

## Chapter 4

### ANIMALS\*

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\***Editor's note**—Ord. No. O-2014-13, § 1(Exh. A), adopted Mar. 24, 2014, amended Ch. 4 in its entirety to read as herein set out. Former Ch. 4, §§ 4-1—4-68, pertained to similar subject matter, and derived from Ord. No. 0-02-85, § 1, adopted Sept. 23, 2002; Ord. No. 0-03-25, §§ 1—3, adopted Feb. 24, 2003; Ord. No. O-2009-7, § 1, adopted Jan. 26, 2009; Ord. No. O-2011-85, §§ 1A—C, adopted Sept. 12, 2011; and Ord. No. O-2011-103, § 1, adopted Nov. 14, 2011.

**Cross references**—Buildings and building regulations, Ch. 5; health, sanitation and nuisances, Ch. 10; housing, Ch. 11; parks and recreation, Ch. 15; solid waste, Ch. 18; streets, sidewalks and certain other public places, Ch. 19; traffic and vehicles, Ch. 20; zoning, App. B.

**State law references**—Cruelty to animals, G.S. § 14-360 et seq.; protection of animals, G.S. § 19A-20 et seq.

## ARTICLE I. IN GENERAL

### Sec. 4-1. Purpose.

This animal control chapter is enacted to regulate, restrict or prohibit if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals; to make unlawful acts of animals that interfere with the enjoyments of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; to operate an animal shelter; and to carry out any lawful duties authorized by state statutes and applicable ordinances. This chapter also regulates the keeping and/or maintenance of animals upon any premises within the corporate limits of the city.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

### Sec. 4-2. Definitions.

For the purposes of this chapter, the following words and phrases are defined and shall have the meaning respectively ascribed to them by this section, unless it is apparent from the context that a different meaning is intended:

*Abandon.* To intentionally, knowingly, recklessly, or negligently leave an animal without providing for or making provisions for its proper care.

*Adequate food.* The provision at suitable intervals, not to exceed twenty-four (24) hours, of a quantity of wholesome food stuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such food-stuff shall be served in a receptacle, dish or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

*Adequate shelter.* Shelter, which will keep a non-aquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthy for the animal. For dogs, cats and other small animals, the shelter shall be a wind proof and moisture proof structure of suitable size to accommodate the animal and allow the retention of body heat. It shall include four (4) walls, a roof and a solid floor raised off the ground

with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Kennel type shelters that consist of a series of three (3) walls, a solid raised floor, and a roof with a fenced front are acceptable as long as the depth is suitable to prevent wind driven rain from wetting an area suitable for the animal contained inside to have a dry location in which to lie down, and whose opening is blocked from direct winds by a building, impervious material, tarp, or similar device, or another set of kennels facing the open side of each other. Metal barrels do not normally provide adequate shelter for a dog, cat or other small animal. They shall be allowed only if they are raised off the ground by a stand or similar attachment that is attached permanently to the barrel for the purpose of keeping the barrel from rolling over. Any barrel used in this manner must have any sharp edges or protrusions removed to prevent injury to any animal using same and must have any trace or residue of any chemical from use of the container removed. The use of a barrel as a shelter is prohibited if the barrel has rust or oxidation occurring to the level that the rust effects the integrity of the structure, causes a buildup of loose rust in the structure, or has caused holes in the structure. The structure shall provide with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, cloth or the equivalent. For all animals, the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without contact with any such waste or debris, and a suitable method of drainage shall be provided to prevent rapidly excess water or moisture. Hoofed and cloven-hoofed animals shall be allowed to be sheltered on natural floors. Aquatic or semi-aquatic shall have adequate amount of clean water in which to move.

*Adequate water.* Reasonable access to a supply of clean, fresh water provided in a clean receptacle of debris and contaminants.

*Aggression-training facility.* Any person, group of persons, firm, organization, association, partnership, syndicate or corporation that schools, trains or conditions canines to bite, attack or exhibit aggressive behavior towards humans or other domestic animals for any purpose, includ-

ing, but not limited to, the security of business property, personal security or dog fighting. The facility may be operated as a licensed business or as a nonprofit hobby or interest.

*Animal.* Every vertebrate nonhuman species of animal, wild or domestic, male or female, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish.

*Animal (running) at large or stray animal.* Any animal off the premises of his owner and not under sufficient physical restraint such as a leash, cage, bridle, or similarly effective device to allow the control of an animal; any animal which does not wear an appropriate rabies vaccination tag.

*Animal control officer.* Persons properly appointed by the city to enforce all sections of this chapter and applicable state laws and who are responsible for the discharging of such other duties and functions as may be prescribed by the Rocky Mount City Council as set forward by this or any other applicable ordinance or state law.

*Animal control shelter.* Any facility designated by the city for the purpose of sheltering any animal lawfully impounded by the section.

*Animal under restraint.* Any animal confined within a vehicle, unable to bite persons outside said vehicle; confined within the real property limits of its owner or secured by leash or lead or strict voice control of a competent person.

*Anti-climber.* A device consisting of angled metal braces and barbed wire, which wire is stretched between each angled metal brace, all of which is attached to the top of a fence. The wire shall be at least three (3) strands, separated evenly, the furthest being no less than eighteen (18) inches from the top of the fence. It shall extend inwards at an angle of not less than forty-five (45) degrees, no more than ninety (90) degrees, measured from perpendicular.

*At large.* Outside of a fence or other enclosure which restrains the animal to a particular premises, whether on public or private property, and not under the control, by leash or lead, of the owner or keeper. Animals tethered to a stationary

object within reach of a street, sidewalk, alley, trail or other public access are deemed to be "at large."

*Authorized representative.* Any person, group or association, or employee of such person, group or association designated by the chief of police to perform any duty under this chapter.

*Cat.* All felines, domestic or non-domestic, of either sex.

*Cattery.* A commercial establishment wherein any person, for profit, buys, sells, boards, breeds or grooms cats.

*Chief of police.* The chief of police of the City of Rocky Mount or his or her designee.

*City.* The City of Rocky Mount, North Carolina.

*Code.* City of Rocky Mount Code.

*Community appeals board* means the board established pursuant to subsection 11-18(b) of the City Code and to which appeals from decisions or orders made pursuant to this chapter, as well as chapter 10, health, sanitation and nuisances, and chapter 11, housing code, may be taken.

*Competent person.* An individual who has the present ability to physically restrain an animal or to whose voice control the animal is trained to respond and in fact does respond.

*County rabies ordinance.* The Edgecombe or Nash County Ordinance for the Control of Rabies and other disease that are capable of being spread from animals to humans, or state statute enforced by either county.

*Cruel treatment.* Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted; such acts or omissions shall include, but not be limited to: beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, and depriving of food, water, and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include the lawful taking of animals under the jurisdiction and regulation of the North Carolina Wildlife Resource

Commission, lawful activities sponsored by agencies conducting biomedical research or training, or lawful activities for sport.

*Dangerous animal.* Any animal which constitutes a physical threat to human beings or other animals by virtue of attack and severity as to cause property damage or physical injury or death. Any animal whose behavior constitutes a reasonable risk of injuring a human or animal or damaging personal or real property, or which is owned or harbored primarily or in part for the purpose of fighting or trained for fighting. Such behavior includes, but is not limited to, an animal's biting, wounding, or attacking or attempting to attack a human or another animal. This definition shall not apply to any animal that has been subject to provocation as defined herein, upon the animal owner's premises. "Dangerous animal" includes "dangerous dogs" as defined in G.S. 67-4.1.

*De-barked.* A medical procedure where veterinarians surgically alter the vocal cords of a dog to prevent the animal from making any sound.

*Department.* The Police Department of the City of Rocky Mount.

*Dog.* All canines, domestic or non-domestic of either sex.

*Domesticated.* Those species of animals that are indigenous to Edgecombe County, Nash County and the City of Rocky Mount and are accustomed to live in or about the habitation of men, including but not limited to cats, cows, dogs, fowl, horses, and domesticated wild animals. This does not include hogs, pigs, any other swine, or any member or the ursidae or felidae families or the carnivora order if the animal weighs more than thirty-five (35) pounds.

*Estrus.* A period of sexual activity in the female cat or dog known as "heat," wherein male cats or male dogs are attracted for the purpose of mating.

*Exposed to rabies.* Any animal or human bitten by or exposed to an animal which is unvaccinated against rabies or whose vaccination status is unknown and has had the opportunity to be exposed to rabies.

*G.S.* The General Statutes of the State of North Carolina.

*Harboring an animal.* An animal shall be deemed to be harbored if it is fed or sheltered seven (7) days or more, unless the animal is being boarded for a fee.

*Health director.* The director of either Edgecombe County or Nash County Health Department.

*Holding facility.* Any pet shop, kennel, cattery, or combination thereof.

*Impounded.* Any animal which is received into custody by any employee of the animal control unit or the police department.

*Inoculation or inoculation against rabies.* The vaccination of a dog or cat with antirabic vaccine approved by the United States Bureau of Animal Industry, the North Carolina Department of Agriculture and the North Carolina State Board of Health at such time or times as shall be required by the General Statutes of North Carolina, the North Carolina Board of Health and/or the local health director, as defined in Section 106-364(2) of the General Statutes of North Carolina or as amended thereafter.

*Inspection services division.* The unit within the department of planning and development charged with the enforcement of all building codes and zoning ordinances.

*Leash or lead.* A thong, cord, rope, chain or similar device which holds an animal in restraint.

*Livestock.* Any large domesticated animals, i.e., horses, which term includes all equine; cows, which term includes all bovines; goats, which term includes all caprines; sheep, which term includes all ovines; swine, which term include all species of the family Suidae; any other domestic, hooved, or cloven-hooved animals; and to include all domestic fowl.

*Kennel.* A commercial establishment wherein any person, for profit, buys, sells, boards, breeds, grooms, lets for hire, or trains for a fee, dogs.

*Neighborhood.* An area within one thousand (1,000) feet of the property line of the property wherein the animal is kept or maintained.

*Owner or keeper.* Any person, group of persons, firm, organization, association, society, club, lodge, partnership, syndicate, trustee or corporation own-

ing, keeping, having in charge of sheltering, feeding, harboring or taking care of any animal however temporarily; provided, however, that a person having temporary custody or possession of an animal for the sole purpose of turning over such animal to a member of animal control or other peace officer shall not be deemed the owner of the animal.

*Owner's real property.* Any real property owned or leased by the owner of an animal, but does not include any public right-of-way or a common area of a condominium, apartment complex, or town-house development.

*Pasture.* An auxiliary fenced area with sufficient grass for grazing.

*Pet.* A domesticated animal kept for pleasure rather than utility. Pets include, but are not limited to, birds, cats, dogs, fish, hamsters, mice, rats, reptiles, domesticated wild animals and other animals associated with the human environment.

*Pet shop.* A commercial establishment, which offers for sale two (2) or more species of live animals with the intent that they be kept as pets.

*Premises.* A definite portion of real estate, including land with its appurtenances, a building or part of a building.

*Provocation.* Any action designed, intended, or which can reasonably be expected to have the effect of goading, inflaming, or instigating an aggressive response on the part of an animal. Reasonable efforts of self-defense against a dangerous animal and authorized or otherwise lawful entry onto the property of another shall not constitute provocation.

*Public nuisance animal.* Any animal or group of animals which:

- (1) Is repeatedly found at large;
- (2) Damages the property of anyone other than its owner;
- (3) Is dangerous;
- (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) Barks, whines, howls, crows, or makes any other noise in an excessive, disturbing, continuous or untimely fashion;
- (8) Is diseased and dangerous to public health;
- (9) Habitually or repeatedly chases, snaps at, attack or barks at pedestrians, bicycles or vehicles;
- (10) Runs at large while in heat; or
- (11) Has been determined to be a "dangerous animal or dog" pursuant to section 4-18, dangerous animals, section 4-36, aggression-trained dogs, or section 4-37, guard dogs of this chapter.

*Restraint.*

- (1) Secured by a leash or lead under the physical control of a competent person;
- (2) Tethered to stationary object not within reach of a street, sidewalk, alley, trail or other public access; or
- (3) Within a fence or other enclosure which limits the animal to a particular premises.

*Rodentproof.* The state or condition not conducive of entry, feeding or harboring of rodents.

*Run at large or running at large.* To roam, run or self-hunt off the property of the owner or custodian while not under the owner or custodian's immediate control.

*Sanitary.* The state or condition of good order and cleanliness which precludes the probability of disease transmission.

*Shall and may defined.* "Shall" is mandatory and "may" is permissive.

*Spayed female.* A female cat or dog which has been rendered sterile by surgical means (ovariohysterectomy).

*Strict voice control.* Demonstrable control or governance of the behavior of any animal as if such animal were controlled by a leash.

