

## Chapter 6

### **ANIMALS\***

#### **Article I. In General**

- Sec. 6-1. Purpose.
- Sec. 6-2. Jurisdiction.
- Sec. 6-3. Definitions.
- Secs. 6-4—6-24. Reserved.

#### **Article II. Administration and Enforcement**

- Sec. 6-25. Animal control unit.
- Sec. 6-26. Administration of unit.
- Sec. 6-27. General responsibilities of unit; personal liability of municipal officers, agents, employees.
- Sec. 6-28. Inspection, interference or concealment.
- Secs. 6-29—6-59. Reserved.

#### **Article III. Violations**

- Sec. 6-60. Bird sanctuary.
- Sec. 6-61. Abandoned animals.
- Sec. 6-62. Chickens, ducklings, rabbits banned from sale; livestock, domestic fowl generally prohibited.
- Sec. 6-63. Exotic or wild animals.
- Sec. 6-64. Defecation on streets and private property.
- Sec. 6-65. Domestic animals at large.
- Sec. 6-66. Confinement of female dogs and cats in estrus.
- Sec. 6-67. Animal abuse prohibited.
- Sec. 6-68. Notification of injury to animal.
- Sec. 6-69. Animal bite; notification.
- Sec. 6-70. Dangerous dogs.
- Sec. 6-71. Nuisance animals.
- Sec. 6-71a. Nuisance bees.
- Sec. 6-72. Lazy Daze, Spring Daze, July 4th Celebration at Regency Park and other designated special events; animals prohibited.
- Sec. 6-73. Rabies inoculation tags.
- Secs. 6-74—6-104. Reserved.

---

\***State law references**—Municipal regulations as to animals, G.S. 160A-182, 160A-186 et seq.; protection of animals, G.S. Ch. 19A; rabies, G.S. 130A-184 et seq.; animal shelters, G.S. 160A-493; animal taxes, G.S. 160A-212; cruelty to animals, G.S. 14-360 et seq.

## CARY CODE OF ORDINANCES

### **Article IV. Licensing**

- Sec. 6-105. License for cats and dogs required; exceptions.
- Sec. 6-106. License tax deemed a debt to town.
- Sec. 6-107. Refusal to issue license when applicant in violation of law.
- Sec. 6-108. Notice of and appeals from decision.
- Sec. 6-109. Unauthorized use of license receipts, tags or inoculation certificates.
- Secs. 6-110—6-131. Reserved.

### **Article V. Enforcement, Seizure and Impoundment**

- Sec. 6-132. Enforcement.
- Sec. 6-133. Citations.
- Sec. 6-134. Seizure and impoundment.
- Sec. 6-135. Periods of impoundment.
- Sec. 6-136. Redemption of impounded animal.
- Sec. 6-137. Disposition of unredeemed animals.
- Sec. 6-138. Summary destruction of animals for humane reasons; summary destruction of animals that cannot be seized by reasonable means.
- Sec. 6-139. Appeals.
- Sec. 6-140. Exemptions.
- Sec. 6-141. Notice.

**ARTICLE I. IN GENERAL****Sec. 6-1. Purpose.**

Pursuant to authority granted by the North Carolina general assembly, 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 enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; and to carry out any other lawful duties authorized by state laws and applicable ordinances.

(Code 1982, § 4-1; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-2. Jurisdiction.**

This chapter applies within the corporate limits of the town of Cary.

(Code 1982, § 4-2; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-3. Definitions.**

For the purposes of this chapter, the following words and phrases are defined and shall be construed as set out below, unless it is apparent from the context that a different meaning is intended:

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

*Adequate feed* means the provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a sanitized receptacle, dish, or container.

*Adequate shelter* means an enclosure sufficient to provide shelter from extremes of weather and a means to remain cool, dry and comfortable. Adequate shelter should consist of at least three solid sides, a roof and a floor with bedding be ventilated and have sufficient room for an animal to move about freely and lie down comfortably.

*Adequate water* means the provision of, or ready access to, a supply of clean, fresh, potable water provided in a sanitary manner 24 hours a day.

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

*Animal control officer* or *officer* means persons charged by the town with enforcing all sections of this chapter and applicable state laws.

*Animal control shelter* means any holding or other facility designated by the town manager, or designee, for the detention of animals.

*Animal under restraint or under restraint* means any animal confined within a vehicle; any animal confined, by means of a secure enclosure or an electronic enclosure, within the real property limits of its owner; or any animal secured by leash or lead, cage, bridle or similar physical restraint sufficient to allow the animal to be controlled. Electronic leashes or training collars do not constitute restraint.

*At large* means any animal found off of the property of its owner and not under restraint or any animal previously determined to be dangerous or potentially dangerous that is not under restraint when off the property of its owner, or is not confined to a secure enclosure while on the property of its owner. Any animal off the owner's property and on an electronic leash or training collar shall be considered at large.

*Bees* means all life-stages of the honey-producing insects of the genus *Apis mellifera* that are kept, and manipulated, and managed for commercial or non-commercial purposes.

*Bite* means the act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

*Cats* means domestic felines.

*Chicken* means any of the common domestic birds or fowl of the species *Gallus gallus domesticus* whose eggs or flesh are used for food. Also referred to as "poultry." The female bird is called a "hen."

*Dangerous animal* means any animal (other than a dog) whose behavior creates a reasonable risk of injury to a human or animal or damage to personal or real property. This behavior includes, but is not limited to, an animal's biting or attacking or attempting to bite or attack a human or other animal, provided however, this definition shall not apply to any animal that has been subject to provocation nor shall it apply to any animal responding to a trespass, as trespass is defined in this chapter, upon the animal owner's premises, if the victim is the trespasser.

*Dog* means domestic canines.

*Domestic animal* means those species of animals that normally and customarily share human habitat in Wake County and are normally dependent on humans for food and shelter in Wake County, such as, but not limited to cats, dogs, cattle, horses, swine, domestic fowl, sheep and goats.

*Domestic fowl* shall include, but not be limited to, turkeys, geese, chickens, peacocks, guinea fowl, ratites, or ducks.

*Electronic enclosure* means underground electrical wire which, when used in connection with a pet collar or other device, keeps cats or dogs confined within the limits of the wire on private property. A sign that complies with the requirements of the Cary sign ordinance should be posted stating that an electronic fence is in use at the entrance to the driveway on the property.

*Exotic or wild animal* means any animal which is not usually and customarily kept as a pet or domestic animal. A hybrid of any such animal, regardless of genetic percentages, shall be deemed exotic or wild. Examples of exotic or wild animals include, but are 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 and raccoons. Included in this definition are venomous reptiles, large constricting snakes, alligators, or crocodilians.

*Ferret* means a domestic mammal of the genus, species, and subspecies *Mustela putorius furo*.

*Immediately* means at once, very close in time.

*Impoundment* means possession or seizure of an animal by the animal control unit for placement in the animal control shelter or other appropriate facility.

*In estrus* means a female animal in what is commonly called "heat".

*Inoculation* means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

*Kennel, dealer, or breeder* means any person, partnership or corporation engaged in buying, selling, breeding or boarding animals.

*Livestock* shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, alpacas, and swine.

*Nighttime* means the time each day from sunset until sunrise.

*Owner* means any person, group of persons, or any entity owning, keeping, harboring, possessing or acting as keeper or custodian of an animal for 72 hours or more, unless the animal is boarded for a fee at a duly licensed facility.

