90; Ord. No. 2-2005, § 1, 1-3-05)

Sec. 4-77. - Destruction of wounded, diseased or unweaned animals.

Notwithstanding any other provision of this chapter, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect) or unweaned and has no identification may be destroyed immediately in a humane manner. If the animal has identification, the SPCA shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be reached readily and the animal is suffering, the SPCA may destroy the animal at its discretion in a humane manner.

(Ord. No. 51-90, 11-5-90)

Sec. 4-78. - Destruction of animals which cannot be seized by reasonable means.

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by a firearm when ordered by the director of public safety or a person duly authorized by the director of public safety.

(Ord. No. 51-90, 11-5-90; Ord. No. 2-2005, § 1, 1-3-05)

Sec. 4-79. - Injuring animals; notice required.

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of said animal, an animal control agency or a local humane society.

(Ord. No. 51-90, 11-5-90)

Sec. 4-80. - Nondomestic animals prohibited.

No person shall possess or harbor any nondomestic animal(s) which are dangerous to persons or property or animals which have the potential of or propensity for being dangerous to persons or property. This section shall not apply to bona fide and properly licensed circuses, petting zoos, and other traveling commercial animal exhibitions of limited duration.

(Ord. No. 51-90, 11-5-90)

Sec. 4-81. - Interference with enforcement.

It shall be unlawful for any person to interfere with, hinder or delay the employees of the SPCA, animal control officers or other persons duly authorized to enforce or take action under this chapter, or to seek to release any such animal in the custody of such persons, except as otherwise specifically provided.

(Ord. No. 51-90, 11-5-90)