*Three-day holding period.* The 72-hour holding period for animal seized or turned into the animal control shelter. The 72-hour period begins at 5:00 a.m. on the day immediately following the date of the seizure or delivery of the animal to the animal shelter and ends at 5:00 a.m. on the third day thereafter, not including Saturdays, Sundays, and city holidays.

*Trainer.* Any individual who holds him/herself available to the general public for the purpose of training attack and security dogs. This does not include individuals who are in the business of obedience training only.

*Trespassing.* To be upon the property of another without consent or permission.

*Unit.* The animal control unit within the police department of the City of Rocky Mount.

*Wild or exotic animal.* Any living animal which is not usually and customarily kept as a pet or a domesticated animal. A wild or exotic animal is one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country or one which is a species of animal not indigenous to the United States or North America. It is also one which otherwise causes a person to be fearful of significant destruction of property or bodily harm and includes, but is not limited to, any animal for which a federal or state permit or license is required, and such animals as lions, tigers, wild cats, wolves, bears, apes, monkeys or raccoons, skunks, squirrels, ocelots, bobcats, wolves, hybrid wolves, and other such animals or one which causes zoonotic diseases or other warm-blooded animal which can normally be found in the wild state. Examples also include dangerous reptiles, such as alligators, caimans, poisonous reptiles, and poisonous arachnids, including scorpions, which are those reptiles and arachnids that have the capability of injecting humans or other animals with venom which may cause death or physical injury. Such animals are further defined as being those mammals or those non-venomous reptiles weighing over twenty-five (25) pounds at maturity which are known at law as *ferae naturae* (wild by nature). Wild or exotic animals specifically do not include animals of species customarily used in North Carolina as ordinary household

pets, animal of species customarily used in North Carolina as domestic farm animals, fish confined in an aquarium, birds, or insects. A hybrid of any animal as defined in this section, regardless of genetic percentage, shall be deemed exotic.

*Wildlife conservation officer of North Carolina.* Any employee of the Department of Environment and Natural Resources commissioned as a special peace officer pursuant to Article 1A of Chapter 113 of the North Carolina General Statutes. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-3. Bird sanctuary.**

The area embraced within the corporate limits of the city is hereby designated as a bird sanctuary. It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot, kill, maim, or injure any bird therein or to destroy, rob or tamper with the eggs or nests and breeding places of any birds or wild fowl. The provisions of this section shall not protect pigeons, crows, starlings, or English sparrows or any birds classified as a public health nuisance by the North Carolina State Wildlife Resources Commission or by the general statutes of North Carolina. If any birds so classified as a public health nuisance are found to be congregating in such numbers in a particular locality so as to constitute a nuisance or menace to health or property in the opinion of the city, and no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such manner as is deemed advisable by the city manager under the supervision of the chief of police.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-4. Reserved.**

#### **Sec. 4-5. Administration and duties.**

(a) Animal control as a unit of the Rocky Mount Police Department shall be charged with the responsibility of:

- (1) Enforcing and carrying out the provisions of this chapter and any other ordinance assigning animal control duties and of all relevant state laws for the care, control and custody of all animals as described in this chapter.

- (2) Making canvasses, including homes and any businesses utilizing guard or security dogs, for the purpose of ascertaining that all dogs, cats and equine animals are properly licensed, if required, and/or animals requiring permits as described in section 4-51. Keeping of animals are duly administered and maintained; ascertaining that all dogs are properly registered with the appropriate county of residence for tax purposes; that all dogs and cats are currently vaccinated against rabies; organizing and carrying out any such canvas, have sole and exclusive authority, control and responsibility for such actions; and that provisions of this chapter are being followed.
- (3) Cooperating with the appropriate county health director and county health and animal control officers and assisting in the enforcement of the laws of the state with regard to the control of animals and especially with regard to the vaccination of dogs and cats against rabies and the confinement of dangerous dogs, investigating all reported animal bites or other human physical contact of suspected rabid animal, enforcement of quarantine of any animal involved, and submission of bite reports and reports of human contacts to the appropriate county health director.
- (4) Supervising, maintaining and operating the City of Rocky Mount animal shelter and unit employees.
- (5) Protecting animals from neglect and abuse; enforcing within the city all of the state laws and city ordinances for the care, control and custody of animals covered in this chapter.
- (6) Investigating all complaints with regard to animals covered by this chapter.
- (b) Uniform. Every employee of the section, while performing these respective duties, shall wear a uniform to be determined by the chief of police.

(c) Weapons. The employees of the unit shall not carry on their person any firearms of any kind unless specifically authorized by the chief of police. However, employees of the section may store at the animal shelter, or carry in section vehicles, tranquilizer guns, or any other weapons approved for use by the chief of police. Such weapons may be used when necessary to enforce sections of this chapter or other applicable laws for the control of wild, feral, diseased or dangerous animals or for public safety when the chief of police deems the action necessary. While acting with weapons in their official capacity, employees of the section shall be exempt from any City Code provision otherwise requiring permits or city council approval.

(d) Except as may be otherwise provided by statute or local law or ordinance, no officer, agent or employee of the municipality charged with the duty of enforcing the provisions of this chapter or other applicable law shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duties.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-6. Inspection, right of entry, interference or concealment.**

(a) *Inspections.* Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or other applicable law, or whenever an employee of the unit has reasonable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the employees of the unit are empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or an administrative search warrant or criminal search warrant is obtained as follows:

- (1) If such property is occupied, the employee of the unit shall first present credentials to the occupant and request entry, explaining the reasons therefore; and
- (2) If such property is unoccupied, the employee of the unit shall first make a rea-

sonable effort to locate the owner or other persons having control of the property, present proper credentials and request entry, explaining the reasons therefore; and

- (3) If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an employee of the unit may obtain an appropriate warrant to conduct a search, or inspection of the property or seizure on the property.

Notwithstanding any other provision of this chapter, an employee of the unit shall have the authority to enter upon any land to enforce the provision of this chapter, including the seizure of dogs running at large in violation of section 4-25, "Run or running at-large/Restraint of animals", or other applicable law if a violation of such law is being committed in the presence of the employee; and such entry upon private property shall not be deemed to be a trespass.

(b) *Interference.* It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct employees of the unit while they are carrying out any duty created under this chapter or other applicable law.

(c) *Concealment of animal(s).* It shall be unlawful for any person to conceal, for the purpose of evading tax or license requirements, permit requirements, rabies inoculation requirements of this chapter, or any other applicable law, any unlisted, unlicensed, uninoculated or unpermitted animal from any employee of the unit.

(d) *Concealment of license, etc.* It shall be unlawful for any person to refuse to show proof of taxation, license, permit or a rabies inoculation to any employee of the unit upon request.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Secs. 4-7—4-12. Reserved.**

## ARTICLE II. VIOLATIONS

### Sec. 4-13. Abandoned animals.

(a) It shall be unlawful for any person owning, possessing or harboring an animal to abandon that animal.

(b) If the unit finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the unit must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the unit shall secure permission to remove the animal. If the property owner is also the animal owner, and this individual cannot be located, the unit shall secure an appropriate warrant to seize the animal.

(c) An animal seized pursuant to this section shall be impounded for the three-day holding period. If the owner contacts the unit to reclaim the animal, an explanation for the animal's abandonment and proof of ownership must be provided to the reasonable satisfaction of the chief of police before the animal is released to the owner. If the animal is unclaimed at the end of the three-day holding period, the chief of police may dispose of the animal as provided by section 4-67, "Disposition of unredeemed animals."

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

### Sec. 4-14. Abuse of or cruelty to animals.

(a) *Prohibited.* It shall be unlawful to:

- (1) Fail to provide adequate food and/or adequate drinking water for any animal.
- (2) Fail to provide adequate shelter for an animal wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.); or
- (3) Overwork, overload, or overdrive any animal causing physical pain, suffering or death; or
- (4) Beat, torture, injure, torment, poison or mutilate an animal causing physical pain, suffering or death; or

- (5) Fail to provide adequate medical attention for any sick, diseases or injured animal; or
- (6) Keep any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fail to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or
- (7) Tease, tantalize, provoke, molest, bait or in any way bother or harass any animal which causes the animal to bark excessively or attempt to escape from its enclosure or property, or act in an aggressive manner; or
- (8) Set a rabbit, hare, raccoon or other such animal loose for the purpose of chasing, hunting or having a race thereafter; or
- (9) Promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest, fight or combat between one (1) or more animals or between animals and humans; or
- (10) Convey any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle or in a truck or the back of a truck in such a way as to cause pain, suffering, discomfort or death to the animal; or
- (11) Place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or water, or such other conditions as may reasonably be expected to cause suffering, disability or death.
- a. Any animal control officer is authorized to exercise all powers granted by G.S. 14-363.3 to protect the health or well-being of the animal.
  - b. The officer removing the animal shall then impound it and leave in a prominent location on the motor vehicle a written notice or tag of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. The officer may also issue a citation for violation of this section.
  - c. So long as an animal is within sight of an employee of the animal control unit or a police officer, section 4-14 shall not be interpreted to require that any warrant be obtained before removing the animal.
- (12) Fail to provide sufficient shade, when sunlight is likely to cause overheating and discomfort; or
- (13) Keep animals outdoors without access to shelter to allow them to remain dry and comfortable during inclement weather; or
- (14) Fail to provide a suitable method to rapidly eliminate excess water.
- (15) Tie or otherwise physically fasten an animal to any object on a public right-of-way or near to a public right-of-way so that the animal may go upon the public right-of-way and leave the animal unattended.
- (b) *Injuring or meddling with police dogs or law enforcement animals.* No person shall tease, harass, interfere or meddle with any dog or horse used by any law enforcement agency while the animal is being used by such agency or any member thereof in the performance of any of the functions or duties of such law enforcement agency or of such members.
- (c) *Convictions.* If a person has been convicted twice of a violation of this section or N.C.G.S. §§ 14-360, 14-361, 14-361.1, 14-362, 14-363, or as they are amended, and any two (2) such convictions have both occurred with the last five (5) years preceding the request for an animal permit, then the animal permit shall be refused. In that situation, the person shall be eligible for applying for an animal permit five (5) years after the date of the last violation or conviction.
- (d) *Transporting exception.* Nothing in this section shall be deemed to prohibit the humane transportation of horses, cattle, sheep, poultry or

other livestock in trailers or other vehicles designed, constructed, and adequate for size and number of animals transported.

(e) *Euthanizing exception.* Nothing in this section shall be construed to prohibit the unit or veterinarians from euthanizing dangerous, unwanted, injured or diseased animals in a humane manner; nor to prohibit slaughterhouses or medical facilities from the proper, humane and lawful carrying out of their activities or duties.

(f) *Pet shops.* Animal control officers shall have the authority to conduct inspections of pet stores, to the extent not preempted by state law, in order to determine if there is any abuse of animals. Pet shops shall also be subject to the Nash or Edgecombe County Ordinance for the Control of Rabies and Other Zoonoses as administered and enforced by the county health departments or by the State of North Carolina. Abuse of animals shall include any act described in this section or any other act which is detrimental to the well-being of the animal. It shall be unlawful for any pet store employee or pet store owner to violate this section.

(g) *[Relative to this section.]* In this section, every such offender shall for each offense be guilty of a Class I misdemeanor. In this section and in every law which may be enacted relating to animals, the words "torture," "torment," or "cruelty" shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted. Such terms shall not be construed to prohibit the lawful taking of animals under the jurisdiction and regulation of the North Carolina Wildlife Resources Commission.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-15. Animal bite.**

(a) It shall be unlawful for an animal to bite a human being, who does not ordinarily reside on the premises, unless the animal has been subject to provocation, or unless the victim has been trespassing, as defined in section 4-2 "Definitions."

(b) Any person having knowledge, or having had reported to him or her, that an animal other than a rodent, bird or reptile has bitten a human being so as to cause an abrasion of the skin shall immediately report the occurrence to the animal control unit and shall provide further information requested by the any animal control officer. It shall be unlawful for any person having knowledge to fail to inform the unit where an animal is located if the owner has given the animal away, or caused in any way the animal to be taken from the owner's premises. For the purposes of this section, rodents, birds, and reptiles are not included under the definition of animals since they are not considered to be transmitters of the rabies virus. Bites inflicted by these animals need not to be reported to animal control.

(c) Reserved.

(d) It shall be unlawful for an animal which has bitten, attacked or threatened a human or animal to remain at large. Animal control officers shall have the authority to enter upon private property, including entry into a dwelling unit or other similar building, when the animal control officer has observed an animal which has committed the biting, attacking or threatening in violation of this section; and such entry upon private property shall not be deemed a trespass.

(e) It shall be unlawful for any person to interfere, to threaten or otherwise prevent an animal control officer from carrying out or performing their lawful duties, as described above, under this section.

