

## Chapter 4

### ANIMALS\*

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\***Cross references**—Environment, ch. 16; animals and facilities, § 18-186 et seq.; hunting and fishing on private lands or waters without written permission of owner, § 24-1; pets in parks, § 26-47; hunting in parks, § 26-48; fishing in parks, § 26-50; horseback riding in parks, § 26-52.

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## ARTICLE I. IN GENERAL

**Secs. 4-1—4-30. Reserved.**

## ARTICLE II. ANIMAL CONTROL

### DIVISION 1. GENERALLY

#### Sec. 4-31. Authority.

This Ordinance is adopted pursuant to the power granted Orange County in N.C. Gen. Stat. §§ 153A-121, 153A-127, 153A-153 and 153A-442. (Ord. of 6-16-1987, § I, eff. 1-1-1988)

#### Sec. 4-32. Applicability to animal shelter.

Orange County shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Orange County may contract for the operation of the Animal Shelter as it deems appropriate. (Ord. of 6-16-1987, § XVIII, eff. 1-1-1988)

#### Sec. 4-33. Animal control officers.

Orange County may appoint one or more Animal Control officers. Any such officer or officers shall be County employees. County Animal Control Officers shall have only the following powers and duties within Orange County and within any municipality therein that has given prior approval therefore:

- (a) The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
- (b) To cooperate with the County Health Director and all law enforcement officers in the county and the towns therein and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.

- (c) To investigate reported or observed animal cruelty or animal abuse and make written reports of such investigations and, when requested, provide such reports to animal cruelty investigators, appropriate law enforcement officers or the District Attorney's office.

- (d) To investigate reports of observed harassment or attacks by dogs or other animals against domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.

- (e) County Animal Control Officers shall not have the power to arrest. (Ord. of 6-16-1987, § III, eff. 1-1-1988)

#### Sec. 4-34. Animal license privilege taxes.

Orange County may set animal license privilege taxes as allowed by law and set the tax amounts annually as part of the Budget. In order to further the goals of controlling animal population, the taxes of unspayed or unneutered dogs and cats shall be higher than those of neutered animals. Within 30 days of acquisition of an animal for which a license is required, the owner or keeper shall purchase the appropriate county license.

(Ord. of 3-15-88, § IV, eff. 3-15-88; Amend. of 12-2-96, eff. 1-1-97)

#### Sec. 4-35. Licenses, permits, registrations, and fees required by this ordinance.

(a) The following licenses, permits, and registrations are required by this Ordinance:

- (1) Licenses for dogs, cats, or other animals designated by the Board of Commissioners in the Budget ordinance (see Section 4-34).
- (2) Registration of patrol dogs or sentry dogs (see Section 4-42(d)).
- (3) Rabies tags for dogs and cats (see Section 4-47).
- (4) Permits for collecting of dogs and cats for sale (see Section 4-96).

(5) Permits for commercial (Class II) kennels, non commercial (Class I) kennels and pet shops (see Sections 4-71 and 4-73).

(Ord. of 6-16-1987, § V, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Ord. of 12-3-2007, eff. 7-1-2008)

(b) The amount of license or permit privilege tax shall be recommended by the Animal Control Director and approved by the Board of Commissioners in the Budget Ordinance. The Animal Control Director may propose for approval by the Board of Commissioners such policies or procedures as may be necessary or appropriate to allow for payment of privilege taxes over extended periods of time, at reduced rates, or a waiver of privilege taxes. Additionally, dog and cat owners or keepers who furnish to the Animal Control Director a statement from a licensed veterinarian that the animal, due to age, physical reasons, or chronic health problems cannot withstand spay/neuter surgery, shall be allowed to pay the license privilege taxes provided for spayed or neutered animals.