*Owner's property* means any real property owned or leased by the owner of the animal, but does not include any public right-of-way or a common area of a condominium, cluster home, apartment complex, or townhouse development, nor does it include the common area of a subdivision or other housing project. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on any common areas as described above, or on any other public areas shall be treated as being off of the owner's property.

*Person* means and includes any individual or any legal entity, including nonprofit corporations.

*Poisonous reptile* means any reptile, such as a snake or lizard, that has the capability of injecting humans or animals with venom which may cause death or physical injury.

*Provocation* does not include any actions on the part of an individual that pertain to reasonable efforts of self-defense, and provocation must be clearly established.

*Secure enclosure* means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. Neither a motor vehicle nor an electronic enclosure shall constitute a secure enclosure.

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

*Trespass* means that the victim has wrongfully invaded the property of the owner. The reason the individual is on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred. A child under the age of seven shall not be deemed to be a trespasser.

*Weekdays* means Monday through Friday, inclusive, excluding local, state and national legal holidays.

(Code 1982, § 4-3; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2008-Code-04, 10-16-2008; Ord. No. 2010-Code-08, 10-14-2010; Ord. No. 2012-Code-04, 8-23-2012; Ord. No. 2012-Code-06, 10-11-2012; Ord. No. 2016-Code-01, 2-25-2016)

**Secs. 6-4—6-24. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### **Sec. 6-25. Animal control unit.**

The police department is responsible for the enforcement of this chapter through its animal control unit (sometimes "unit"), and the nonsworn animal control officers employed therein, all of whom shall have all powers, responsibilities and immunities granted by law and this chapter, and as set forth in this chapter.

(Code 1982, § 4-4; Ord. No. 01-022, § 1, 11-8-2001)

### **Sec. 6-26. Administration of unit.**

(a) *Chief animal control officer.* The chief of police ("chief"), shall be the chief animal control officer charged with enforcing this chapter. The chief is authorized to initiate legal action to enforce this chapter. The chief may delegate any of the powers granted herein to any member of the animal control unit or the police department. Any act done by an animal control officer or a member of the police department that is within the scope of this chapter shall be considered the official act of the chief.

(b) *Animal control officers.* Animal control officers who have not taken or successfully completed the law enforcement education and training course as prescribed by the North Carolina Criminal Justice Education and Training Standards Commission, pursuant to G.S. 17C-8 are "nonsworn animal control officers". Nonsworn animal control officers are not authorized to carry on their person any firearms, but are authorized to store at the animal control unit offices, or carry in departmental vehicles, firearms approved for use when necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Nonsworn animal control officers are authorized to store drugs, chemicals and equipment at the animal control unit offices as necessary to enforce the provisions of this chapter or other applicable law for the control of wild, vicious, dangerous or diseased animals. Nonsworn animal control officers shall not have the power of arrest, but shall have all rights, powers and immunities as described in this chapter. As nonsworn members of the unit only have that limited authority described in this chapter, a member shall not be considered a "policeman" for purposes of this Code relating to the policemen's and firemen's special relief fund, and shall not be eligible for benefits thereunder.

(c) Badges. Each member of the unit, while in the performance of duties, shall wear a badge of a size and design to be determined by the chief.  
(Code 1982, § 4-5; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-27. General responsibilities of unit; personal liability of municipal officers, agents, employees.**

- (a) *Duties of unit.* The animal control unit is charged with the following:
- (1) Enforcing and carrying out within the town the provisions of this chapter, any other ordinance assigning animal control duties, and all relevant state laws, and cooperating with the Wake County health department and other law enforcement agencies in so doing;
  - (2) Canvassing the town, including dwellings, businesses and institutions in the town as necessary and practical, for the purpose of ascertaining that all dogs and cats in the town are duly licensed and adequately inoculated against rabies, and for the purpose of ascertaining compliance with this chapter and state statutes. In addition, employees may scan the animal and utilize any information that may be available through a microchip to locate the owner of the animal, if possible.
  - (3) Investigating complaints with regard to animals or bees covered by this chapter and protecting animals from cruelty or abuse;
  - (4) Coordinating with the town finance division in receiving applications for and issuing licenses for all dogs and cats;
  - (5) Seizing, relocating and/or impounding, when necessary, any animals or bees in the town involved in a violation of this chapter or any other ordinance or state law;
  - (6) Going upon private property, and seizing animals or bees on public or private property pursuant to the provisions of this chapter, state statute or with the consent of an owner or occupant of the property; as evidence; by criminal or administrative warrant; or by order of a court of competent jurisdiction of this state;
  - (7) Keeping, or causing to be kept, accurate records of seizures, relocations, impoundments, dangerous animals, disposition of animals or bees coming into the custody of the animal control unit, bite cases, violations, complaints, investigations and monies collected;
  - (8) Issuing citations and orders and assessing civil penalties for violations of this chapter and when authorized by law.

(b) *Limited liability.* Except as may be otherwise provided by statute or local law or ordinance, no officer, agent or employee of the town 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.  
(Code 1982, § 4-6; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2010-Code-08, 10-14-2010; Ord. No. 2012-Code-06, 10-11-2012)

**Sec. 6-28. Inspection, 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 animal control officer 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 animal control officer is 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 animal control officer shall first present credentials to the occupant and request entry, explaining the reasons therefor; or
- (2) If such property is unoccupied, the animal control officer shall first make a reasonable effort to locate the owner or other persons having control of the property, present proper credentials and request entry, explaining the reasons therefor; and
- (3) If 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 animal control officer 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 animal control officer shall have the authority to enter upon any land to enforce the provisions of this chapter, including the seizure of animals running at large, or other applicable law if a violation of such law is being committed in the presence of the officer and requires immediate action on the part of the officer to protect the health or safety of the animal or the public. In the case of animals at large, so long as the animal is within sight of the officer, this section shall not be interpreted to require that a warrant be obtained before seizing the animal.

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

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

(d) *Concealment of license, etc.* It shall be unlawful for any person to refuse to show proof of a license, permit or a rabies inoculation to any employee of the animal control unit upon request.

(e) *Unauthorized release.* It is unlawful for any person to seek to release, attempt to release, or to release any animal in the custody of the animal control unit, except as otherwise specifically provided in this chapter. An animal captured in a trap set by the animal control unit shall be deemed to be in the custody of animal control.

(Code 1982, § 4-7; Ord. No. 01-022, § 1, 11-8-2001)

**Secs. 6-29—6-59. Reserved.**



**ARTICLE III. VIOLATIONS****Sec. 6-60. Bird sanctuary.**

(a) *Town designated as sanctuary.* The area within the corporate limits of the town and all land owned or leased by the town outside the corporate limits is hereby designated as a bird sanctuary, as authorized by G.S. 160A-188.

(b) *Unlawful to trap, etc.* It shall be unlawful intentionally to trap, hunt, shoot, or otherwise kill, within the sanctuary hereby established, any native wild bird, except those birds classes as a pest under article 22A of chapter 113 of the General Statutes (G.S. 113-300.1 et seq.) and the Structural Pest Control Act of North Carolina of 1955 (G.S. 106-65.22 et seq.) or the North Carolina Pesticide Law of 1971 (G.S. 143-434 et seq.), pursuant to an appropriate permit issued by the North Carolina wildlife commission.

(Code 1982, § 4-8; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2010-Code-02, 3-10-2010)

**Sec. 6-61. Abandoned animals.**

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

(b) *Seizure.* If the animal control 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 from the person who occupies the property. If the person who occupies the property is the animal owner and cannot be located or refuses to give permission to remove the animal, the division shall secure an appropriate warrant to seize the animal.