(f) Any violation of this section shall be subject to a civil penalty. This penalty shall be doubled for a second offense and if the animal inflicting the bite is the same a dangerous animal investigation shall be initiated by the animal control supervisor.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-16. Animals or fowl banned from sale.**

(a) It shall be unlawful for any person, partnership or corporation to sell or offer for sale, or permit to be sold or offered for sale, barter or give away, baby chickens, baby ducklings or other fowl or baby rabbits less than six (6) weeks of age as

pets, toys, premiums or novelties; provided, this section shall not apply to breeders, hatcheries or stores engaged in the business of selling for purposes of commercial breeding and raising, nor shall it prohibit nature museums or raptor centers from placing such animals and fowl in foster homes registered with the department for the same.

(b) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chick, all other fowl, rabbits or any animal.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-17. Animal fights.**

No person shall cause, instigate or encourage any animal to fight or to enter into combat in any manner. No person shall train or keep any animal for the purpose of fighting. No person shall maintain any place where animals are permitted or encouraged to fight for exhibition, wager or sport. No person shall surgically alter the vocal cords of any animal, known as debarking, for the purposes of masking the noise of any illegal dog fighting activity. It shall be unlawful for any person to own an animal that has had its vocal cords removed for the purposes of any animal fighting activity.

Any fees associated with the boarding, feeding, cleaning, and medical care of animals that are subject to the seizure of animals for animal fighting and animal cruelty cases and are required to be held for court purposes, will be assessed to animal owner pending the outcome of the court case.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-18. Dangerous animals.**

(a) *Probable cause notice.* The chief of police shall designate an animal control supervisor who shall have the authority to determine whether there is probable cause to believe an animal is a dangerous animal and if the supervisor makes that determination he or she shall issue a notice of probable cause declaring that there is probable cause to believe that the animal is a dangerous animal. The probable cause notice shall state the specific reasons there is probable cause to believe the animal is a dangerous animal. The department shall serve the owner by personal service or

by certified mail, return receipt requested, as soon as reasonably possible with a copy of the probable cause determination if the whereabouts of owner is known. The owner's appeal rights shall be provided in all notices of probable cause. If the owner is unknown, the department shall make reasonable efforts to determine who the owner is and attempt to serve the owner. The supervisor shall notify the chief of police of all communication about the probable cause notice and keep a written report of the date and contents of all communications.

(b) *Unlawful to fail to surrender animal.* The owner shall turn the animal over to the animal control unit immediately upon receiving a probable cause notice. The police department shall have the authority to seize immediately any animal for whom there is probable cause to believe that the animal is a dangerous animal. It shall be unlawful for the owner or occupant of a premises to fail to give an animal to the animal control unit immediately upon presentment of a probable cause notice. The chief of police or his designated supervisor shall have the authority to authorize keeping the animal on the owner's premises or elsewhere if it is determined that such confinement will be adequate to protect the public and the well-being of the animal. The department shall have the authority to seize an animal upon delivery of the probable cause notice if the supervisor determines that it would be dangerous to the public health and safety for the animal to remain at large.

(c) *Unlawful to keep an animal subject to a notice of probable cause for declaring an animal dangerous.* It shall be unlawful for any person to keep or harbor any animal cited and identified in a notice of probable cause declaring the animal dangerous as defined in section 4-2, Definitions, of this chapter, unless authorized to keep the animal is granted as provided in subsection (b) of this section.

(d) *Request for hearing.* The owner of an animal subject to a probable cause notice shall have the right to a hearing to determine whether the animal is a dangerous animal as defined in this chapter. The owner of the animal must request a hearing by submitting a written request during

normal working hours to the chief of police within ten (10) calendar days after service of the probable cause notice, or after a reasonable effort has been made to serve the notice.

(e) *Failure to request a hearing.* If the owner fails to properly file a timely request for a hearing, the chief of police shall determine whether the animal is dangerous. The chief of police shall make finding of fact to support his or her determination, and that determination shall be conclusive. The chief of police may dispose of the animal as provided by subsection (k) below.

(f) *Hearing and decision.* If a hearing is requested, the chief of police shall within ten (10) days of receipt of an appeal arrange a location and time for a hearing. The designated supervisor shall present whatever relevant evidence the supervisor has that the animal should be declared dangerous. The owner shall be entitled to present whatever evidence the owner wishes and to have legal representation. All testimony before the chief of police shall be sworn testimony. The chief of police's decision shall be supported by specific findings of fact and specific conclusions based upon the finding of fact. The findings of fact must be supported by competent and material evidence in the record. The chief of police shall render his decision and notify the owner of the animal or responsible party in question of the decision in writing within ten (10) days by personal service or by certified mail, return receipt requested, at the owner's last known address as determined in the exercise of reasonable diligence.

(g) *Appeals.* The owner/responsible party shall have the right to appeal the determination of the chief of police to the community appeals board within ten (10) days following receipt of notice. The determination of the chief of police shall be final in the absence of an appeal.

(h) *[Post-appeals hearing.]* The community appeals board shall schedule a hearing no earlier than five (5) days and no later than thirty (30) days following receipt of the owner's notice of appeal. The owner shall be advised in writing of the date, time, and place of the hearing at least three (3) business days prior to the hearing.

(i) *Appeals board decision.* The appeals board shall hear sworn testimony and review such relevant evidence as the chief of police and the owner or his/her authorized representative wish to present concerning the question of whether the animal in question is a dangerous animal. The failure of the owner to appear shall constitute a waiver of the right to contest the determination of the chief of police. The appeals board shall render its decision in a timely manner and state in writing either (1) that the animal is a potentially dangerous animal as determined by the chief of police, or (2) that the animal is not a potentially dangerous animal.

(j) *Appeal to superior court.* The decision of the community appeals board, involving dangerous animals only, shall be subject to review by the superior court by proceeding in the nature of certiorari. Any petition for writ of certiorari for review by the superior court shall be filed with the clerk of superior court within ten (10) days after delivery of or reasonable efforts to deliver the decision to the owner or the owner's representative. In the event of the filing of a petition for writ of certiorari in superior court, the animal shall be confined at the animal shelter or at a location acceptable to the chief of police; and at the time of the filing of petition for writ of certiorari, a cash bond must be provided to the city for all costs incurred thus far by the city's retention of the animal and for an approximate time for the course of the appeal. The petitioner who has filed a petition for writ of certiorari shall bear the cost of the transcript prepared for the court. The city shall reimburse the petitioner for the cost of the petitioner's transcript and the court's transcript if the court reverses the decision and determines that the animal is not dangerous. No charge shall be made for boarding, impoundment or associated fees in the case of a ruling declaring an animal not dangerous. The appeal shall be heard de novo before a superior court judge sitting without a jury.

(k) *Disposition of the animal.* The chief of police shall have the discretion to dispose of an animal which has been determined to be a dangerous animal in one (1) of three (3) ways:

- (1) By humane destruction of the animal; or

- (2) By giving the animal to an individual or an organization subject to the protective and inspection conditions required by the chief of police for the well-being of the animal, for the protection of the public and for the purpose of preserving and taking care of the animal; or
- (3) By removing the animal from the City of Rocky Mount city limits and confining it within a "secure fence" enclosure as defined in subsection 4-38(c). Such enclosure shall be made available for inspection and approval by the chief of police or his or her designee before such disposition is granted.
  - a. Any animal ordered removed from the City of Rocky Mount city limits shall be subject to immediate seizure or disposition if found within the city, temporarily or otherwise, unless prior permission has been granted in writing by the chief of police.

If the unit determines that a dog has bitten a human being, without provocation, then the unit shall have the authority to require the owner to procure liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) at the owner's expense, with reasonable policy provisions including prior notice of cancellation, and/or to have the dog tattooed, and/or implanted with a microchip that contains identifiable data, and/or to display a sign on the premises warning of the dog on the premises. The unit shall have the authority to require the owner to show signed written statements about maintaining the liability insurance, the designated enclosure for the dogs, the duty to notify the animal control unit if the dog escapes, and to require the owner to give the unit the authority to seize and impound the dog if the owner fails to comply with the foregoing provisions.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-19. Dead animals.**

(a) It shall be unlawful for any person to leave or place the carcass of any animal which he owns upon any street, alley or lot or to allow the animal

to remain unburied on his property. This shall not be construed to prohibit the placing of a carcass of a small animal on the right-of-way or within three (3) feet thereof for pickup by the environmental services unit or in a manner approved by the superintendent of the environmental services of the city or for pickup on state roads by the N.C. Department of Transportation.

(b) The owner of any small animal (less than one hundred (100) pounds) which dies shall, within twenty-four (24) hours after he has learned of its death, bury it at least three (3) feet beneath the surface of the ground and not closer than three hundred (300) feet to any flowing stream or public body of water, or otherwise have it removed as described in subsection 4-19(a).

(c) The owner of any large animal (greater than one hundred (100) pounds) which dies shall, within twenty-four (24) after he has learned of its death, bury it at least four (4) feet beneath the surface of the ground and not closer than three hundred (300) feet to any flowing stream or public body of water, or otherwise have it removed from his property.

(d) The superintendent of environmental services and/or his representative, upon request of any person or otherwise, may pick up and dispose of any animal carcass within the city. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-20. Designated special events, animals prohibited.**

(a) *Applicability.* This section shall apply to city sponsored festivals or events attended by more than one hundred (100) persons.

(b) *Unlawful to have animal at festival.* It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal, whether or not under restraint, to allow the animal to enter the boundaries of any festival or event to which this section applies. The boundaries and the interior of any festival or event to which this section applies, shall consist of any area that is part of the festival and shall include any public street, sidewalk or other publicly owned area.

(c) *Failure to remove animal.* It shall be unlawful for any person having an animal, regardless of how restrained, within the boundaries of any festival or event specified to fail to obey the command of a law enforcement officer to remove such animal from the festival or event.

(d) *Exception.* This section shall not apply to those animals that are part of a city authorized exhibit or animal focused event. Animal control unit officers shall have the authority to specify the conditions under which such animals are kept for the protection of the public and for the well-being of the animals. This section shall not apply to any service animal, i.e., any animal trained to act as an aid or companion to a person with a disability. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### Sec. 4-21. Exhibiting animals.

(a) *Unlawful display.* It shall be unlawful for any person to exhibit, keep, or display pets, animals, birds, or fowl of any kind in any manner without shading said animals from the sun, and providing adequate food, water, and ventilation for their use and comfort.

(b) *Flea markets—Sell [sale] prohibited.* It shall be unlawful for any person to exhibit, keep, display, or sell pets, animals, birds, or fowl at any flea market. However, this shall not prohibit the sale of personally owned animals upon the property of the seller.

(c) *Same—Authority to remove an animal.* If an animal control officer finds that an animal is without appropriate provisions as stated in (a), then the animal control officer is authorized to direct the person in charge of the premises or having control of the animal(s) or the person having control of the animal(s) at the flea market that such provisions be immediately provided or that the animal control officer has the authority to remove the animal from the premises or from the flea market if necessary, for the well-being of the animal. It shall be unlawful for a person to fail to comply with such order to provide the appropriate provisions after being instructed to.

(d) *Safety and proper care of animal.* It shall be unlawful for any person to exhibit or to display pets, animals, birds, or fowl in any manner which

endangers the animal's safety or which causes the animal to act in a manner unnatural for the particular species, after being instructed by an animal control officer about what needs to be done for the safety of the animal or what constitutes actions for an animal unnatural for the particular species.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### Sec. 4-22. Nuisance.

(a) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or nuisance to neighbors. By way of example and not of limitation, the following acts or actions of any owner, harbinger or possessor of an animal are hereby declared to be a public nuisance in addition to elaboration upon "public nuisance animal" as defined in section 4-2:

- (1) Having an animal that disturbs the rights of, threatens the safety of or damages the property of a member of the general public or interferes with the ordinary use and enjoyment of their property; or
- (2) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables; or
- (3) Having a dangerous animal as defined in section 4-2, "Definitions"; or
- (4) Allowing or permitting an animal to defecate upon any street, sidewalk, park or other privately owned area without immediately removing the feces deposited on same; or
- (5) Allowing or permitting an animal to defecate on any private property without immediately removing the feces deposited on same, unless the owner of the property has given permission allowing such use of property; or
- (6) Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor, or a failure to maintain a condition of good order and cleanliness which reduces the

probability of transmission of disease. The presence of a large quantity of fecal matter or the presence of rats in an area where animals are maintained shall be prima facie evidence that such area is unsanitary; or

- (7) Maintaining property that is offensive, annoying or dangerous because of the number, type, variety, density or location of the animals on the property; or
- (8) Allowing or permitting an animal to bark, whine, howl, crow or cackle or make any other noise in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or
- (9) Maintaining an animal that is diseased and dangerous to the public health; or
- (10) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; or
- (11) Allowing to run at large and/or failing to confine a female cat or dog while in estrus (heat) in a building or secure enclosure in such a manner that she cannot come into contact with another cat or dog, or creates a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed areas on the premises of the owner of an animal which is being bred.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-23. Resolution of public nuisance animals.**

(a) *Public nuisances prohibited.* Public nuisance animals as defined in section 4-2, "Definitions," and/or section 4-22, "Nuisance," are hereby declared to be public health nuisances. It shall be unlawful to own, keep or harbor a public nuisance animal within the city.