**Sec. 4-36. Ordinance.**

All other Orange County ordinances in conflict with this Ordinance except the Ordinance Prohibiting the Keeping of Wild Animals Dangerous to Persons and Property within Orange County are hereby repealed to the extent of such conflict. The Ordinance to Provide for Animal Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

(Ord. of 6-16-1987, § VI, eff. 1-1-1988)

(c) When an animal is impounded under this Ordinance there shall be paid, in accordance with Section 4-43, a redemption privilege taxes as follows:

**Sec. 4-37. Definitions.**

As used in this Ordinance, the following terms mean:

<i>Number of Prior Incidents</i>	<i>Redemption of Impoundment Privilege Tax</i>
0	\$10.00
1	\$50.00
2	\$100.00
3 or more	\$200.00

*Adequate Food:* 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 receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

(d) In order to defray the costs of administering and enforcing ordinances adopted under this Section 4-35, and in order to account for the additional costs of locating, responding to and caring for unvaccinated and unlicensed animals found within the County, additional fees shall be assessed as follows if the Owner or Keeper of an animal fails to pay the following fees within the time specified in the Ordinance:

*Adequate Shelter:* That shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moistureproof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor raised up off of 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. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shaving, or the equivalent. For all animals the containment area shall be free of accumulated waste and debris so that the animal shall be free

Failure to Vaccinate for Rabies (Section 4-46) .....	\$200.00
Failure to Wear Rabies Tag (Section 4-47) .....	\$50.00
Failure to License (Section 4-35).	\$200.00

to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to eliminate rapidly excess water or moisture. Aquatic or semi-aquatic animals shall have an adequate amount of clean water in which to move.

*Adequate Water:* A constant access to a supply of clean, fresh water provided in a sanitary manner.

*Animal:* Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish and reptiles.

*Animal Control Director:* That person designated by appropriate authority in Orange County, and where appropriate, his or her designee, charged with the responsibility and authority to implement and enforce the Animal Control program in Orange County.

*Animal Shelter:* A place provided and operated by Orange County directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption, and disposition of animals.

*At Large:* Any animal shall be deemed to be at large when it is off the property of its owner or its keeper and not under the restraint of a competent person.

*Class I Kennels:* An establishment maintained by any person where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, hunting or sport, and which establishment is so constructed that the animals cannot stray therefrom, and which maintains more than six but less than 19 animals.

*Class II Kennels:* Any person maintaining an establishment where animals of any species excluding domesticated livestock, kept for the purpose of breeding, buying, selling, or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray therefrom; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.

*Competent Person:* A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal and to persons, other animals, including but not limited to domesticated livestock, or property.

*Cruel and 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 lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport.

*Domesticated Livestock:* Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.

*Exposed to Rabies:* An animal has been exposed to rabies within the meaning of this Ordinance if it has been bitten by, or otherwise come into contact with, any animal known or suspected to have been infected with rabies.

*Harbor:* An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 72 consecutive hours or more.

*Health Department:* Orange County Health Department.

*Health Director:* Director of the Orange County Health Department.

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

*Owner:* Any person owning, keeping, having charge of, sheltering, feeding, harboring or taking

care of any animal. The owner of an animal is responsible for the care, actions, and behavior of the animal.

*Person:* Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

*Pet Shop:* A person that acquires for the purposes of resale animals, excluding domesticated livestock, bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.

*Public Nuisance:* Actions deemed prima facie evidence of a public nuisance include the following activities of an animal, or conditions maintained or permitted by the animal's owner or keeper:

- (1) The animal is found at large off as defined in this section.
- (2) The animal damages the property of anyone other than its owner or keeper, including, but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causes injury to domesticated livestock or pets.
- (3) The animal habitually and repeatedly barks, whines, or howls so as to interfere seriously with the reasonable use and enjoyment by neighboring residents of their property.
- (4) The animal repeatedly chases, snaps at, or barks at persons, domesticated livestock, pets, or vehicles when it is not in an enclosure, leashed, or on the owner's or keeper's property.
- (5) The owner or keeper fails to confine a female dog while in heat (estrus) in a building or secure enclosure in such a manner that she will not be in contact with another dog, provided, this section shall not be construed to prohibit the intentional breeding of animals within an

enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

*Restraint:* An animal is under restraint if it is under sufficient physical restraint such as a leash, cage, bridle, or similar effective and humane device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure as permitted in accordance with Section 4-41 of this Ordinance. If a competent adult is physically outside on the land with the animal, on land where the owner or keeper of the animal resides, then the animal shall be deemed to be under restraint during the time the animal is in the company of and under the control of that competent person and the animal is on the premises. If any unattended animal is restrained by a chain, leash or similar restraint, it shall be designated and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and shall be either on a swivel designed to prevent the animal from choking or strangling itself. The restraint of unattended dogs by a fence, kennel, outdoor enclosure, chain, leash or similar restraint is further regulated under Section 4-41 of this Ordinance.