(c) *Impoundment.* An animal seized pursuant to this section shall be impounded as provided in section 6-134. If the owner contacts the unit to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of the chief before the animal is returned to the owner. If the animal is unclaimed by its owner after being held for the minimum period specified in section 6-135, the animal shall be disposed of as provided in section 6-137.

(Code 1982, § 4-9; Ord. No. 01-022, § 1, 11-8-2001)

**State law reference**—Abandoned animals, G.S. 14-361.1.

**Sec. 6-62. Chickens, ducklings, rabbits banned from sale; livestock, domestic fowl generally prohibited.**

(a) *Chickens, ducklings, rabbits banned from sale.* It shall be unlawful for any person to sell or offer for sale, or permit to be sold or offered for sale, within the corporate limits of the town, baby chickens, baby ducklings, or baby rabbits less than six weeks of age; provided, this section shall not apply to hatcheries raising chickens or ducks expressly for the broiler market or for sale to farms.

(b) *Livestock and domestic fowl prohibited.* Livestock and domestic fowl of all descriptions are prohibited within the corporate limits of the town except: as expressly permitted as an accessory use in the Land Development Ordinance, Appendix A of the Town of Cary Code of Ordinances.

(c) *On-site slaughter of chickens prohibited.* It shall be unlawful for any person to slaughter chickens on any residential property in the town.

(Code 1982, § 4-10; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2012-Code-04, 8-23-2012)

**State law reference**—Disposing of living baby chicks or other fowl, or rabbits under eight weeks of age as pets or novelties, G.S. 14-363.1.

**Sec. 6-63. Exotic or wild animals.**

(a) *Notification.*

(1) For the purpose of this section "notify" means calling the animal control unit during normal business hours, or the police department during non-business hours, and speaking with a staff member.

(2) At least 24 hours prior to importing, locating or placing an exotic or wild animal within the corporate limits of the town, the owner of the animal shall notify the animal control unit or the police department. At the time of notification, the owner shall also provide copies of any required federal or state permits for the exotic or wild animal.

(3) Immediately (and in no event beyond one hour) following any of the following incidents involving an exotic or wild animal, the owner of the animal shall notify the animal control unit (or the police department) about the incident:

- a. An assault, attack or biting upon any human being committed by an exotic or wild animal;
- b. An attack or biting upon any domesticated animal or pet by an exotic or wild animal if the injured domesticated animal or pet is not also the property of the owner of the exotic or wild animal;
- c. The destruction of, or damage to, property of any other person committed by an exotic or wild animal;
- d. The roaming or escape of an exotic or wild animal that is required to be restrained or confined.

(b) *Permit required to own; confinement and control.* It shall be unlawful for any owner of any exotic or wild animal to keep or maintain any such animal within the town unless any required federal and/or state permits have been obtained and are currently valid for the time period and circumstances under which the exotic or wild animal will be maintained within the town, and the animal is:

- (1) Confined within a humane and secure enclosure, as approved by the animal control officer, in accordance with humane practices; or

- (2) Securely muzzled, if required, and under restraint by a competent person who, by means of a leash, chain, rope or other device suitable to adequately restrain the particular exotic or wild animal, has such animal firmly under control at all times.

(c) *Confiscation.* Any exotic or wild animal which is not properly restrained or secured as required by this section, or which has injured or endangered any person or property, or which does not have currently valid federal or state permits, may be confiscated by any animal control officer or police officer and kept and harbored at the expense of the owner determined to be in violation of this section.

(d) *Slaying of animal in certain circumstances.* Any exotic or wild animal which has escaped, is running at large, or is otherwise deemed to be a continuing threat to the public safety may be slain by any police officer or animal control officer if attempts to capture the animal are unsuccessful or if immediate capture is not practical or reasonably possible.

(e) *Penalty.* Notwithstanding any other provision of this chapter to the contrary, and in addition to confiscation of the animal as set forth above, violation of this section shall constitute a misdemeanor. A police officer or animal control officer may initiate the criminal process. (Code 1982, § 4-11; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2008-Code-04, 10-16-2008)

**Sec. 6-64. Defecation on streets and private property.**

(a) *Public property.* It shall be unlawful for the owner of any animal to fail or refuse to remove feces deposited by the animal on any street, sidewalk, park or other publicly-owned area.

(b) *Private property.* It shall be unlawful for the owner of any animal to fail or refuse to remove feces deposited by the animal on any private property. (Code 1982, § 4-12; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-65. Domestic animals at large.**

It is unlawful for the owner of any domestic animal to allow such animal to be at large in the town or on any town property except that dogs may be unleashed in approved, designated areas inside Town of Cary Dog Parks. (Code 1982, § 4-14; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 05-018, 12-15-2005; Ord. No. 2012-Code-04, 8-23-2012)



**Sec. 6-66. Confinement of female dogs and cats in estrus.**

Every female dog and cat, while in estrus, shall be confined in a building or secure enclosure in such manner that she will not be in contact with another dog or cat, as the case may be, 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.

(Code 1982, § 4-15; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-67. Animal abuse prohibited.**

(a) *Prohibited acts.* All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

- (1) Failing to provide adequate feed, water and shelter or failing to maintain the animal in a clean and healthy environment. All animals, unless otherwise indicated in this chapter, shall be given adequate feed, adequate water and adequate shelter. Outdoor enclosures should be no smaller than 100 square feet in area for each dog weighing less than 20 pounds. Each dog weighing 20 pounds or more should have an outdoor enclosure no smaller than 200 square feet in area. Examples of shelter that is not adequate include, but are not limited to the following:
  - a. Underneath houses, outdoor steps, decks or stoops, or underneath motor vehicles;
  - b. Inside metal barrels or cardboard boxes;
  - c. Shelters prone to flood;
  - d. Shelters surrounded by debris, obstructions or impediments that may endanger an animal;
  - e. Confinement of the animal in storage rooms, sheds or other buildings without windows and proper ventilation.
- (2) Failing to keep an animal under sanitary and humane conditions which are not detrimental to the animal's health and general welfare and which maintain a condition of good order and cleanliness and reduce the possibility of transmission of disease.
- (3) Failing or refusing to provide adequate medical attention for any sick, diseased or injured animal.
- (4) Engaging in animal cruelty; animal cruelty means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, and includes acts or attempted acts of beating, torturing, injuring, tormenting, mutilating, teasing, molesting, baiting, or harassing animals, the trapping of animals unlawfully, and overworking or overdriving animals. This shall not include the lawful taking of animals under the jurisdiction and regulation of the wildlife

resources commission, lawful activities of organizations or agencies conducting or sponsoring biomedical research or training, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal.