(b) *Exceptions.* It shall not be unlawful to own or keep a dog of dangerous tendencies for the protection of persons or property if such a dog is

securely confined in a manner not to expose it to the general public. It shall not be unlawful to own or keep a dangerous dog if such dog is controlled or restrained as provided in section 4-38, "Preventive measures/confinement requirements." The exception for dogs of dangerous tendencies and dogs deemed dangerous does not include dogs which are otherwise public nuisance animals.

(c) *Complaint and notice.* Upon the filing of a written and signed complaint by any resident of the city or any animal control officer to the animal control unit of the police department alleging that a public nuisance as defined in section 4-2, "Definitions," and/or section 4-22, "Nuisance," of this chapter is being maintained, the chief of police shall cause the owner of the animal or animals in question to be notified in writing that a complaint has been filed and shall cause the situation complained of to be investigated and a report and findings thereon to be submitted in writing by the investigating officer. If the complaint is filed by an animal control officer, that officer shall be excused from conducting the investigation. The notice shall inform the owner or keeper of the animal or animals that he may present evidence refuting the existence of the alleged public nuisance to the chief of police within ten (10) days of receipt of the notice.

(d) *Order of abatement.* If the written findings of the investigation reveal that the owner or keeper of the animal or animals in question is maintaining a public nuisance as defined in section 4-2, "Definitions" and/or section 4-22, "Nuisance," the chief of police shall issue an order of abatement directed to the owner or keeper of the animal or animals, ordering abatement of the public nuisance within a specified period of time which shall not be less than ten (10) days from the receipt of the order, and shall advise such person that if the nuisance is not abated within the time specified in the notice of abatement that the city will take all action necessary to abate the nuisance, including impoundment and/or destruction of the public nuisance animal. The order of abatement may contain preventive measures specifically designed to abate the nuisance. The order shall further inform the owner or keeper of his right to appeal.

(e) *Failure to abate.* Upon the failure or refusal of the owner or keeper of a public nuisance animal to abate the nuisance within the time specified by the order of abatement, the chief of police is authorized to take all action necessary to abate the nuisance, including impounding of the animal or animals according to the provisions of article III, "Impoundment and Reclamation" of this chapter, or removing and humanely destroying the animal or animals.

(f) *Appeal.* All appeals from an order of abatement or other remedies as set forth under this specific section shall be requested as prescribed in section 4-74.

(g) *Service of complaints and orders.* Complaints, notices, and orders issued under this section shall be served upon the owner or keeper of the animal or animals in question either personally or by certified mail, return receipt requested. If the whereabouts of such person is unknown and cannot be determined in the exercise of reasonable diligence, service shall be made by publishing the complaint, notice or order, together with a general description of the animal or animals, once in a newspaper having general circulation in the city. When service is made by publication a notice of the action shall be posted in a conspicuous place on the premises where the nuisance is maintained. In the case of service by publication and posting, the date of receipt of service shall be the date of posting or publication, whichever is latest.

(h) *Lien.* If the city abates the nuisance the expense of the action shall be paid by the owner or occupant of the property where the nuisance arose, and if not paid, shall be a lien upon such real estate and shall be collected as unpaid taxes. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-24. Reckless riding or driving of animals.**

(a) It shall be unlawful for any person to run, drive or ride any animal in a reckless, disorderly or careless manner through any street, alley or highway or public property within the city.

(b) It shall be unlawful for any person to drive or cause to be driven through any street or highway any loose or unhaltered horses, mule, cow or other livestock; nor shall the keeper of any such animal knowingly permit any loose horse, mule or cow to be driven from his property onto the streets, alleys, highways or public property within the city.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-25. Run or running at large/restraint of animals.**

(a) It shall be unlawful for the owner, keeper, possessor or any person in charge or having custody of any domesticated animal to allow such animal to be at large within the corporate limits of the city or on any city property. Any animal found running at large may be impounded by animal control officers until the owner has been ascertained and given opportunity to take possession of such animal. Any costs associated with the impoundment and maintenance of such animal shall be assessed to the owners thereof and shall be in addition to any other penalties imposed for violations of this section.

- (1) *Physical run at large/restrain of animal.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal to keep such on his own premises or off the premises, unless such animal is under sufficient physical restraint, such as a leash, lead, cage, bridle or similar effective device, or is adequately contained by a fence on the premises or other secure enclosure which restrains and controls the animal.
- (2) *"Invisible fence" substituted for a physical fence.* If the secure enclosure is an effective, working invisible fence, then there must be a visible, permanent prominently displayed sign on the premises stating that there is an invisible fence.
- (3) *Adult with animal on premises.* If a responsible adult is physically present with the animal on the land where the owner of the animal resides, and the animal is under the person's direct control and is obedient to that person's commands, then

this section shall not apply during the duration of the time the animal is in the company and the control of that adult and the animal is on the premises. An adult is defined as a person eighteen (18) years of age or older.

- (4) *Public parks.* It shall be unlawful for any person owning or having possession, charge, custody, or control of any dog or other animal to take such animal into or allow the animal to enter any public park without being at all times under the restraint of a lead or leash.

a. *Exemptions.* This section shall not apply to dogs which are being allowed to free rein in any city park area designated as a "dog park" or approved dog recreation area in which off lead/leash activity is allowed.

- (5) *Park areas.* It shall be unlawful for any person owning or having possession, charge, custody, or control of a dog or other animal to take such animal into picnic areas, pond areas and children's play areas of any public park. This shall not apply to guide dogs or hearing-aid dogs in the company of blind or deaf persons.

- (6) *Vehicles.* It shall be unlawful for any person owning or having possession of a dog in a vehicle to allow such animal the ability to have contact with persons by leaving the windows open in a manner that the dog can protrude its head from the opening and have contact with an unwilling person. It shall likewise be unlawful to allow an animal in any open area of any vehicle unless such animal is under sufficient physical restraint, such as a leash, lead, cage, bridle or similar effective device. If a responsible adult is physically present with the animal in the vehicle where the animal is present, and the animal is under the person's direct control and is obedient to that person's commands, then this section shall not apply during the duration of the time the animal is in the company and the control

of that adult and the animal is in or upon the vehicle. An adult is defined as a person eighteen (18) years of age or older.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-26. Stray animals.**

(a) It shall be unlawful for any person, without the actual consent of the owner, to harbor, feed, keep in possession by confinement or otherwise have any animal which does not belong to him, unless he has, within twenty-four (24) hours of the time the animal came into his possession, notified the unit. Upon receiving such notice, the unit may take the animal and deal with it as provided in section 4-61, "Authorization for capture and impoundment."

(b) It shall be unlawful for any person to refuse to surrender such an animal to an employee of the unit upon demand.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-27. Uncared-for animals.**

(a) Whenever the unit finds that any animal is or will be without proper care because of injury, illness, incarceration or other excusable absence of the person responsible for the care of such animal, the unit may impound such animal until reclaimed by its owner. The owner must pay the applicable fees in section 4-66, "Impoundment and redemption fees" in the same manner as any other owner would reclaim an impounded animal prior to release of such animal by the unit.

(b) Any animal which has been impounded under subsection (a) and is not reclaimed within the three-day holding period may be disposed of by the unit pursuant to section 4-67, "Disposition of unredeemed animals."

(c) If the owner of the animal notifies the chief of police that he or she will be unable to reclaim the animal during the three-day holding period, the chief of police may grant additional time to the owner if good cause is shown. The owner shall be charged double the redemption fee stated in section 4-66, "Impoundment and redemption fees," if the animal is claimed after the three-day holding period. If the chief of police concludes that the owner or an agent has not shown good cause for

the delay in reclaiming the animal, he or she shall inform the owner or agent that the request is denied and proceed to dispose of the animal in accordance with section 4-67, "Disposition of unredeemed animals."

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Secs. 4-28—4-30. Reserved.**

**Sec. 4-31. Holding facilities shall seek care for sick, diseased or injured animals.**

Any animal in a holding facility as defined in section 4-2, Definitions, which shows signs of illness or contagious disease shall be isolated in such manner as to prevent the spread of such illness or disease to other animals. All sick, diseased or injured animals in such facilities shall be provided appropriate veterinary care; and areas where said animals have been shall be decontaminated. All holding facilities shall, in addition to complying with all applicable provisions of this chapter, provide for healthy and comfortable temperatures, in accordance with the age and species of animals, in areas outside building where animals are kept.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Secs. 4-32—4-35. Reserved.**

**ARTICLE III. CATS AND DOGS**

**Sec. 4-36. Aggression-trained dogs.**

(a) *Registration of aggression-trained dogs.* The chief of police shall have the authority to determine whether any individual or business entity is engaged in the aggression-training of dogs. If the chief of police makes such a determination, the individual or business entity must comply with the following requirements:

- (1) The individual or business entity has a duty to provide registration information as required by the police department as it pertains to aggression-training of any kind of dog.
- (2) The individual or business entity has the duty to maintain a current registration of

all dogs thus trained, including the current location or address of the dog; and that information shall be provided to the police department upon the training of any such dog.

- (3) The police department shall have the authority to inspect the premises engaged in aggression-training and to observe training methods and the safety of facilities during the operating hours of such facilities.
- (4) The aggression-trained dogs must be maintained by adequate confinement. The police department and inspection services shall have the authority to require all aggression-trained dogs to be confined in a strong fence at least six (6) feet high and, at the discretion of the police department, topped by an anti-climb enclosure.
- (5) The owner, keeper or business entity shall meet and comply with all requirements of sections 4-50 through 4-54 regarding the keeping and permitting of animals.
- (6) It shall be unlawful for any aggression-trained facility to cause, allow, use, or train animals that have undergone the medical surgical procedure of "debarking." Such animals are a public safety issue for law enforcement personnel and the general public at large.

(b) *Unlawful acts.* It shall be unlawful for any individual or business entity to fail to comply with any of the requirements stated in this section. It shall be unlawful for an individual or business entity to fail to inform the police department of any animal in the city that has been subject to some training or conditioning at an aggression-training facility and fail to carry out the duty to provide registration information as required by the police department.

(c) *Imposition of preventative measures.* If the police department determines that a dog has been trained for fighting or aggressive attack, the department shall have the authority to impose the same requirements stated in section 4-38, "Preventive measures/confinement requirements."

(d) *Appeal.* If the chief of police determines that an individual or business entity is engaged in aggressive training of dogs, or a dog has been trained for fighting or aggressive attack, and the owner wishes to appeal that or the preventative measures imposed, then the appeal shall be the same as that stated in section 4-74, "Right of appeal."

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

### Sec. 4-37. Guard dogs.

(a) *Definition and purpose.* Guard dogs are guard, security or watch dogs on a premises specifically used for the purpose of protecting the premises from any intruder and for attacking a person coming in the vicinity of the security dog. Guard dogs are expected to attack human beings and are especially dangerous if they succeed in getting off the premises, thereby endangering any member of the public. The purpose of this section is to provide regulatory requirements that will enable the unit to have knowledge about any security dogs in the city. It also applies to such security dogs brought into the city from outside the city limits.

(1) It shall be unlawful for any person, business or entity to cause, allow, use, or train animals that have undergone the medical surgical procedure of "debarking." Such animals are a public safety issue for law enforcement personnel and the general public at large.

(b) *Regulations.* The owner of a guard dog shall comply with the following requirements:

(1) *Identification.* It shall be unlawful for a guard dog in the city not to have an identification microchip implanted on the animal in accordance with current veterinary practices. Any identification microchip for compliance with this section of this City Code must be readable by a microchip reader.

(2) *Guard dog license.* A identification microchip and microchip alert tag complying with subsection (1), above are necessary to obtain a security dog license. The microchip alert tag shall be securely fastened to the dog's choke chain, collar or

harness, and it shall be unlawful for the owner of a guard dog to allow such dog to be within the city without such tag. If a private veterinary service is used to implant the microchip the appropriate microchip identifiers shall be provided as well as the animal for confirmation at the time of application for a security dog license. The animal control supervisor shall be responsible for maintaining a computer database with current and pertinent information regarding, ownership, the type of guard dog and its location as well as microchip identification information.

(3) *Fees.*

a. The annual guard dog license fee shall be set in the City of Rocky Mount Administration Policy, Scheduling of Fees, No. X.6.1.

b. The license fee shall be due on January 1 of each year.

(4) *Signs.* The owner of any guard dogs or the owner of the premises employing the dogs must have posted on the premises a sign that identifies the name, address and telephone number of the owner of the guard dogs.