*Security Dog:* Any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog, or watchdog.

- (a) Patrol dog: A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- (b) Sentry dog: A dog that is trained or conditioned to attack or otherwise respond aggressively without command.
- (c) Watch dog: A dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.

*Steel Jaw Trap:* Spring-powered devices or traps which capture or hold an animal by exerting a lateral force with fix mounted jaws on the leg, toe, paw, or any other part of the animal's body.

*Stray:* Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

*Suspected of Having Rabies:* An animal which has bitten a person or another animal.

*Veterinary Hospital:* Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

*Vicious Animal:* Any animal on or off the premises of its owner or keeper, security dog excluded, which animal is three months of age or older and without provocation has bitten, or killed, or caused physical harm through bites to people (a person) who are (is) not trespassing and or has bitten or killed an animal(s) that is (are) not where its (their) owner(s) has (have) been told such animal(s) cannot be. Any dog that is owned or harbored for the purpose of dog fighting or training for dog fighting is also defined as a vicious animal.

(Ord. of 6-16-1987, § VII, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Amend. of 11-18-08, eff. 11-19-08)

#### **Sec. 4-38. Animal control program.**

The Orange County Animal Control Program, as herein described and as otherwise described in other County ordinances related to animals and as otherwise described in the laws of North Carolina, shall be administered by the Animal Control Director. Specifically:

- (a) The Animal Control Director shall designate employees or agents enforcing this Ordinance as Animal Control Officers and Rabies Control Officers. Animal Cruelty Investigators may be appointed by the Board of County Commissioners as provided by law. In the performance of their duties, officers and investigators shall have all the power, authority, and immunity

granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the joint responsibility of and shall be jointly carried out by the Animal Cruelty Investigators and the Animal Control Officers of Orange County.

- (b) Except as may be otherwise provided by law, no officer, agent, or employee of the County charged with the duty of enforcing the provisions of this Ordinance or other applicable laws, 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 duty unless he or she acts with actual malice.
- (c) It shall be unlawful for any person to interfere with, hinder, or molest any Animal Control Officer, Rabies Control Officer, Animal Cruelty Investigator, police officer while in the performance of any duty authorized by this Ordinance or the Animal Control Program, or to seek to release any animal in the custody of said agents, except in the manner as herein provided.
- (d) Animal Control Officers, Rabies Control Officers and Animal Cruelty Investigators are not authorized to carry on their person firearms of any kind except as provided herein. The Orange County Animal Control Program may store at the Health Department and use firearms when necessary to enforce sections of this Ordinance or under applicable law for the control of wild, vicious, or diseased animals.
- (e) The Animal Control Program shall:
  - (1) Have the responsibility along with law enforcement agencies and where applicable with animal cruelty investigators to enforce all laws of North Carolina and all ordinances of Or-

ange County pertaining to animals and shall cooperate with all law enforcement officers within Orange County in fulfilling this duty.

- (2) Enforce and carry out all laws of North Carolina and all ordinances of Orange County pertaining to rabies control.
- (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
- (4) Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals.
- (5) Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Orange County involved in a violation of this or any other County ordinance or state law.
- (6) Investigate cruelty or abuse with regard to animals independently or with a duly appointed Animal Cruelty Investigator.
- (7) Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.
- (8) Keep, or cause to be kept, accurate and detailed records of:
  - a. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
  - b. Bite cases, violations and complaints, and investigation of

same, including names and addresses of persons bitten, date, circumstances, and breed.