- (5) Promoting, staging, holding, managing, conducting, carrying on or attending any game, exhibition, contest, fight or combat between one or more animals or between animals and humans, or intentionally allowing animals to engage in a fight.
- (6) Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. Animal control shall have the authority to inspect and to close down public exhibits of animals including those which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the town if it is determined that animals are being cruelly treated or run the risk of causing injury to the public or themselves.
- (7) Poisoning, or exposing a domestic animal to any known poisonous substance or mixing a poisonous substance with food, so that it will likely be eaten by an animal. This does not include attempts or acts of persons to lawfully rid their own property of mice or rats or other vermin, nor does it include other acts permitted by the North Carolina wildlife department.
- (8) Allowing a collar, rope or chain to become embedded in or cause injury to an animal's neck, or allowing a choke or pinch collar to be used as a primary collar on an unsupervised animal.
- (9) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured, in an animal carrier or by a harness or other device, such that the animal cannot fall, jump, or be thrown from the vehicle.
- (10) Unless otherwise permitted by law, giving away or offering any animal as a prize, premium or advertising device for or as an inducement to enter any contest, game or other competition involving skill or chance.
- (11) Placing or confining an animal or allowing 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 drink, or such other conditions as may reasonably be expected to cause suffering, disability or death. If an animal is discovered in a motor vehicle under such conditions, the procedures specified in 6-134(d) should be followed.
- (12) Chaining or tethering (collectively, "tethering") an animal to a stationary object without a responsible person remaining outside with the animal while it is tethered. When tethering is allowed, the following are also prohibited:
  - a. Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the animal. A chain or tether should not be less than ten feet long. Using a chain or tether that exceeds ten percent of the animal's body weight shall be deemed not appropriate and potentially harmful.

(b) *Exceptions.* 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 the size and number of animals being transported. Nothing in this section shall be construed to prohibit the animal control 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. Nothing in this section shall be construed to regulate the standards of care for farm animals, as defined in G.S. 160A-203.1.

(c) *Inspections.* Animal control officers shall have the authority to conduct inspections of pet shops, kennels, dealers, or breeders, to the extent not preempted by state law, in order to determine if there is any abuse of animals. Pet shops, kennels, dealers, and breeders are subject to the state laws concerning rabies control 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 owner or employee of any pet shop or kennel or any dealers or breeders to violate this section. (Code 1982, § 4-16; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2012-Code-02, 4-19-2012; Ord. No. 2016-Code-01, 2-25-2016)

**State law reference**—Cruelty to animals, G.S. 14-360.

#### **Sec. 6-68. Notification of injury to animal.**

All persons who injure or kill a domestic animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately. If the owner is unknown or cannot be located, the person who injured or killed the animal shall immediately notify animal control or the police department by giving their name and address, a description of the animal and the location of the incident. (Code 1982, § 4-17; Ord. No. 01-022, § 1, 11-8-2001)

#### **Sec. 6-69. Animal bite; notification.**

(a) *Bites unlawful.* It shall be unlawful for an animal to bite a human being who does not ordinarily reside on the premises of the animal unless the animal has been subject to provocation, or unless the victim has been trespassing.

(b) *Reporting bite.* It shall be unlawful for a person to fail to report to animal control as soon as possible that an animal has bitten a person. It shall be unlawful for any person to fail to inform the animal control unit the location to which an animal that has bitten a human being has been taken if the owner has given the animal away, or caused in any way the animal to be taken from the owner's premises.

(c) *Confinement.* Any dog or cat that bites a person or that shows symptoms of rabies shall be confined immediately and quarantined, at the direction of the animal control unit, for a period of ten days, and shall not be released from such quarantine except by written permission from the animal control unit. Dogs and cats quarantined under this section shall be confined in a veterinary hospital, licensed boarding kennel or county animal shelter, at the expense of the owner, provided, however, that if an animal control officer determines that the owner of an animal which must be quarantined has adequate confinement facilities upon his own premises, the animal control officer may authorize the animal to be confined on such premises. In order to qualify for this "own premises" quarantine, the animal must be constantly confined in a secure enclosure and the animal must be currently

vaccinated against rabies and have a current license tag. If the animal is confined on the owner's premises, the animal control officer shall visit the premises for inspection purposes at times determined by the officer, but no less than once in the middle of the confinement and once at the end of the confinement.

(d) *Failure to confine.* If the owner fails or refuses to confine the animal as required by this section, the chief may order the seizure of the animal and its confinement for ten days at the expense of the owner. If the animal is unclaimed after the ten-day confinement, the chief may dispose of the animal.

(e) *Release from quarantine.* If rabies does not develop within ten days after the commencement of quarantine under this section, the animal may be released from quarantine, with the written permission of animal control.

(f) *Strays.* In the case of stray dogs or cats whose ownership is not known, the dog or cat may be euthanized and the head examined for rabies or kept for the supervised quarantine period required by this section at the animal control shelter.

(Code 1982, § 4-18; Ord. No. 01-022, § 1, 11-8-2001)

**State law reference**—Animal bites, G.S. 130A-196 et seq.

#### **Sec. 6-70. Dangerous dogs.**

(a) "Dangerous dog" means

- (1) a dog owned or harbored primarily or in part for the purpose of dogfighting;
- (2) a dog trained for dogfighting;
- (3) a dog that has killed a person;
- (4) a dog that has inflicted a severe injury on a person;
- (5) a dog that has killed a domestic animal or inflicted a severe injury on a domestic animal, when the dog was not on the owner's real property; or
- (6) a dog that has approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

This definition of "dangerous dog" shall not apply to a dog being used by a law enforcement officer to carry out the law enforcement officer's official duties; a dog being used in a lawful hunt; a dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or a dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.



(b) *Determination of dangerous dog; appeal.* The chief shall determine whether a dog is a dangerous dog. If the chief determines that a dog is a dangerous dog, the chief shall notify the owner in writing, giving the reasons for the determination. The owner may appeal the determination by filing written objections with the Town Manager's office, with a copy to the chief, within five business days after receipt of the notification. The appeal shall be heard by a Board appointed by the Town Manager, Deputy Town Manager, or designee, consisting of two town employees who are not employees of the Police Department. The Board shall schedule a hearing within ten business days of the filing of the written objections. The Board shall render a decision within three business days of the hearing. The decision shall be delivered by personal delivery, electronic mail, or first class mail mailed to the person requesting the appeal, with a copy to the chief. Once the time for filing an appeal has expired, or after any appeal has been finally adjudicated in favor of the chief's determination, the dog shall be deemed a dangerous dog for purposes of this ordinance.

(c) *Confinement and restraint.* The owner of a dangerous dog shall comply with the following provisions:

- (1) When the dog is on the property of the owner, the dog shall be
  - a. confined indoors or outdoors in a securely enclosed and locked pen or in another structure designed to restrain the dog. An electronic enclosure is not sufficient to comply with this requirement; or



- b. under restraint by a competent person who by means of a leash, chain or rope has the dog firmly under control at all times. Voice command is not recognized as adequate restraint.

In addition, the owner must comply with any specific written instructions of the chief as well as Section 6-67 of this ordinance.

- (2) When the dog is off the property of the owner it must be muzzled and under restraint by a competent person who by means of a leash, chain or rope has the dog firmly under control at all times. Voice command is not recognized as adequate restraint.
- (3) The owner shall notify the animal control unit immediately if the dog escapes or is otherwise freed from the secure enclosure or other restraint.

(d) *Transfer of ownership.* The owner of a dangerous dog shall comply with the requirements of G.S. 67-4.2 concerning transfer of ownership.