(c) *Escaping dog.* If a guard dog escapes and bites someone who is not a trespasser, the chief of police shall have the authority to prohibit that dog from serving as a guard dog with the city. It shall be unlawful to use such a dog as a guard dog after the chief of police has ordered that the dog not be used as a guard dog within the city.

(d) *Enforcement.* In addition to using any and all enforcement remedies stated in section 4-71, "Enforcement," the animal control unit shall also have the additional authority in respect to guard dogs:

(1) If any guard dog is seized running at large, then the dog shall not be returned to the owner until the owner has registered that dog and any other guard dogs used or to be used in the city in accordance with subsection (b) above, secured

identification tags, if necessary, and complied with all the requirements of the section.

- (2) If a guard dog is found on the premises without complying with subsection (b), then the unit shall have the authority to issue a notice of prohibition letter that will prohibit the use of that dog as guard dog within the city, unless there is compliance with subsection (b) within forty-eight (48) hours.

a. Such notice of prohibition shall, at the same time, be given to the owner of the premises upon which guard dog is utilized. The owner of the premises shall be informed that the continued use of such a guard dog on the premises is an unlawful act on the part of the owner in violation of this section.

b. If such a dog remains on the premises after forty-eight (48) hours, it shall be an unlawful act on the part of the owner of the dog and on part of the owner of the premises; and a citation shall be issued to either or both of those individuals.

(e) The unit shall have the authority to seize guard dogs if there has not been compliance with the provisions of this subsection or for the safety of the public, all in accordance with code section 4-38, "Preventative measures/confinement requirements."

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-38. Preventive measures/confinement requirements.**

(a) *Circumstances requiring special preventative measures/confinement requirements.* The chief of police, which term shall include his authorized designee, shall have the authority to require any person having possession, charge, custody or control of a dog to comply with specific preventative measures/confinement requirements, as described in subsection (b), after taking into consideration the following three (3) circumstances:

- (1) *Nature of the particular dog.* The behavior, size, temperament, breed, and capac-

ity for inflicting serious injury, the number of dogs or other such similar factor which would be relevant to a determination of whether or not additional preventative measures/confinement requirements need to be imposed for a particular situation; and

- (2) *Adequacy of confinement.* The adequacy of the existing enclosure or confinement, if any; and

- (3) *Immediate surrounding area.* The likelihood that the conditions pertaining to the particular dog and the dog's confinement are detrimental to the safety or welfare of citizens or the peace and tranquility of citizens in the immediate surrounding areas.

(b) [*Special preventative measures.*] In consideration whether to order a special preventative measure, the chief of police is authorized to consider additional factors as aggravating circumstances that might warrant the ordering of special preventative measures:

- (1) *Child under the age of seven (7).* There is a child under the age of seven (7) who lives in close proximity, or children walk by or are otherwise in close proximity, to the property occupied by the dog; or

- (2) *Bite.* The dog has bitten or attempted to bite a human being or domestic animal without provocation or without a trespass, and the person bitten or attempted to be bitten does not reside on the premises; or

- (3) *Dog trained for fighting or aggressive attack.* The dog is kept primarily or in part for the purpose of dog fighting or the dog has been trained for aggressive attacks; or

- (4) *Attitude of attack incident.* A dog, without provocation of a trespass, has approached a person in an apparent attitude of attack; or

- (5) *Reputation of dog.* The individual dog has a known propensity, reputation, tendency, or disposition to attack unprovoked, to

cause injury, or to otherwise endanger or threaten to endanger the safety of human beings or domestic animals.

(c) *Preventive measures/confinement requirements.* If the chief of police determines that the circumstances require special preventive measures/confinement requirements, then he shall have the authority to require appropriate, specific preventive measures/confinement requirements which may include, but are not limited to, the following, all of which are subject to being specifically approved for adequacy by the chief of police:

- (1) Necessary repairs to any fence or enclosure; or
- (2) Measures to ensure that a gate will remain closed; or
- (3) A "fence" or "secure dog fence" as described below; or
- (4) Any other similar device that would provide greater assurance for the confinement of the dog.
  - a. A fence shall be a minimum of four (4) feet high and constitute a secure enclosure sufficient to contain the dog at all times. The minimum size of the enclosure shall be at least one hundred (100) square feet. If the dog is over fifteen (15) inches at the shoulder or is deemed capable of climbing a standard four-foot fence, then the chief of police may require a six-foot fence with anti-climbing device attached.
  - b. A secure dog fence means a fence, as immediately described above, that is enclosed on all six (6) sides, including the top. The bottom shall be concrete, unless the sides of the fence are buried at least eighteen (18) inches into hard-packed soil.
- (5) Any reference to "fence" or "secure dog fence" shall be defined as stated immediately above.
- (6) The chief of police shall also have the authority to require the owner to tattoo or have implanted an identification micro-

chip placed on the dog at the owner's expense if that is necessary for identification, investigating, or enforcement purposes.

- (7) The chief of police shall have the authority to designate the enclosure for the dog, to notify the animal control unit if the dog escapes, and to require the owner to give the chief of police the authority to seize and impound the dog if the owner fails to comply with the provisions of this section.

(d) *Written order.* If the chief of police determines that specific preventive measures are required by the owner of a dog, he shall state in writing the reason that preventive measures/confinement requirements are required, identify the specific preventive measures/confinement requirements that must be implemented, and state the designated time period within which the owner must comply with the written order. The chief of police shall cause the order to be served on the owner by any method authorized by the North Carolina Rules of Civil Procedure. The chief of police shall have the authority to exercise discretion for extensions of time if the same is reasonable in view of good-faith progress of the owner in implementing the preventive measures/confinement requirements.

(e) *Failure to comply with written order.* It shall be unlawful for an owner to fail to comply with a written order within the designated time for compliance. A civil citation may be issued. The chief of police shall have the authority to issue additional citations for each twenty-four-hour period with the continuing failure to comply with a written order.

(f) *Right of appeal.* Appeals from a notice of specific preventive measures/confinement requirements, or other remedies as set forth under this specific section shall be requested as prescribed in section 4-74.

(g) *Seizure and disposition of animal.* The chief of police is authorized to seize an animal as provided for in code section 4-67, "Disposition of unredeemed animals," when the owner has not complied with the written order.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-39. Rabies inoculation.**

(a) It shall be unlawful for any owner to fail to provide current inoculation against rabies (hydrophobia) for any cat, ferret, or dog and all other animals recommended for inoculation by the American Veterinary Medical Association, four (4) months of age or older. A rabies inoculation shall be deemed current for a cat or dog if two (2) inoculations have been given one (1) year apart and booster doses of rabies vaccine administered every three (3) years thereafter.

(b) Any animal other than a cat or dog, as indicated above, for which rabies inoculations are recommended shall be required to have such animal inoculated against rabies in accordance with and at the intervals suggested by the current Compendium of Animal Rabies Control published yearly by the National Association of State Public Health Veterinarians, Inc.

(c) Every person moving into the city from a location outside the city shall comply with this section within thirty (30) days after having moved to the city.

**(d) Proof of inoculation.**

(1) Any person inoculating an animal against rabies shall issue to the owner of the animal inoculated a numbered metal tag, stamped with the number and the year for which it was issued, and indicating that the animal has been inoculated against rabies.

- a. *Dogs.* The metal inoculation tag shall be securely fastened to the dog's collar, choke chain, or harness and it shall be unlawful for the owner of a dog to allow such dog to be within the city without wearing the inoculation tag.
- b. *Cats and ferrets.* The owner or responsible person for any cat or ferret shall maintain the tag issued in subsection 4-39(d)(1) of this article or a receipt for such proof of rabies inoculation for any cat or ferret that they keep. Such proof shall include inoculation services. This proof shall be

displayed for examination to any animal control person or officer on request.

- (2) No person shall use any tag issued pursuant to the terms of this section for any animal other than the animal for which the tag was issued.
- (3) Dogs not wearing such tags, and for which the owner cannot promptly display a valid rabies tag, shall be impounded and shall be subject to a fees and charges as provided by City of Rocky Mount Administration Policy, Scheduling of Fees, No. X 6.1 by citation pursuant to Code section 4-71, "Enforcement."
- (4) If the unit has lawfully acquired custody or control of an animal and the unit has reason to believe that the animal does not have the lawfully required inoculation against rabies and it is necessary for the unit to transport the animal to a veterinarian, then the unit shall have the authority to inoculate the animal against rabies. The owner of an animal shall not have the right to reclaim an animal so inoculated until the owner has reimbursed the city for the costs of the rabies vaccination.

(e) *Penalty.* Failure to obtain or maintain rabies inoculation for animals or provide, when requested by an animal control officer, proof of inoculation of animals shall result in a citation for fees and charges specified in the Schedule of Fees X 6.1. The citation shall state on its face that the unit has the authority to seize the animal if the citation is not paid within ten (10) days of the issuance of the citation, and if the owner has not obtained proof of rabies inoculation.

(f) *Seizure of the animal.* If the owner fails to pay the amount set in article IV, subsection 4-39(e), Penalty, for the citation, and fails to provide proof of current rabies inoculation within ten (10) days of the issuance of the citation, the unit shall have the authority to summarily seize the animal. The unit shall hold the animal for a minimum of three (3) days. The owner shall have the option to reclaim the animal by paying the citation fee, a delinquency charge, the impoundment fees, ra-

abies fees and any other lawfully authorized costs. If the owner wishes to request a review of the seizure of the animal, then the owner shall request a review with the chief of police in writing within three (3) days of the animal's impoundment and, at the same time, shall pay an amount in cash covering the citation, the delinquency charge, impoundment fees, rabies fees and any other costs, which amount of money shall be returned to the owner if there is an administrative or judicial decision ultimately in favor of the owner.

(g) No person charged with violating subsection (a) of this section shall be convicted if the person produces in court a rabies vaccination certificate which was valid at the time of the alleged violation.

(h) If there is no hearing requested within three (3) days of the seizure of the animal, and the animal is not reclaimed, then the ownership rights of the animal shall be terminated and upon the expiration of the three (3) days, the unit shall have the authority to dispose of the animal by adoption or by the humane destruction of the animal.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-40. Procedure upon suspicion of rabies; confinement required.**

(a) If any animal is suspected of having rabies or if any animal has bitten a human being, it shall be confined for a period of not less than ten (10) days from the date of the bite. The animal may be confined on the owner's premises, if deemed appropriate in the discretion of the animal control unit. The owner shall execute a waiver of any and all liability of the city, its agents or employees for any injury to person or property arising out of or by reason of such confinement.

(b) In the event the owner refuses to or is unable to confine the animal, the animal shall be confined at the animal shelter or a duly qualified and licensed veterinarian. Such confinement shall be at the expense of the owner of the animal. During the ten-day observation period, no rabies vaccine shall be administered to the animal.

(c) The animal shall be subject to the observation by the animal control supervisor or person designated by him at all times during the confinement period. All animals confined for suspicion of rabies shall be securely penned and separated from other animals at all times.

(d) If rabies does not develop within the aforesaid period of confinement, then the animal shall be released to his owner. But if symptoms develop justifying microscopic examination, then the animal shall be destroyed in a humane manner by the animal control officer or licensed veterinarian.

(e) The owner of any animal that has been reported as having inflicted a bite on any person shall, on demand of the animal control officer, produce said animal for examination and confinement, as prescribed in this section. If the owner of any such animal refuses to produce the animal, the owner shall be subject to immediate arrest if there is probable cause to believe the animal has inflicted a bite upon a person, and the owner is keeping or harboring the animal and willfully refuses to produce the animal upon such demand. Such person shall be taken before a magistrate of the court, who may order the immediate production of the animal. Each day of refusal to produce the animal shall constitute a separate and individual violation of this chapter.

When the local health director reasonably suspects that an animal required to be vaccinated under this part has been exposed to the saliva or nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis, the animal shall be considered to have been exposed to rabies. An animal exposed to rabies shall be destroyed immediately by a veterinarian, an animal control officer, or a peace officer unless the animal has been vaccinated against rabies in accordance with this part and the rules of the state commission for public health more than twenty-eight (28) days prior to being exposed, and it given a booster dose of rabies vaccine within five (5) days of the exposure. As an alternative to destruction, the animal may be quarantined at a facility approved by the local health director for a period up to six (6) months, and under reasonable conditions im-

posed by the local health director. In such case the owner of the animal shall be responsible for all costs incurred with the quarantine.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-41. Reporting of rabies cases and bites required.**

(a) Every person having knowledge thereof shall report to the animal control unit any suspected or positively diagnosed occurrence of rabies and any biting by any suspected or confirmed rabid animal.