- c. Any other matters deemed necessary by the Animal Control Director.
  - (9) Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal Control Director may prescribe.
  - (10) Have employees who are trained to standards to be established by the Animal Control Director, which training shall include, but not be limited to, training in animal first aid taught by a licensed veterinarian.
  - (f) The premises for all Animal Shelters operated by or for the County shall meet the standards prescribed for commercial (Class II) kennels set out in Section 4-72 of this Ordinance.
  - (g) The standards applicable to vehicles and care in transportation set out in Section 4-98 apply to Animal Control Officers collecting, transporting, or holding animals in this County.
- (Ord. of 6-16-1987, § VIII, eff. 1-1-88)

**Sec. 4-39. Relation to hunting laws.**

Nothing in this Ordinance is intended to be in conflict with the laws of the State of North Carolina regulating, restricting, authorizing or otherwise affecting dogs while used in hunting, but this exception applies only while the dogs are under the control of the owner, keeper, or competent person, and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations, or ordinances. This Ordinance should be read and enforced consistent with any such law.

(Ord. of 6-16-1987, § IX, eff. 1-1-88)

**Sec. 4-40. Notice in case of injury.**

It shall be unlawful for any person who causes injury to an animal, including but not limited to,

running over or hitting the animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),
  - (2) An Animal Control Officer,
  - (3) The Sheriff's Department, or
  - (4) The Animal Shelter.
- (Ord. of 6-16-1987, § X, eff. 1-1-88)

**Sec. 4-41. Mistreatment of animals unlawful.**

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this Ordinance:

- (a) It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, with respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- (b) It shall be unlawful for any person to sell or offer for sale, barter or give away within the County baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water, and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.
- (c) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- (d) It shall be unlawful for any person to tether any fowl.
- (e) It shall be unlawful to restrain any animal except in a humane fashion as set forth in Section 4-37 above and Section 4-41 below.
- (f) It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper.
- (g) It shall be unlawful to possess any paraphernalia related to dog, cock or other animal fighting, including, but not limited to, gaffs.
- (h) It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees F.
- (i) It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes §§ 14-360 and 14-362, as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting. The repeal of such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.
- (j) It shall be unlawful for any person to abandon or forsake any animal within the County.
- (k) It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection.
  - (1) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such

restraining of a dog, to a tree, fence, post, dog house, or other stationary object for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, any tethering device used shall be at least ten feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. In no event shall the time limitations established by this subsection 4-41(k)(1) & (2) below be added together to allow for tethering, fastening, chaining, tying, or restraining to either a stationary object or to a cable trolley system for more than a total of three hours in a 24-hour period.

- (2) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining device, for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects.
- (3) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.
- (4) No person shall tether with a chain or wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.
- (5) No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds ten percent of the dog's body weight.
- (6) No person shall tether with a chain or wire or other device a dog in such manner that does not allow the dog access to adequate food, water, and shelter.
- (7) Notwithstanding the provisions of subsections 4-41(k)(1) & (2) of this subsection, a person may, subject to the provisions of subsections 4-41(k)(3)–(6), and subject to the requirement that any stationary tethering device used shall be at least ten feet in length, and subject to the requirement that for any cable trolley system used the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly:
  - a. Tether and restrain a dog while actively engaged in:
    - 1. Use of the dog in shepherding or herding livestock, or
    - 2. Use of the dog in the business of cultivating agricultural products, if the restraining is reasonably necessary for the safety of the dog, or
    - 3. Use of the dog in lawful hunting activities if the restraint is reasonably necessary for the safety of the dog, or
    - 4. Use of the dog at dog training or performance events, including but not limited to field trials and obedience trials where tether-

ing does not occur for a period exceeding seven consecutive days, or

5. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located, or
  6. Any activity where a tethered dog is in visual range of its Owner or Keeper, and the Owner or Keeper is located outside with the dog.
- b. After taking possession of a dog that appears to be a stray dog and after having advised animal control authorities of the capture of the dog, tether and restrain the dog in accordance with the provisions of Section 4-41 for a period not to exceed seven days as the person having taken possession of the dog is seeking the identity of the owner of the dog.
  - c. Walk a dog with a handheld leash.