(e) *Sanctions, fines, penalties, and remedies.* In addition to criminal penalties provided by state law and civil penalties set forth in section 6-132(b)(1), any person who violates this section shall be subject to the following sanctions and remedies:

- (1) If a dangerous dog is found at large it shall be seized and impounded. Animal control is authorized to go upon private property to seize the dangerous dog. If attempts to seize the dangerous dog are unsuccessful, animal control may tranquilize or humanely destroy the animal, without prior notice to the owner, upon authorization of the chief. The animal control officer shall thereafter make a good faith attempt to notify the owner of the incident.
- (2) If the dangerous dog has caused injury to a person or another animal while at large and not confined within a secure enclosure, the chief, in addition to seizing the dog, may issue to the owner a notice of intent to destroy the dog. The owner may appeal this intended action by filing a written request for appeal with the town manager as specified in section 6-139.
- (3) If an inspection of the premises where a dangerous dog is confined reveals that the owner has not complied with the requirements for confining a dangerous dog, animal control shall issue a \$100.00 civil penalty in accordance with section 6-132(b)(1) and may impound the dog at the animal shelter.
- (4) If the dangerous dog is not redeemed within five business days, or if the owner does not request an appeal within the time limit provided, the dog shall be deemed abandoned and shall be disposed of in accordance with this chapter.
- (5) Nothing in this article shall prevent a private citizen from bringing an action against the owner of a dog, which has caused injury to the private citizen or his property, for damages or any other loss resulting from the dog being dangerous or potentially dangerous as defined by state law.

(Code 1982, § 4-19; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2016-Code-01, 2-25-2016)

**State law reference**—Civil penalties, G.S. 160A-175(c).

**Sec. 6-71. Nuisance animals.**

(a) *Prohibited generally; exceptions.* It shall be unlawful for any person to own, keep, possess, harbor or maintain an animal in such a manner as to unreasonably annoy humans, endanger the life or health of persons or other animals, or substantially interfere with the rights of citizens (other than their owners) to enjoyment of life or property, or otherwise constitute a public nuisance. By way of example and not of limitation, the following activities are hereby declared to be a public nuisance and are, therefore, unlawful:

- (1) Getting into or turning over waste or garbage containers.
- (2) Walking on or sleeping on automobiles of another.
- (3) Damaging the real or personal property of anyone other than its owner.
- (4) Repeatedly being or running at large.
- (5) Being maintained in an unsanitary condition so as to be noxious or offensive to sight or smell.
- (6) Not being confined to a building or secure enclosure while in estrus.
- (7) Being vicious or chasing, snapping at, attacking, or otherwise molesting others including, pedestrians, bicyclists, motor vehicle passengers, or domestic animals.
- (8) Allowing or permitting an animal or animals to make frequent or long continued sounds, including barking, whining, screeching, calling, howling or yowling in an excessive, continuous, habitual or untimely fashion, or to make other noise in such a manner and at such intervals so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises ("annoying sound"). Any such sound made by cats or dogs which is made for more than fifteen (15) minutes during any thirty (30) minute period shall be deemed to be an annoying sound. The normal clucking of chickens, kept in accordance with provisions of the Land Development Ordinance, shall not constitute an annoying sound. Any person owning, using or possessing premises affected by an annoying sound ("person annoyed by sounds") shall follow the procedures specified in subsection f. below.
- (9) Being housed or restrained less than five feet from a public street, road or sidewalk such that the animal, without provocation, molests, attacks or otherwise interferes with the freedom of movement of persons in a public right of way, or the location of the animal poses a threat to the general safety, health and welfare of the general public.
- (10) By virtue of number or type, being offensive or dangerous to the public health, safety, or welfare.
- (11) Being diseased or dangerous to the health of the public.
- (12) Being kept in such a manner as to attract excessive insects, pests, rodents, raccoons, snakes, or other wild animals.

(b) *Complaint and notice.* Except as to (a)(8) above, upon their own initiative or upon receipt of a detailed written and signed complaint being made to the animal control unit by any of the town residents that any person is maintaining a nuisance animal, the animal control unit may cause the owner of the animal or animals in question to be notified that a complaint has been received and may cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating animal control officer.

(c) *Abatement.* If the written findings of the investigating animal control officer indicate that the complaint is justified, then the chief or designee shall cause the owner or keeper of the animal or animals in question to be so notified in writing, served by personal delivery or by certified mail, return receipt requested, and ordered to abate such nuisance within a reasonable time not to exceed seven days after notification, and may issue a citation for the violation. The chief may specify the particular abatement measures that must be taken, which measures may include, but are not limited to, a requirement that the animal be penned, or that a secure enclosure be erected or improved. In the event the owner of the animal is unknown and cannot be ascertained, the notice and order, along with a general description of the animal, shall be published in a local newspaper.

(d) *Impoundment upon failure to abate.* If any person actually or constructively receiving notice in the manner herein described shall fail or refuse to abate the nuisance upon order of the chief within the specified time, the chief may cause the animal or animals in question to be seized and impounded in accordance with the provisions of section 6-134.

(e) *Redemption; destruction.* If the owner shall so request in writing within five days of the impoundment, an animal that has been impounded may be redeemed upon the owner's execution of a written agreement to comply with the abatement order and payment of all sums due hereunder. If no such written request is made, or if such a request is made, but a written agreement to comply with the abatement order is not delivered to the chief within five days of the impoundment, then the animal(s) shall be deemed abandoned and disposed of in accordance with the provisions of section 6-137.

(f) *Annoying sounds.* A person annoyed by sounds shall follow the procedures specified below.

(i) Upon receipt of a detailed written and signed complaint by a person annoyed by sounds, the animal control unit shall provide written notice to the owner or possessor of the premises on which the animal(s) making annoying sounds is maintained ("animal owner") that a complaint has been received about the animal's (animals') annoying sounds. The notice shall detail the complaint and may make suggestions on ways to correct the situation.

(ii) Upon receipt of such notice of complaint, the animal owner shall cure the violation. If the violation is not cured, or if a second complaint is made to the animal control unit about the same animal(s) within any six (6) month period, the animal control unit shall cause the animal owner to be served by an order to abate the annoying sounds within a reasonable period of time, not to exceed seven (7) days ("Abatement Order"). Such notice shall be served by personal delivery or by certified mail, return receipt requested.

(iii) If the original complainant, or any other affected person notifies the animal control unit that the animal owner has failed or refuses to abate the annoying sounds as provided in the

Abatement Order, the animal control unit shall investigate and may issue a civil citation for the violation in the amount of two hundred dollars (\$200.00). Such citation shall be collected in the manner set forth in section 6-132.

- (iv) If the annoying sounds continue after issuance of the citation, the complainant should pursue the action by going to the magistrate and filing a summons against the animal owner. Nothing in this section shall prevent a private citizen from bringing an action at any time against an animal owner.

(Code 1982, § 4-21; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 06-020, 12-14-2006; Ord. No. 2012-Code-04, 8-23-2012)

**Sec. 6-71a. Nuisance bees.**

(a) *Prohibited generally; exceptions.* It shall be unlawful for any person to own, keep, possess, harbor or maintain bees or beehives in such a manner as to unreasonably annoy humans, endanger the life or health of persons or animals, or substantially interfere with the rights of citizens (other than their owners) to enjoyment of life or property, or otherwise constitute a public nuisance. By way of example and not of limitation, the following activities are hereby declared to be a public nuisance and are, therefore, unlawful:

- (1) Multiple bees stinging, attacking, or otherwise molesting others including, pedestrians, bicyclists, motor vehicle passengers, or domestic animals;
- (2) Hive placement and related bee movement such that the bees, without provocation, interfere with the freedom of movement of persons in a public right of way, or the location of the bees poses a threat to the general safety, health and welfare of the general public; or
- (3) The keeping of overcrowded, diseased or abandoned hives.

(b) *Complaint and notice.* Upon their own initiative or upon receipt of a detailed written and signed complaint being made to the animal control unit by any of the town residents that any person is maintaining nuisance bees, the animal control unit may cause the owner of the bees in question to be notified that a complaint has been received, or take immediate action to abate the nuisance if deemed necessary.