(b) Every physician and other medical practitioner who treats a person or persons residing within the city limits for bites inflicted by animals shall report such treatment to the animal control officer, giving the names and addresses of such persons.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-42. Killing rabid or suspect animals authorized.**

No person shall kill any suspected or confirmed rabid animal except upon the prior written consent of the animal control unit, or in defense of a human being or other animal, or to prevent the escape of such suspected or confirmed rabid animal. This section shall not apply to state or county health officials.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-43. Body removal; approval required.**

No person shall remove the dead body of any suspected or confirmed rabid animal from where the animal was killed or found without the prior written approval of the animal control unit. This section shall not apply to state or county health officials.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-44. Destruction of rabid animals.**

If rabies has been suspected in any animal, such animal shall be summarily destroyed and its brain tested for positive verification of rabies, or the animal or its body may be disposed of accord-

ing to law, regulation or order of the North Carolina Department of Environmental Health and Natural Resources.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-45. Muzzling of animals.**

Whenever it becomes necessary to safeguard the public from the danger of hydrophobia, the mayor, if he deems necessary, shall issue a proclamation ordering every person owning or keeping a cat, dog, or ferret to confine it securely on his premises unless such animal shall have a muzzle of sufficient strength to prevent its biting any person. Any unmuzzled cat, dog, or ferret running at large during the time of the proclamation shall be seized and impounded, unless noticeably infected with rabies. All animals so noticeably infected with rabies and displaying vicious propensities shall be destroyed by the animal control supervisor or any police officer without notice to the owner. Animals impounded during such proclamation shall, if claimed within three (3) days be released to the owner, unless infected with rabies, upon payment of impounding charges provided for in section 4-66, "Impoundment and redemption fees." If unclaimed after that period, such animals may be summarily destroyed.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-46. Reserved.**

**Sec. 4-47. Confinement of females dogs in heat.**

Every female dog, while in estrus (heat), shall be confined in a building or secure enclosure in such manner that she will not be in contact with another dog, nor create a nuisance by attracting other animals; provided, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of an animal being bred.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**ARTICLE IV. LICENSING**

**Sec. 4-48. Licenses; fee for dogs.**

(a) *Registration.* All dog owners shall register their dogs over the age of four (4) months with the respective county tax department annually dur-

ing the tax listing period, and provide such pertinent information as may be requested such as the size, age, breed, color, sex, legal residence of the dog, and name and address of the owner.

(b) *Penalty.* Failure to dutifully register dogs with the county tax department or provide, when requested by an animal control officer, proof of registration of dogs shall result in the issuance of a citation. The citation shall state on its face that the unit has the authority to seize the dog if the fees is not paid within ten (10) days of the issuance of the citation, and if the owner has not obtained proof of registration with the county tax office.

(c) *Seizure of the dog.* If the owner fails to pay the amount set in article IV, subsection 4-48(b), Penalty, for the citation, and fails to provide proof of current tax registration within ten (10) days of the issuance of the citation, the unit shall have the authority to summarily seize the dog. The unit shall hold the dog for a minimum of three (3) days. The owner shall have the option to reclaim the dog by paying the citation fee, a delinquency charge, the impoundment fees, rabies fees and any other lawfully authorized costs. If the owner wishes to request a review of the seizure of the dog, then the owner shall request a review with the chief of police in writing within three (3) days of the dog's impoundment and, at the same time, shall pay an amount in cash covering the citation, the delinquency charge, impoundment fees, rabies fees and any other costs, which amount of money shall be returned to the owner if there is an administrative or judicial decision ultimately in favor of the owner.

(d) *Ownership rights to be terminated.* If there is no hearing requested within three (3) days of the seizure of the dog, and the dog is not reclaimed, then the ownership rights to the animal shall be terminated and upon the expiration of the three (3) days, the unit shall have the authority to dispose of the dog by adoption or by the humane destruction of the dog.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-49. Pet shops license; required.**

It shall be unlawful for any person to operate a pet shop in the city without possessing a valid pet

shop license. An application for a pet shop license shall be on a form provided by the city and shall state the name and address of the pet shop, its owner and operator. License fees shall be established by the city council for business privilege licenses. Licenses shall be available for inspection by the animal control unit.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-50. Kennel license; required; exceptions.**

(a) It shall be unlawful for any person to operate a kennel in the city without possessing a valid kennel license. An application for a kennel license shall be on a form provided by the city and shall state the name and address of the kennel, its owner and operator. License fees shall be established by the city council for business privilege licenses. Licenses shall be available for inspection by the animal control unit.

(b) Veterinary hospitals or clinics, research facilities where bona fide medical or related research (dental, veterinary, pharmaceutical or biological) is being conducted, properly zoned humane shelters, and other animal establishments operated by state or local governments or which are licensed by federal law are excluded from the kennel licensing requirements of this chapter.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

### **ARTICLE V. KEEPING OF ANIMALS IN GENERAL**

#### **Sec. 4-51. Keeping of animals.**

(a) It shall be unlawful for any person to own, keep, have, permit anyone to keep or maintain within the corporate city limits any hooved or cloven-hooved animals or other livestock as defined in section 4-2. "Definitions", or any chickens, turkeys, ducks, guineas, geese, pigeons, ostrich, emu or any other domestic fowl, or similar animal, without first receiving from the animal control unit a permit to do so unless such animal is located in an area that is zoned for the keeping of such animal, or to continue to have any of the same stated above after a permit has been denied.

(b) Cats and dogs. It shall be unlawful to own, keep, or maintain, or cause or permit anyone to keep or maintain within the corporate limits of the city more than two (2) cats or two (2) dogs, or one (1) cat and one (1) dog without first receiving from the animal control unit a permit to do so, or to continue to have any of the same stated above after a permit has been denied.

(c) Bees and venomous insects. It shall be unlawful to keep or maintain bees or other insects of the apoidea family including, but not limited to wasp, hornets, or yellow jackets.

- (1) *Exceptions.* The keeping of bees shall be allowed in areas zoned agricultural for the purpose of pollination of crops and the making of honey; provided that all "bee-hives", or houses, have visible signs at least fifty (50) feet from any approach warning of the presence of the bee hives. This exception shall not apply to aggressive bees commonly known as "African bees" or any strain or hybrid thereof.

(d) Applications for permit shall meet all the provisions of section 4-54, "Permits for keeping of animals," and in addition shall meet the following eight (8) requirements:

- (1) Noise from the animal(s) must not interfere with an abutting occupant's use and peaceful enjoyment of the property.
- (2) All pens, housing or enclosures shall be kept clean, sanitary and free from the accumulation of animal excrement and objectionable odors. It shall be cleaned daily, and all droppings and body excretion shall be placed in a fly-proof container and double-bagged in plastic bags for disposal.
- (3) Every keeper of animals shall ensure that feed be stored and kept in a rat-proof and fly-tight building, box or receptacle.
- (4) All permit applicants shall meet all the provisions of section 4-39, "Rabies inoculation." Evidence that the animal(s) do not pose any health problem or disease exposure for abutting occupants shall be required. Flea and tick control shall be provided by the applicant and/or permit

holder as needed to prevent the egress onto abutting property. Failure to provide flea and tick control as directed by the animal control supervisor shall be cause for permit denial, revocation or nonrenewal. The animal control supervisor may request the assistance of the superintendent of environmental services to determine and document that a flea or tick infestation exists or has been eliminated.

- (5) All animal runs or other animal-related structures or combination thereof shall not be permitted unless the structures are screened from view of an abutting occupant's property in a residentially zoned district. All buildings or structures shall meet the requirements of the building code of the inspections unit.
- (6) All permit applicants shall provide evidence that all provisions of section 4-48, "License, fees," have been complied with.
- (7) All permits for hooved or cloven-hooved animals or other livestock as defined in section 4-2, "Definitions", or any chickens, turkeys, ducks, guineas, geese, pigeons, ostrich, emu or any other domestic fowl shall require that abutting occupants or property owners shall be notified of the pending application, by a form containing language approved by the animal control unit, by the permittee. This form shall notify the adjoining property owner's, or tenant's, of their right to express objection of the issuance of a permit to the permittee by the animal control unit. Proof of notification shall accompany the permit application and shall consist of a certified receipt from the U. S. Post Office showing delivery or attempted delivery of the notification form, or a signature and date, of any person personally receiving such notification form.
- (8) All permit applicants for livestock, hooved, or cloven-hooved animals, as defined in section 4-2 definitions, or fowl that crow, honk, quack, or cock, shall include documentation from the city verifying that the property to house or serve as a stable for

the animals to be permitted is zoned agricultural. No such livestock, hoofed, or cloven-hoofed animal or fowl that crows, honks, quacks or cocks shall be permitted in an area not zoned agricultural.

(e) Exceptions: The provisions of this section shall not apply to the following:

- (1) Animal and fowl slaughterhouses licensed by appropriate county or state authorities;
- (2) Animals and fowl in veterinary hospitals under the direct personal supervision of a licensed veterinarian;
- (3) Baby fowl and animals transported into or kept within the city for selling purposes by licensed retail stores;
- (4) Animals or fowl kept at hospital or scientific institutions for scientific purposes or other appropriately certified and recognized academic institutions, museums, rap-tor center, etc;
- (5) Animals at licensed sale barns not kept for a period longer than forty-eight (48) hours;
- (6) Animals and fowl kept at any city park, city lake, a public zoo, or animal shelter under city supervision or other governmental authority;
- (7) Baby animals during the nursing period until weaned.
- (8) Any agricultural operation within N.C.G.S. § 106-700, "Nuisance Liability of Agricultural Operation," and zoned for agricultural use only.
- (9) Any humane organization or animal rescue operation so recognized by the unit that files a permit requesting to harbor animals at specific addresses for not more than thirty (30) days for the sole purpose of rendering aid or seeking adoption for animals may harbor a number of animals, as set by the unit on an approved permit. There will be no charge for a permit if applied for under this exception.

(f) The animal control supervisor is authorized to issue additional requirements, stipulations or conditions to insure that the animals(s) do not interfere with the peaceful use and enjoyment of the occupants of abutting property. These conditions shall be stated in writing to the applicant.

(g) Appeals. All appeals for applications under this section shall be conducted as specified in section 4-74 of this section.

(h) It shall be unlawful for any permit holder as provided for in this section to violate any provision of this chapter. All permit holders shall be subject to any provision in this chapter and it shall be the responsibility of said permit holders to comply with any directives from the animal control supervisor regarding these provisions. Failure for a permit holder to comply with the provisions of this chapter shall subject the permit holder to any citation and/or criminal prosecution as deemed necessary.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-52. Provisions for enclosures and appurtenances.**

An owner or possessor of any animals or fowl requiring a permit as described in this chapter shall comply with following applicable provisions before a permit is issued:

- (a) *Fowl and other specifically identified animals:* Chickens, turkeys, ducks, guineas, geese, pheasants, quail, ostrich, emu, or other domestic fowl:
  - (1) Such animals must be confined in a coop, fowl house not less than eighteen (18) inches in height. The fowl must be kept within the coop or fowl house at all times. Ostrich and emu shall be allowed to openly leave the fowl house into a fenced-in area, that encompasses the area required in subsection 4-52(a)(7), that is adequate to prevent their escape and/or injury. A fowl house for ostrich or emu must not be less than ninety-six (96) inches in height.

- (2) The coop or fowl house must be used for fowl only and must be well ventilated.
  - (3) The coop or fowl house shall have a minimum of four (4) square feet of floor area for each fowl. Two (2) square feet shall be allowed for each quail. Twenty (20) square feet shall be allowed for each emu or ostrich.
  - (4) The run must be well drained so there is no accumulation of moisture.
  - (5) The coop or fowl house shall be kept clean, sanitary and free from the accumulation of animal excrement and objectionable odors. It shall be cleaned daily, and all droppings and body excretion shall be placed in a fly-proof container and double-bagged in plastic bags for disposal.
  - (6) The coop or fowl house shall be a minimum of twenty-five (25) feet from any property line. All structures or combination thereof shall not be permitted unless the structures are screened from view of an abutting occupant's property in a residentially zoned district. All construction shall meet all building code requirements of the inspections unit.
  - (7) No more than twenty (20) such fowl shall be kept or maintained per acre. The number of fowl shall be proportionate to the acreage. Example: One-half ( $\frac{1}{2}$ ) acre lot will equal ten (10) (such animals).
- (b) *Pigeons.* Pigeon coops shall meet the conditions as stated in subsection 4-52(a) and shall be allowed to fly to and from the premises. Sanitary conditions must be maintained at all times.
  - (c) *Hoofed or cloven-hoofed animals.* Hoofed or cloven-hoofed animals, equines and other livestock:
    - (1) Such animals must be provided with adequate shelter to protect them from the elements. All shelters, stables or structures used for housing cows, horses and other large livestock shall comply with the zoning ordinances and shall be constructed and maintained in conformity with the requirements of the inspections unit of the city.
    - (2) The shelters for cows, horse and other large livestock shall be kept at a minimum of seventy-five (75) feet from any property line. The shelter for goats, sheep and other small livestock shall be kept at a minimum of twenty-five (25) feet from any property line.
    - (3) The shelter shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odors. Shelters shall be cleaned daily to prevent accumulation, runoff or leachate of such wastes. In addition:
      - a. Manure in which flies breed or are likely to breed is hereby declared to be a nuisance and detrimental to public health. The natural presence of fly larvae in manure shall be evidence that flies are breeding there.
      - b. All manure shall be removed from all stables and premises at least once a week, and at all times stables and premises shall be kept in such condition as not to become a nuisance by the breeding of flies or a menace to public health, and the escape of any disagreeable odor therefore shall be prevented so far as possible.
      - c. The word "stable" as used in this section, shall be taken to mean any building or part of any building in the city used or intended to be used for housing one (1) or more cows, horses, or other large livestock. The word

"premises" shall be taken to mean the land used in connection with any stable.