Section 4-41 becomes effective one year following the adoption of this amendment (the "effective date"). Any person who violates this subsection after the effective date but prior to the expiration of the eighteenth month following the date this amendment was adopted shall be issued a written warning giving the violator notice of the provisions of this amendment. Any person who violates Section 4-41 after the expiration of the eighteenth month following the date of the adoption of this amendment is subject to one or more of the Penalties established in Section 4-51 of this Ordinance. Any dog that is kept in violation of Section 4-41 of this Ordinance may be seized and subsequently impounded in accordance with Section 4-43 of this Ordinance until such a time as the Animal Control Director is reasonably assured that the dog will not be subject to restraint in violation of this Ordinance. The Animal Control Director shall post a notice at the place of the illegal restraint, or at such other location, that is

designed to reasonably apprise the Owner or Keeper of the dog, the place, date and time the dog was seized along with the location where the dog was taken. Such notice shall clearly state that the dog may be returned to the Owner or Keeper upon providing reasonable assurances to the Animal Control Director that the dog will not be subject to restraint in violation of this Ordinance. (Ord. of 6-16-1987, § XI, eff. 1-1-88; Amend. of 11-18-2008, eff. 11-19-09)

**Sec. 4-42. Control of vicious animals; security dogs.**

(a) It shall be unlawful for any person to keep any vicious animal within the county, unless under restraint and on the premises of the owner or keeper. Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.

(b) Upon an Animal Control Officer's observation of a vicious animal at large or off the premises of its owner or keeper and not restrained by a competent person, such officer shall impound the animal.

(c) Upon an Animal Control Officer's receipt of a complaint that an animal is behaving or has behaved viciously and is at large or off the premises of its owner or keeper and not restrained by a competent person, the officer shall investigate the complaint and, upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, shall take any action allowed by this Ordinance or State law as the circumstances may require.

(d) All persons owning security dogs that are classed as patrol dogs or sentry dogs as defined by this Ordinance shall register such animals with the Animal Control Director; the owner or keeper of any dog that is classed as a patrol dog or sentry dog under this Ordinance shall place a sign or placard on his premises noting "Beware of Dog" or other information noting the presence of security dog(s).

(e) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when the Animal

Shelter Manager in consultation with the Animal Control Director is reasonably assured that the animal is not vicious or the vicious animal will be properly restrained on the premises of its owner or keeper.

(Ord. of 6-16-1987, § XII, eff. 1-1-88)

**Sec. 4-43. Impoundment of animals.**

(a) A domesticated animal impounded under this Ordinance may be reclaimed by its owner or keeper according to the procedures of the Animal Shelter. The owner or keeper of an impounded domesticated animal shall be responsible for and shall pay all expenses, boarding costs, redemption privilege taxes and costs associated with such impoundment prior to reclaiming the animal. Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to Animal Shelter procedures after five days of impoundment. Feral dogs and cats may be held for 72 hours and then euthanized pursuant to Animal Shelter procedures for humane euthanasia. The owner or keeper of an impounded domesticated animal shall also comply with any vaccination and licensing directives and be responsible for the payment to Orange County of all civil penalties and license privilege taxes imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Animal Control Director. Bite quarantined animals not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the Orange County Animal Shelter and disposed of according to standard Animal Shelter procedures.

(b) In lieu of impoundment, the Animal Control Director is authorized to issue a confinement order to the animal owner or keeper that would require the owner or keeper to confine a vicious animal or an animal otherwise violating provisions of the Ordinance. Failure to thus confine the animal would constitute a further violation of the Ordinance, subjecting the owner to appropriate criminal or civil penalties.

(Ord. of 6-16-1987, § XIII, eff. 1-1-88; Amend. of 12-2-96, eff. 1-1-97)

**Sec. 4-44. Handling of stray animals.**

It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, feed, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified an Animal Control Officer or the Animal Shelter.

- (a) Any animal at large may in a humane manner be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or disposed of pursuant to procedures of the Animal Shelter and applicable State law.
- (b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this Ordinance.
- (c) Any animal seized and impounded that is badly wounded or diseased and has no identification, may be destroyed pursuant to procedures of the Animal Shelter. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, the Animal Shelter shall attempt expeditiously to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, the Animal Shelter and Animal Control Program shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.

(Ord. of 6-16-1987, § XIV, eff. 1-1-88)

**Sec. 4-45. Public nuisance.**

It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals. Compliance shall be required as follows:

- (a) When an Animal Control Officer or law enforcement officer observes a violation, the owner or keeper will be provided written notification of such violation and be given 24 hours or less to abate the nuisance.

(b) Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance as defined in this Ordinance, the Animal Control Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report thereon to be prepared.