(c) *Abatement.* If investigation of the investigating animal control officer indicates that the complaint is justified, but that action by town staff to immediately abate the nuisance is not deemed necessary, then the chief or designee shall cause the owner or keeper of the bees in question to be so notified and ordered to abate such nuisance and may issue a citation for the violation. However, if immediate abatement of the nuisance is deemed necessary, then the investigating animal control officer may cause the bees and/or hive in question to be seized and relocated, or if the nuisance bees and/or hive cannot be reasonably seized and relocated, the animal control officer may cause them to be destroyed in the field. In such instances, the owner of the bees shall be responsible for any costs incurred to effectuate the seizure, relocation, or destruction of the bees and/or hive.

(d) *Seizure and relocation upon failure to abate.* If any person actually or constructively receiving notice in the manner herein described shall fail or refuse to abate the nuisance upon order of the chief within the specified time, the chief may cause the domesticated bees and/or hive in question to be seized and relocated. In such instances, the owner of the bees shall be responsible for any costs incurred to effectuate the seizure and relocation of the bees and/or hive.

(e) *Notice to owner.* Upon seizing bees and/or their hive, the animal control officer shall cause a prompt and reasonable effort to be made to locate and notify the owner of the bees, if the owner is known or reasonably ascertainable. A notice of seizure shall be left with the owner or affixed to the premises of the owner, if the owner is known or reasonably ascertainable.

(f) *Redemption; destruction.* If the owner shall so request in writing within five days of the seizure of the bees and/or hive, the bees and/or hive that have been seized and relocated may be redeemed upon the owner's execution of a written agreement to comply with the abatement order and payment of all sums due hereunder. If no such written request is made, or if such a request is made, but a written agreement to comply with the abatement order is not delivered to the chief within five days of the seizure, then the bees and hive shall be deemed abandoned and shall be destroyed in a humane manner, or become the property of a member of a legitimate beekeeping association provided that bees are maintained in compliance with the provisions of this chapter and provisions related to beekeeping found in the Town of Cary Land Development Ordinance.

(g) *Revocation of Accessory Use Permit.* In instances where the owner fails or refuses to abate the nuisance within the specified time, and has not appealed pursuant to section 6-139, the Planning Director may revoke the owner's Accessory Use Permit, and the owner shall be unable to reapply for another Accessory Use Permit for beekeeping for a period of twelve (12) months. (Ord. No. 2012-Code-06, 10-11-2012)

**Sec. 6-72. Lazy Daze, Spring Daze, July 4th Celebration at Regency Park and other designated special events; animals prohibited.**

(a) *Applicability.* Lazy Daze Arts and Crafts Festival, Spring Daze and July 4th Celebration at Regency Park are town-sponsored festivals attracting extraordinarily large numbers of spectators confined to a limited area for festivals that are of greater duration than other community events. The presence of animals at these festivals poses some concern for both spectators and the animals. In addition to those festivals listed, the presence of animals at other events may pose similar concerns, and sponsors of other special events may request the town manager or his authorized designee in writing to apply the provisions of this section to such special events. The town manager, or his designee, is authorized to approve such requests if he or she determines that the number of spectators, the size of the area on which the special event takes place, or the threat to the public safety or health would warrant the application of this section.

(b) *Unlawful to have animal at Lazy Daze, Spring Daze and July 4th Celebration at Regency Park.* It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal as defined in section 6-3, to take that animal, whether or not under restraint, into, or allow the animal to enter, the boundaries of Lazy Daze, Spring Daze or the July 4th Celebration at Regency Park or any other special event to which these provisions have been made to apply. The boundaries and the interior of Lazy Daze, Spring Daze and July 4th Celebration at Regency Park and any other

special event to which these provisions apply, shall consist of any property that is part of the festival or other special event and shall include any public street, sidewalk, or other publicly owned area that is within or constitutes the boundary of the event.

(c) *Failure to remove animal.* It shall be unlawful for any person with an animal on or within the boundaries of Lazy Daze, Spring Daze and July 4th Celebration at Regency Park or any special event to which these provisions have been made to apply to fail to obey the command of a law enforcement officer or animal control officer to remove such animal from on or within the boundary of Lazy Daze, Spring Daze and July 4th Celebration at Regency Park or the special event.

(d) *Exceptions.* This section shall not apply to those animals that are part of an authorized exhibit. Town police officers and animal control officers shall have the authority to specify the conditions for having such animals for the protection of the public and for the well-being of the animals. This section shall not apply to guide dogs or hearing-aid dogs in the company of blind or deaf persons.

(Code 1982, § 4-21; Ord. No. 01-022, § 1, 11-8-2001)

#### **Sec. 6-73. Rabies inoculation tags.**

Dogs shall wear rabies vaccination tags at all times, as required by G.S. 130A-190(a). Cats and ferrets are not required to wear the rabies inoculation tags, but the owner of a cat or ferret shall maintain the tag or the rabies vaccination certificate as written evidence to prove the cat or ferret has a current rabies inoculation and shall produce such tag or certificate as requested by animal control and as otherwise required by law.

(Code 1982, § 4-22; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2010-Code-08, 10-14-2010)

**State law reference**—Authority to exempt cats from wearing tag, G.S. 130A-190.

#### **Secs. 6-74—6-104. Reserved.**

### **ARTICLE IV. LICENSING**

#### **Sec. 6-105. License for cats and dogs required; exceptions.**

(a) *License required.* The owner of every cat or dog older than four months of age kept within the town limits shall pay a one-time license tax for such cat or dog and procure a license tag. The license tax shall be due and payable to the town tax collector not later than ten days after such animal is brought within the town limits or reaches the age of four months.

(b) *Tags.* The town will issue for each cat or dog license tax paid an appropriate tag bearing a distinctive number. This tag shall be securely fastened to the animal's collar, and it shall be unlawful for the animal's owner to allow such animal to be within the town without the license tag. The license tag may not be transferred to a different animal, nor may it be transferred to a different owner of the same animal. The owner of each such animal must present a current rabies inoculation number before a license tag will be issued.



(c) *Amount.* The license tax shall be adopted each year and made a part of the annual operating budget. The license tax shall be set at three levels:

- Non-Spayed/Non-Neutered Animals
- Spayed or Neutered Animals - reduced tax
- Spayed or Neutered Animals with a microchip - further reduced

Reduced tax levels shall be available only if satisfactory written documentation of such spaying or neutering and micro-chipping, as the case may be, is provided to the town at the time the tax is paid.

(d) *Owner responsible.* Any owner of such cat or dog shall be responsible for making certain that the license tax has been paid.

(e) *Exemptions.* The licensing requirements herein shall not apply to any animal being kept in a commercially licensed kennel or other holding facility, used as a guide (Seeing Eye) dog, used as a governmental police dog, or belonging to a nonresident of the town and kept within the boundaries of the town for not longer than 30 days; provided, that all dogs of nonresidents shall at the time of entry into the town be properly vaccinated against rabies, and while being kept within the town, shall meet all other requirements of this chapter.

(Code 1982, § 4-23; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2009-Code-05, 4-15-2009)

**Sec. 6-106. License tax deemed a debt to town.**

The amount of any license tax imposed by this chapter shall be deemed a debt to the town.  
(Code 1982, § 4-24; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-107. Refusal to issue license when applicant in violation of law.**

Any license provided for in this chapter may be denied where the applicant is or would be in violation of any law.