- (4) Cows, horses and other large livestock shall have a minimum pasture area of two (2) acres for each animal. Each goat, sheep or other small livestock shall have a minimum pasture area of one-fourth ( $\frac{1}{4}$ ) acre. All pasture and animal storage areas shall be enclosed with fences or walls of a minimum of four (4) feet six (6) inches in height. The design of these enclosures shall be shown on drawings submitted with the permit application.
  - (5) Cows, horses and other large livestock, goats, sheep or other small livestock are prohibited in any area of the city except those areas zoned for agricultural purposes by the zoning ordinance.
  - (6) The owners of all permitted livestock shall meet all requirements of county health departments or the North Carolina Department of Agriculture regarding the health, maintenance and keeping of livestock.
- (d) *Keeping of swine prohibited.* It shall be unlawful for any person to keep or maintain any hogs, pigs, or any member of the Suidae family within the corporate limits of the city on any residential or business zoned property. Exception of this section will only include property that is zoned for agricultural purposes by the zoning ordinance with the following requirements:
- (1) All pens, fenced pastures, or housing for swine shall be located at a minimum distance of five hundred (500) feet from any abutting property line.
  - (2) The pens or housing shall be of sufficient size and construction to properly house or contain the number of animals being maintained.
  - (3) Written notification shall be provided to residents and owners of any dwelling within five hundred (500) feet of the nearest fence line surrounding any pen or pasture that keeps swine.
- (4) The animal control supervisor shall approve all maintenance, care and security of the animals.
- (5) The owner of such animals shall meet all standards established by county health departments or the North Carolina Department of Agriculture regarding the health, maintenance or keeping of swine.
- (6) Exceptions for Vietnamese potbellied pigs being kept as pets. Nothing in this section shall prohibit a person from applying for a permit under section 4-54, "Permits for keeping animals" of this article to keep, as a pet, a Vietnamese potbellied pig. All applications for permit shall meet all the provisions of subsection 4-51(f)(1)-(7) and section 4-54, "Permits for keeping of animals." The number of Vietnamese potbellied pigs that may be kept shall be determined by the animal control supervisor but shall not exceed two (2) under this exception.
- (e) *Wild or exotic.* The unit shall inspect the premises where any wild animals, "Wild or exotic animals," are kept to determine if the animal may be kept or maintained without presenting a concern about the health, safety, noise, odor or enjoyment of any persons or property. The unit shall require that any wild animal be caged or secured or make any additional rules regulating the keeping of wild or exotic animals. The section only applies to wild or exotic animals as regulated in subsection 4-52(b), "Wild or exotic animals; exceptions."
- (f) *Annexation.* Newly annexed have ninety (90) days from the effective date of annexation to bring their property into compli-

ance and to have obtained necessary permits or permission required by this section. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-53. Wild or exotic animals.**

(a) *Unlawful act.* It shall be unlawful for any person, firm or corporation to keep, maintain, possess or have under their control within the city, a venomous reptile or any other wild or exotic animal. The prohibition of venomous reptiles and wild and exotic animals is primarily based upon the concern to protect the health, safety and welfare of the citizens of Rocky Mount.

(b) *Exceptions.* The provisions of this section shall not apply to lawfully operated zoological gardens, scientific research laboratories, circuses, veterinarians harboring such animals for purposes of providing professional medical treatment or wildlife rehabilitators with proper licenses or permits, provided that the animals are maintained in quarters so constructed and maintained to prevent escape.

(c) *Compliance with state and federal regulations and safe confinement.* Any permitted or exempt animals as described in subsections (a) through (d) above must meet the regulations promulgated by the North Carolina Wildlife Commission, the North Carolina Department of Agriculture, the minimum standards under the United States Animal Welfare Act and all applicable rules promulgated by the United States Department of Agriculture.

(d) *Wild animals on public rights-of-way.* Animals described in this section shall not be allowed on any public street, sidewalk, or other public way, except in a fully enclosed cage or adequate structural restraint. The use of a leash, with or without muzzle, shall not be considered adequate restraint. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-54. Permits for keeping animals.**

(a) *Permit application.* Any person wishing to keep or maintain any animal or animals which may not be lawfully kept or maintained without a permit shall complete an application on a form supplied by the animal control unit and submit

the same along with a nonrefundable application fee, in an amount set in the City of Rocky Mount Administration Policy, Scheduling of Fees, No. X.6.1, to the animal control supervisor within the police department. The applicant shall provide an address for the service of any notices under this section and it shall be the duty of the applicant to advise the city of any change in this address. The application shall list all such animals and/or fowl to be kept on the premises.

(b) *Issuance of permit.* Before a permit is issued, an employee of the animal control unit shall ensure the animal to be permitted will meet the requirements of Article V, section 4-51, "Keeping of animals." The unit will also inspect the premises to determine if the keeping of the animals or fowl on the premises will meet the criteria of section 4-52, "Provisions for enclosures and appurtenances." The unit will additionally inspect the premises before issuing the permit to see if the animal would endanger or is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance as defined in section 4-2, "Definitions," and/or section 4-22, "Nuisance," to nearby residents or occupants or places of business. In addition, the inspection shall determine that the keeping of such animal or animals and the pens, stalls, stables, yards, shelters, cages, areas, places and premises where they are held or kept will not be detrimental to the public health by creating or causing conditions or situations conducive to the breeding or attracting of flies, mosquitoes or other injurious or obnoxious insects or vermin, to the breeding, attracting, feeding or harboring of rats, or to the giving rise to offensive odors and smells, the ponding of water, the accumulation of manure, garbage, refuse or other noxious material, or any such condition that may endanger the public health or constitutes a public health nuisance. The animal control supervisor may request the assistance of the community code enforcement supervisor in establishing a public health nuisance and the abatement thereof.

(1) Any permit issued under this section shall be valid for a specified period of time not to exceed twelve (12) months from the date of issue and may be renewed for a period of twelve (12) months upon pay-

ment of an amount set in the City of Rocky Mount Administration Policy, Scheduling of Fees, No. X.6.1, unless the animal control supervisor determines that the permit should not be renewed for failure to meet one (1) of the requirements specified in subsection 4-51(f).

(c) *Denial, revocation or nonrenewal.* The animal control supervisor shall deny the issuance of or, revoke or refuse to renew an existing permit to any applicant or permit holder who, with regard to his application for, or permitted animal or animals, has violated or permitted the violation of any condition of his application or permit, has created or permitted the creation of a public nuisance as defined in section 4-2, "Definitions," or has violated or permitted the violation of any other section of this chapter, regardless of whether the violation is corrected or such public nuisance abated.

(d) *Notice of denial, revocation or nonrenewal.*

- (1) Upon the determination that an application is subject to denial or a permit is subject to revocation or nonrenewal as provided in subsection 4-54(c), "Denial, revocation or nonrenewal," the animal control supervisor shall notify the applicant or permit holder that his application has been denied or his permit has been revoked or will not be renewed and shall advise him that he may appeal under section 4-74, "Right of appeal," of this chapter within ten (10) days from the service of the notice. The notice shall further advise the applicant the reason for denial or the permit holder the reason for the revocation or nonrenewal.
- (2) The unit may revoke any permit when the permit has been mistakenly issued without compliance with the provisions of this section; or when the applicant has submitted false information; or for a violation of any provisions of this chapter; or, when, in the opinion of the animal control supervisor, the health, safety or welfare of any person or property is menaced by the keeping of such animals; or when the animal becomes a nuisance.

(e) *Right of appeal.* All appeals from a denial of issuance of a permit or other remedies as set forth under this specific section may be requested as prescribed in section 4-74.

(f) *Service of notices.* All notices made or given under this section shall be served upon the owner or keeper of the animal in question either personally or by certified mail, return receipt requested, at the address shown on the permit application. If service is by certified mail, return receipt requested, service shall be complete on the date that the notice was deposited with the United States Postal Service.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Secs. 4-55—4-60. Reserved.**

## ARTICLE VI. IMPOUNDMENT AND RECLAMATION

### Sec. 4-61. Authorization for capture and impoundment.

(a) Subject to the provisions of this chapter, it shall be the duty of the animal control officers or police officers to capture, take or seize and impound within the city animal shelter or other appropriate location any animal in the following categories in violation of any provision of this chapter or in violation of any state law relating to animals:

- (1) Any animal domesticated or non-domesticated, other than dogs, may be impounded when found at large, or determined to be dangerous, creating a disturbance, maltreated or when constituting a public nuisance.
- (2) Any dog found at large shall be impounded. In addition, a dog may be impounded if found to constitute a public nuisance or if found to be in violation of the provisions of this chapter requiring inoculation, registration, permitting, licensing and tagging.
- (3) Wild or exotic animals kept in violation of section 4-52, "Wild or exotic animals."
- (4) Animals which were being transported by a person involved in a vehicular accident

when such person becomes unable to care for or maintain control over the animal as a result of the accident and there is no responsible person to take possession of the animal.

- (5) Animals which appear to have been left uncared for as a result of the death, injury, arrest, detention or other incapacitation of the owner or keeper.
- (6) The animal control supervisor shall be responsible upon receipt of such animal to make a complete registry, entering breed, color and sex of such animal.

(b) Such officers may utilize a tranquilizer dart if necessary in order to capture an animal which appears to be dangerous or destroy such animal if necessary to avoid physical harm to human beings.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-62. Notice of impoundment.**

The animal control unit shall make a prompt and reasonable effort to notify the owner of the impoundment of an animal with an identification tag or by means of other identification, providing directions for redemption procedures.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-63. Minimum time for impoundment of unclaimed animals.**

If the owner is unknown or cannot be located, notice of such impoundment shall be posted for three (3) days, or until disposition of the animal takes place, on a bulletin board at the animal shelter. The notice shall state the time and place of the taking of such animal, together with the time and date of the posting of notice. Exception to this section will be euthanasia of an animal when deemed necessary or appropriate by a veterinarian advising animal control personnel.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-64. Summary destruction of animals for humane reasons.**

When, in the judgment of the animal control supervisor, it is determined that any impounded animal should be destroyed for humane reasons,

or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitations otherwise established herein.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-65. Redemption procedures.**

(a) The owner or keeper of any animal impounded under the provisions of this chapter shall have the right to redeem any such animal within the three-day holding period, upon the payment of all fees and charges incurred against the animal, upon furnishing proof of ownership, upon compliance with appropriate county registration, applicable permits and/or licensing provisions, and upon compliance with inoculation requirements within two (2) weekdays of redemption. No impounded animal shall be released until all fees incurred are paid.

(b) Failure to reclaim an animal as set forth in this chapter shall not relieve the person owning or having charge, care, custody or control of the subject animal of the responsibility for all fees and costs incurred for the impoundment, maintenance and/or disposition thereof.

(c) Any animal impounded which appears to be suffering from rabies or if affected with rabies shall not be redeemed or adopted but shall be kept for ten (10) days under observation securely penned and separated from other animals. Thereafter, if the animal control officer or practicing veterinarian determines that the animal is affected with such disease, such animal shall be destroyed in a humane manner. Otherwise, it shall be subject to redemption or adoption as herein above provided. Any animal which is suffering any infectious, contagious or dangerous disease shall not be adopted but may be redeemed by the owner to provide proper treatment for such animal.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-66. Impoundment and redemption fees.**

(a) A charge shall be made for the redemption of any animal impounded pursuant to the provisions of this article; and an additional amount shall be charged for the feeding and sheltering of

such animal for each day it is in confinement. If an impounded animal is not redeemed by its owner within the time period prescribed in section 4-63, "Minimum time for impoundment of unclaimed animals," the animal may be adopted. The city council shall set fees for impoundment, redemption, feeding and adoption in the City of Rocky Mount Administration Policy, Scheduling of Fees, No. X.6.1. and may adjust them as needed.

(b) Redemption fees for impounded animals which have been previously impounded and that are not subject to escalating civil penalties shall be as follows:

- (1) Once previously impounded: city council impoundment fees plus a ten dollar (\$10.00) penalty.
- (2) Impounded twice within six-month period: city council impoundment fees plus a twenty-five dollar (\$25.00) penalty.
- (3) Impounded three (3) times within a six-month period: city council impoundment fees plus a fifty dollar (\$50.00) penalty. A third violation shall automatically cause the animal control supervisor to initiate a nuisance investigation.
- (4) Impounded more than three (3) time within a six-month period: city council impoundment fees plus one hundred dollar (\$100.00) penalty and the owner shall remove the animal from with the city limits indefinitely.
- (5) No fees shall be charged or collected for or on account of any animal which has been unlawfully taken up or impounded, and any such animal shall be immediately delivered upon demand of the owner or person entitled to the custody thereof after a proper determination has been made.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-67. Disposition of unredeemed animals.**

(a) If an impounded animal is not redeemed by the owner within the period prescribed in section 4-63, it shall be deemed abandoned and may be destroyed in a humane manner or shall become

the property of the animal control unit and offered for adoption to any responsible adult who complies with the provisions of this chapter. Such animal may be adopted by the first such person who pays the adoption fee and rabies fee as set in the City of Rocky Mount Administration Policy, Scheduling of Fees, No. X.6.1.

(b) The animal control unit shall require that all dogs and cats released from the animal shelter be spayed or neutered and microchipped. A written agreement from the adopter shall be executed prior to release of the animal guaranteeing that such animal will be sterilized and microchipped within a certain period of time after the date of release. It shall be unlawful for the adopter to violate the terms of such written agreement. All costs incurred for the sterilization and microchipping of the animal shall be the responsibility of the adopting person.

(c) No animal which has been impounded as a stray or is unclaimed by its owner shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine except by special authorization of the chief of police and the county health director.

(d) No employee of the unit shall directly or indirectly adopt any animal impounded by the unit without written permission of the chief of police and the written understanding that the employee must maintain the animal for a period of at least one (1) year.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

#### **Sec. 4-68. Impoundment records.**

A record of each animal impounded shall be kept showing the date of receipt of the animal, the date and manner of its disposition and, if redeemed or adopted, the name of the person by whom redeemed, reclaimed or adopted, the address of such person and the amounts of fees received or collected because of the impounding, reclaiming or adoption thereof, together with the number of the license tag and the date of the license exhibited or issued upon redemption or adoption of any such animal. It shall be unlawful

for any person redeeming, reclaiming or adoption an animal from the unit to give false or fictitious names and addresses for the unit records.  
(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-69. Citation of owner or keeper in lieu of impoundment.**

The police department shall have the authority to issue citations to any owner or keeper of any animal that could be impounded for any violation of any section of this article as provided for in section 4-71, "Enforcement," and section 4-72, "Notice of violation, citation of owner or keeper in lieu of impoundment."

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-70. Reserved.**

**ARTICLE VII. FEES, PENALTIES, AND APPEALS**

**Sec. 4-71. Enforcement.**

The vigorous and effective enforcement of the provisions of this chapter require the following to accomplish the objectives and goals of the unit:

- (a) Proper registration of dogs for tax purposes and a current rabies inoculation tag is vital for public health, for the ability of the unit to carry out its functions, for the protection of the owner and for the protection of the animal and, therefore, must be complied with. The owner of an animal, particularly a cat or dog, has a very serious obligation of ownership and a duty to citizens of Rocky Mount to comply with registering and rabies inoculation requirements.

- (1) The presence of a dog when off-premises in violation of section 4-25, "Run or running at large/restrain of animals," often creates substantial anxieties and concerns for people for safety and free movement; and, therefore, the owner has an obligation to the citizens of Rocky Mount for the effective confinement of one's cat or dog.

- (2) The possibility of a dog bite is a serious concern for citizens, neighborhoods and areas in Rocky Mount; and, therefore, owners have an obligation to prevent the creation of that apprehension and concern.

- (3) A dog owner has particular responsibility for being conscious of and sensitive to any possible dangers for children under the age of seven (7) years who, at that age, are unable to fully appreciate the possible danger present by a dog and a dog's reaction to a child under the age of seven (7).

- (4) The chief of police and/or his agents must have ample authority to impose preventive measures/confinement requirements, as provided for in section 4-38; must have the authority to seize animals, as provided for in section 4-61; and, if necessary, terminate ownership rights.

- (5) Escalating fee and other sanctions are measures that have been adopted to protect the citizens of Rocky Mount and to declare that the ownership of dogs and other permitted or unpermitted animals entails publicly related responsibilities.

- (b) When there is a violation of this chapter, the animal control unit, at its discretion, may take one (1) or more of the following courses of action:

(1) *Civil penalties:*

- a. Any violation of chapter 4, Animals, unless otherwise stated in the chapter shall be subject to civil penalties as provided in subsection (b)(1).

- b. Violations of section 4-25, "Run or running at large/restrain of animals:" The issuance of a citation for violation of Code section 4-25, "Run or running at large/restrain of animals," is directed toward and against the owner or keeper of an animal. The purpose of the issuance of

a citation pursuant to Code section 4-25, "Run or running at large/restrain of animals," is to affect the conduct of the owner or keeper of an animal by seeking to have an owner responsibly maintain a sufficient restraint and the confinement of the animal.

- c. Therefore, an owner or keeper of an animal shall be subject to escalating penalties for each violation of Code section 4-25 by the owner, whether the animal is the same animal, a different animal or various animals belonging to the owner. Each violation of Code section 4-25 shall subject the owner or keeper to an increased citation penalty as set in subsection 4-71(b)(1).
- d. Violations of section 4-51, "Keeping of animals", 4-52, "Provisions for enclosures and appurtenances", 4-53, "Wild and exotic animals", or 4-54, "Permits for keeping animals" An owner or keeper of an animal shall be subject to escalating penalties as set in subsection 4-71(b)(1) of this article, and for each violation of Code section 4-51, 4-52, 4-53 or 4-54 by the owner, whether the animal is the same animal, a different animal or various animals belonging to the owner. Each violation of Code section 4-51, 4-52, 4-53, or 4-54 shall subject the owner or keeper to an increased citation penalty as set in subsection 4-71(b)(1), the fencing or construction of a secure dog fence shall not apply to violations addressed in subsection 4-71(b)(2) unless the animal is a dog.
- e. Owner's or keeper's civil penalty;  
Escalating penalties:  
1st violation: Thirty-five dollars (\$35.00).

2nd violation: Seventy-five dollars (\$75.00).

3rd violation: One hundred twenty-five dollars (\$125.00), and a fence and animal must be spayed or neutered before returning to its home or place of residence.

4th violation: Two hundred dollars (\$200.00), and a secure dog fence must be installed.

5th violation: Five hundred dollars (\$500.00), and the seizure of the animal(s), or expulsion from the corporate city limits of Rocky Mount.

- f. Each twenty-four-hour period for violations of this chapter shall constitute a separate offense.
  - g. Option to spay or neuter in lieu of penalty: Any person whose animal is seized for a violation of the following sections may have their pet spay or neutered within thirty (30) days of the claiming of their animal from the animal control unit;  
Section 4-25, "Run or running at large/restrain of animals"  
Section 4-15, "Animal bite"  
Section 4-47, "Confinement of females dogs in heat"  
Section 4-38, "Preventive measures/confinement requirements"
- (2) *Criminal misdemeanor*: Any person violating any of the provisions of this chapter may be charged with a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail for a period not to exceed six (6) months, or by both such fine and imprisonment. Each violation of any of the provisions of this chapter shall be considered a separate offense for each and every day during any por-

tion of which the violation is committed, continued or permitted by such person(s), and shall be punishable as such.

- (3) *Injunction:* The city may apply to the appropriate court for an injunction and order of abatement which would require that a violator correct any unlawful condition relating to this chapter existing on his or her property.
- (4) *Exception:* Nothing in this chapter shall be construed to prevent law enforcement authority of any kind from enforcing any or all provisions of this chapter or from exercising their authority as law enforcement officers.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-72. Notice of violation, citing of owner or keeper in lieu of impoundment.**

(a) *Authorized.* In lieu of impoundment, the animal control officers are hereby empowered to issue civil citations to any person if there is reason to believe that the person has violated any provision of this chapter.

(b) *Delivery, contents.* These citations may be delivered in person to the violator; or if the violator cannot be readily found, the citation shall be mailed by certified mail, return receipt requested, to the person so charged at his last known address. The citation shall direct the violator to pay a specified penalty, under section 4-71, for a noted violation within seventy-two (72) hours of receipt of such citation either in person or by certified mail delivery. This citation shall include instructions for the payment of any penalty.

(c) *Civil penalty.* Any person, owner or keeper of any cat, dog or any animal to whom a citation is issued shall pay to the animal control supervisor of the city a civil penalty in the amount subject to the fee schedule in subsection 4-71(b)(1), enforcement.

(d) *Delinquency charge, warning notice upon failure to respond.* If the violator does not pay the designated civil penalty in response to the citation on or before the seventy-two (72) hours specified in the citation, he shall have a delinquency charge added per day to the amount shown on the citation until paid; and a notice shall be mailed informing him of the violation and warning him that if he does not appear within ten (10) days from the date of the mailing of the notice, a complaint against him will be filed. (Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-73. Negligence per se.**

There is hereby imposed a public duty upon any person(s) having possession of an animal to prevent that animal from attacking another person in violation of Code section 4-38, "Preventive measures/confinement requirements," the failure to comply with instructions to impose preventive measures/confinement requirements for the confinement of dogs; of section 4-25, "Run at large/restrain of animals," or of section 4-36, "Aggression-trained dogs". Such persons having possession of animals have imposed upon them a public duty to protect the safety of other persons; and a violation of any of those provisions is negligence per se and shall subject such person(s) damages for personal injuries in a civil action by an injured person against the person owning or having possession, charge, custody or control of the animals causing said injuries.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)

**Sec. 4-74. Appeals.**

All appeals of any decision appealable under this chapter shall follow the following procedures with the exception of section 4-18, "Dangerous dogs" which appeals process is noted in that section.

- (a) Appeals of decisions under this chapter shall be to the community appeals board established pursuant to section 11-18 of the City Code. The community appeals board shall perform the duties specified by this chapter and shall keep an accurate record of all its proceedings.

- (b) Within ten (10) days from the receipt of an order of abatement, order of specific preventive measures/confinement requirements, or the denial of a required permit the owner or keeper of the animal or animals in question may appeal the order or denial by notifying the chief of police in writing of their wish to appeal. The chief of police shall within ten (10) days of receipt for appeal arrange a location and time for a hearing. The designated animal control supervisor shall present whatever relevant evidence the supervisor has that supports the order or denial. The owner shall be entitled to present whatever relevant evidence the owner wishes and to have legal representation. All testimony before the chief of police shall be sworn testimony. The chief of police shall make written findings of fact and conclusions if the appellant alleges that the chief of police cannot be an impartial hearing officer for that particular case. The findings of fact must be supported by competent and material evidence in the record. Within ten (10) days from the date of appeal hearing the chief of police shall notify the appellant of his/her findings in writing and shall abolish, uphold, or modify the original order or denial. Such findings shall be sent by personal service or by certified mail, return receipt requested, at the owner's last known address as determined in the exercise of reasonable diligence.
- (c) Appeals. The owner/responsible party shall have the right to appeal the determination of the chief of police to the community appeals board within ten (10) days following receipt of notice. The determination of the chief of police shall be final in the absence of an appeal.
- (d) The community appeals board shall schedule a hearing no earlier than five (5) days and no later than thirty (30) days following receipt of the owner's notice of appeal. The owner shall be advised in writing of the date, time, and place of the hearing at least three (3) business days prior to the hearing.
- (e) The community appeals board shall hear sworn testimony and review such relevant evidence as the chief of police and the owner or his/her authorized representative wish to present concerning the appeal. The failure of the owner to appear shall constitute a waiver of the right to contest the determination of the chief of police. The appeals board shall render its written decision in a timely manner and may reverse or affirm, wholly or in part, or may modify the determination of the chief of police, and shall make any order, requirement, decision, or a determination that in its opinion should have been made. The ruling by the community appeals board shall be final.
- (f) Redemption in animal seizure and impoundment cases. If the chief of police orders a public nuisance animal or animals be impounded rather than humanely destroyed, the animal may be redeemed pursuant to the provisions of Article V, "Impoundment and Reclamation" of this chapter prior to its destruction, but only upon the condition that the owner or keeper executes a written agreement to abate the public nuisance and, if deemed necessary by the chief of police, post a cash bond, surety bond, letter of credit, or other security in such amount as the chief of police deems necessary to secure the performance of the written agreement.

(Ord. No. O-2014-13, § 1(Exh. A), 3-24-14)