(Code 1982, § 4-25; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-108. Notice of and appeals from decision.**

Notice of recommendation not to issue a license under this chapter or to revoke a license shall be given to the applicant/licensee. Administrative appeals shall be in accordance with 6-139. An appeal of a decision to recommend the revocation of a license shall suspend the operation of that decision.

(Code 1982, § 4-26; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-109. Unauthorized use of license receipts, tags or inoculation certificates.**

It shall be unlawful for any person to use for any animal, a license receipt, license tag, or a rabies inoculation certificate issued to another person, or animal.

(Code 1982, § 4-27; Ord. No. 01-022, § 1, 11-8-2001)

**Secs. 6-110—6-131. Reserved.**

## **ARTICLE V. ENFORCEMENT, SEIZURE AND IMPOUNDMENT**

### **Sec. 6-132. Enforcement.**

(a) *Purpose.* The town council's determination is that it is important to enforce vigorously and effectively this chapter's provisions. The council makes the following findings to accomplish the objective of vigorous and effective enforcement of these provisions that:

- (1) A current town license tag and a rabies inoculation tag are vital for public health, for the ability of the animal control 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 dog, has a very serious obligation of ownership and a duty to the citizens of Cary to comply with town licensing and rabies inoculation requirements.
- (2) The presence of a domestic animal at large often creates substantial anxieties and concerns for people for safety and free movement; and, therefore, the owner has an obligation to the citizens of Cary to see that their domestic animals do not go at large.
- (3) The possibility of an animal bite is a serious anxiety for persons, neighborhoods and areas in Cary; and, therefore, owners have an obligation to prevent the creation of that apprehension and concern.
- (4) An animal owner has a particular responsibility for being conscious of and sensitive to any possible dangers for children under the age of seven years who, at that age, are unable to fully appreciate the possible danger presented by an animal and an animal's reaction to a child under the age of seven.
- (5) The animal control unit must have ample authority to impose preventive measures, seize and impound animals, and, if necessary, terminate ownership rights.
- (6) Escalating fees and other sanctions are measures that have been adopted to protect the citizens of Cary and to declare that the ownership of animals entails publicly related responsibilities.

(b) *Methods of town.* When there is a violation of this chapter, the chief may take one or more of the following courses of actions set forth in this section. The chief may cause a complaint to be filed or any action to be brought on behalf of the town and may collect any amount for outstanding costs, fees or penalties assessed or imposed pursuant to this chapter. Any such action shall be cumulative and shall not be deemed as a bar to or a waiver of the right to institute any other civil or criminal proceeding for a violation of this chapter.

- (1) *Civil penalties.*
  - a. Violations of section 6-73 or 6-105 (failure to have town license or rabies tag): Penalty: \$20.00 for failure to have current town license; \$50.00 for failure to have current inoculation.

- b. Violation of section 6-65 (domestic animals at large) or 6-67(a)(12). The issuance of a citation for a violation of Code section 6-65 (domestic animals at large) or 6-67(a)(12), like other ordinances concerning animals, is directed toward and against the owner of the animal. The purpose of the issuance of a citation is to affect the conduct of the owner of an animal by seeking to have an owner responsibly maintain restraint and confinement of the animal. To encourage responsible conduct, an owner shall be subject to escalating penalties for each violation of this section 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 6-65 or 6-67(a)(12) shall subject the owner to an increased citation penalty:

<i>Offense</i>	<i>Penalty</i>
1st	\$ 20.00 fine
2nd	\$ 50.00 fine
3rd	\$ 75.00 fine
4th	\$ 100.00 fine
5th	\$ 250.00 fine and seizure of the animal

- c. *Violation of section 6-69 (animal bite) or 6-70 (dangerous dog).* Penalty: \$100.00.
  - d. *Other violations:* All other violations shall be subject to a penalty of \$20.00 for the first violation and \$50.00 for each subsequent violation.
- (2) *Criminal misdemeanor.* The violator may be charged with a misdemeanor. Criminal action may be initiated by any police officer or animal control officer;
  - (3) *Injunction.* The town may apply to the appropriate court for injunctive relief, orders of abatement and/or orders of custody which could require that a violator correct any unlawful condition relating to this chapter existing on his or her property. The chief may request the initiation of any such actions.
  - (4) *Seizure/impoundment.* In addition to criminal or civil penalties, for certain violations of this chapter, or if conditions pose an immediate threat to the health or safety of the animal or the public, animal control is authorized to seize and impound an animal.
  - (5) *Exception.* Nothing in this chapter shall be construed to prevent law enforcement officers of any kind from enforcing any of the provisions of this chapter or from exercising their authority as law enforcement officers.
  - (6) *Liability for payment.* Surrender of an animal or failure to redeem an animal shall not relieve the owner of responsibility for payment of any outstanding civil penalty that was assessed prior to the animal being surrendered or as a result of the animal being impounded. If payment of a civil penalty is not received within 15 days of issuance of the citation, the chief may initiate legal proceedings to recover the amount of the penalty.

(c) *Private enforcement methods.* Nothing in this chapter shall prevent a private citizen from bringing an action to abate a nuisance or from bringing an action for damage, loss or injury to the private citizen or his or her property resulting from an animal being a nuisance.

(Code 1982, § 4-28; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2012-Code-02, 4-19-2012; Ord. No. 2012-Code-04, 8-23-2012; Ord. No. 2016-Code-01, 2-25-2016)

**State law reference**—Penalties for ordinance violations, G.S. 14-4, 160A-175.

### **Sec. 6-133. Citations.**

(a) *Citations.* Animal control officers are empowered to issue citations to any person if there is reasonable cause to believe that the person has violated any provision of this chapter. These citations may be delivered in person to the violator; or, if the violator cannot be readily found, the citation may be mailed as provided in section 2-1. The citation shall direct the violator to pay the citation within 15 days of the date of the citation. The citation may be paid at the town finance office.

(b) *Notice of further actions.* If the violator does not pay the citation within 15 days of its issuance, a notice thereof will be mailed to the violator. This notice shall inform the violator that further legal action may be filed if the citation and delinquency charges are not paid within 15 days from the date of the delinquency notice.

(c) *In duplicate.* All citation forms shall be serially numbered in duplicate. Records of all citations shall be maintained so that all such forms shall be capable of being accounted for. The town finance officer, or designee, shall periodically investigate the records of the unit for the purpose of determining the disposition of the citations and shall report the results of such investigation to the town manager. For the purpose of this investigation, the finance officer shall have access to the necessary records of the unit.

(Code 1982, § 4-29; Ord. No. 01-022, § 1, 11-8-2001)

### **Sec. 6-134. Seizure and impoundment.**

(a) *Seizure.* Domestic animals may be seized and impounded when found at large, or as otherwise provided in this chapter. The unit, or some other designated person, upon receiving such animal shall make a complete registry, entering the breed, color and sex of such animal.

(b) *Notice to owner.* Upon seizing an animal a notice of seizure shall be left with the owner or affixed to the premises. If an animal is not from a particular premises but has an identification tag, the animal control officer shall cause a prompt and reasonable effort to be made to locate and notify the animal's owner.

(c) *Failure to redeem.* If the owner fails to redeem the animal within the time limit provided in this chapter, or fails to timely request an appeal, or fails to timely appeal the manager's decision, or if the animal is seized the animal shall be deemed abandoned and disposed of as provided in section 6-137.

(d) *Animal unattended in motor vehicle.* In the case of an animal discovered unattended and confined in a motor vehicle in violation of section 6-67(11), the following shall apply: after making a reasonable effort to find the driver of a vehicle in which an animal is confined, an animal control

officer, in the presence of a police officer, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where reasonable cause exists to believe that the animal is in the vehicle in violation of this chapter. The animal control officer removing the animal shall then impound it and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. The animal control officer may also issue a citation for violation of section 6-67(a)(11), animal abuse. (Code 1982, § 4-30; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-135. Periods of impoundment.**

Domestic animals that are seized shall be impounded for no less than five days in a humane manner. (Code 1982, § 4-31; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-136. Redemption of impounded animal.**

(a) *Redemption within five days.* The owner of an animal impounded under this chapter may redeem such animal within five consecutive days after notice of impoundment is given or posted as required by section 6-134, except as provided in this chapter, upon complying with the license provisions of this chapter, the payment of all redemption fees, the furnishing of proof of ownership and upon complying with any other conditions that may be required herein.

(b) *Redemption fees.* Redemption fees provided in this section shall include an impoundment fee, the license fee for an unlicensed dog or cat, any veterinarian's fees, and the daily fee for the shelter and feeding. The impoundment fee and daily fee may be set by the animal control shelter, and may be revised from time to time. The redemption fee for an animal which has once previously been impounded within the previous six months shall be double the impoundment fee that would otherwise be due. No owner of an impounded animal will be allowed to avoid the payment of any fee imposed under the provisions of this chapter by attempting to adopt the animal instead of redeeming it.

(c) *Vaccination.* Unless proof of a current rabies vaccination can be furnished, every person who either adopts or redeems a dog or cat at the animal shelter will be issued a proof-of-rabies vaccination card at the time of redemption or adoption. This card will be stamped with the date stating the date by which the animal must be given a rabies vaccination by a provider of the owner's choice. The time limit for dogs and cats aged four months and older will be 72 hours, with Sundays and holidays excluded. For puppies and kittens aged under four months, the limit will vary according to their age. The proof-of-rabies vaccination card will be completed and returned to the animal shelter by the veterinarian. If this card is not returned to the animal control shelter within two weeks of the time limit specified on the card, an animal control officer will be dispatched to retrieve the animal. Payment for rabies vaccination provided for in this section shall be the responsibility of the person redeeming or adopting the animal.

(Code 1982, § 4-32; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-137. Disposition of unredeemed animals.**

(a) *Deemed abandoned.* At the end of the minimum time period indicated in section 6-135, unclaimed animals shall be deemed abandoned and shall be disposed of in a humane manner. The animal may be destroyed in a humane manner or the animal may become the property of the animal shelter or may be offered for adoption to a legitimate rescue group or may be offered for adoption to any responsible adult who complies with the provisions of this chapter. Such animal may be adopted or purchased by the first person who pays the adoption or purchase fee. No rabies vaccination fee will be required for animals sold to dealers licensed pursuant to the United States Department of Agriculture's Animal Welfare Act.

(b) *Spaying/neutering.* Animal control may recommend that all adopted female dogs and cats released from the animal shelter be spayed and that all adopted male dogs and cats released from the animal shelter be neutered.

(Code 1982, § 4-33; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2008-Code-04, 10-16-2008)

**Sec. 6-138. Summary destruction of animals for humane reasons; summary destruction of animals that cannot be seized by reasonable means.**

When, in the judgment of the person in charge of impoundment facility, 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. Notwithstanding any other provision of this chapter, an animal that cannot be reasonably seized, retrieved, humanely trapped, or tranquilized may be humanely destroyed in the field upon the authorization of the chief. Provided, a vicious animal, an animal attacking a human being or pet, or a dog determined to be a dangerous dog under section 6-70, may be summarily destroyed if, in the opinion of animal control, such destruction is necessary for the protection of life or property or for the public health and safety.

(Code 1982, § 4-34; Ord. No. 01-022, § 1, 11-8-2001)

**Sec. 6-139. Appeals.**

(a) *Appeals.* Any person, owner, or possessor affected by any ruling or action taken by animal control with regards to any of the following may request a review of such action by filing a request for appeal with the town manager:

- (1) Seizing, relocating and impounding an animal or bees, unless said seizure was authorized by a judicial official.
- (2) [reserved]
- (3) Issuing a notice of intent to destroy.
- (4) Denying or revoking a permit or license pursuant to section 6-108.

Appeals pertaining to section 6-70 (dangerous dog) shall be made and conducted according to the provisions of that section.

(b) *Method.* Unless otherwise provided by law, a request for appeal must be made in writing and filed with the town manager, with a copy to the chief, within five days of the action or decision complained of and must state with particularity the grounds for the appeal. An appeal hearing shall be scheduled and conducted by the manager, or designee.

(c) *Appeal bond.* All persons requesting an appeal pursuant to this chapter shall post with animal control an appeal bond of ten per cent of the amount owed for redemption and boarding fees and civil penalties arising out of the conduct which is the subject of the appeal. However, in no event shall the appeal bond required pursuant to this section be less than \$25.00 nor more than \$250.00.

(d) *Waiver of bond.* The appeal bond shall be waived for any person determined to be indigent after filing an affidavit of indigence. The affidavit must state that the citizen is without funds to post an appeal bond in the amount required by the ordinance.

(e) *Disposition of bond.* The appeal bond shall be held pending determination of the appeal by the manager. The appeal bond shall be fully refunded if the manager overturns the action or decision complained of. If the manager upholds or affirms the action or decision of animal control, the appeal bond shall be paid to the animal shelter toward boarding and redemption fees for the subject animal. If no redemption or boarding fees are owed, the appeal bond shall be paid to the animal control unit.

(f) *Responsible for fees and penalties.* The owner shall remain responsible for any outstanding boarding and redemption fees or civil penalties that are not satisfied by the appeal bond.

(g) *Decision.* The manager shall render a decision within three business days of the hearing. The decision shall be delivered by personal delivery, electronic mail, or first class mail to the person requesting the appeal, with a copy to animal control.

(h) *Decision upholding action.* If the decision is against the person requesting the appeal, animal control shall implement the sanction(s) upheld by the manager. The person requesting the appeal may appeal the decision of the town manager to the Wake County Superior Court within ten days of the manager's decision. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal.

(i) *Decision overturning action.* If the decision is against animal control, efforts to implement the sanction(s) shall cease. A decision rendered by the manager applies only to the violation(s) and sanction(s) appealed and does not prevent the animal control unit from enforcing a subsequent violation of the same provision or any other provision of this chapter.  
(Code 1982, § 4-35; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 2012-Code-02, 4-19-2012; Ord. No. 2012-Code-06, 10-11-2012; Ord. No. 2016-Code-01, 2-25-2016)

#### **Sec. 6-140. Exemptions.**

This chapter shall not apply to the lawful taking of animals under the jurisdiction and regulation of the wildlife resources commission, lawful activities of agencies conducting or sponsoring biomedical research or training, lawful activities of any Law Enforcement Canine Team in the

performance of their duties, lawful activities for sport, the production of livestock or poultry, or the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.  
(Code 1982, § 4-36; Ord. No. 01-022, § 1, 11-8-2001; Ord. No. 05-010, 7-28-2005)

**Sec. 6-141. Notice.**

Unless specifically provided otherwise herein, service of notices required by this chapter shall be as provided in section 2-1.  
(Code 1982, § 4-37; Ord. No. 01-022, § 1, 11-8-2001)