(c) If the written findings indicate that the complaint is justified, the Animal Control Director shall cause the owner or keeper of the animal or animals in question to be notified in writing, and shall order abatement of such nuisance within 24 hours or such lesser amount of time which shall be designated on the abatement order.

(d) If, after 24 hours or such lesser time as is designated in the abatement order the nuisance is not abated, the animal creating the nuisance may be impounded or a civil penalty may be issued and/or a criminal summons may be issued. (Ord. of 6-16-1987, § XV, eff. 1-1-88; Amend. of 12-02-1996, eff. 1-1-97)

**Sec. 4-46. Rabies control.**

It shall be unlawful and a violation of this Ordinance for any animal owner, keeper or other person to fail to comply with the laws of North Carolina relating to the control of rabies. (Ord. of 6-16-1987, § XVI, eff. 1-1-88)

**Sec. 4-47. Rabies tag.**

All dogs and cats shall wear a valid rabies tag. (Ord. of 6-16-1987, § XVII, eff. 1-1-88; Amend. of 12-2-1996, eff. 1-1-97)

**Sec. 4-48. Applicability to veterinarians.**

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Ordinance except for the provisions relating to cruelty to animals and rabies control. (Ord. of 6-16-1987, § XVIII, eff. 1-1-88)

**Sec. 4-49. Reserved.**

**Editor's note**—Section 4-49 entitled kennel standards replaced by Sections 4-71 and 4-72 and derived from Ord. of 6-16-1987, § VIII, eff. 1-1-88; Amend. of 12-3-2007, eff. 7-1-08.

**Sec. 4-50. Reserved.**

**Editor's note**—Section 4-50 entitled permits and standards for animal collection replaced by Sections 4-96 through 4-99 and derived from Ord. of 6-16-1987, § XX, eff. 1-1-88; Amend. of 12-3-07, eff. 7-1-08.

**Sec. 4-51. Penalties.**

The following penalties shall pertain to violations of this Ordinance.

- (a) The violation of any provision of this Ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in North Carolina General Statutes § 14-4, or other applicable law. Each day's violation of this Ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, fees or civil penalties imposed under this Ordinance.
- (b) Enforcement of this Ordinance may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to North Carolina General Statutes § 153A-123 (d) and (e).
- (c) In addition to and independent of any criminal penalties and other sanctions provided in this Ordinance, a violation of this Ordinance may also subject the offender to the civil penalties hereinafter set forth.
  - (1) The Animal Control Director may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s) and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if

that person cannot readily be found. The following civil penalties shall be assessed for each violation of this Ordinance.

Mistreatment of Animals (Section 4-41) ..... \$200.00

The civil penalty for a nuisance violation (Section 4-45) shall be as follows:

<i>Number of Prior Nuisance Violations</i>	<i>Amount</i>
1	\$50.00
2	\$100.00
3	\$200.00
4	\$300.00
5	\$400.00

This civil penalty, shall be paid to the Animal Control Director or his or her designee within 14 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this Ordinance.

- (2) In the event that the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this Ordinance, and upon conviction, the owner shall be punished as provided by State law. Failure on the part of the owner or keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of the Ordinance. The civil penalty for violation of this subsection is \$25.00, except where the original violation was for Failure to Vaccinate for Rabies in which case the civil Penalty for violation of this subsection is \$100.00.

(Ord. of 6-16-87, § XXI, eff. 3-15-88; Amend. of 12-3-07, eff. 7-1-08)

**Sec. 4-52. Severability.**

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.  
(Ord. of 6-16-1987, § XXII, eff. 1-1-88)

**Sec. 4-53. Effective date.**

This Ordinance shall be effective January 1, 1988. Adopted this the 16th day of June, 1987. Upon motion of Commissioner Carey, seconded by Commissioner Hartwell, the foregoing Animal Control Ordinance was adopted this the 16th day of June, 1987.  
(Ord. of 6-16-1987, § XXIII, eff. 1-1-88)

**Secs. 4-53—4-70. Reserved.**

DIVISION 2. KENNEL AND PET SHOP STANDARDS\*

**Sec. 4-71. Standards for class I kennels.**

All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. Owners or operators of class I kennels must apply to the animal control director, pay any designated privilege tax and receive a permit to own or operate a noncommercial kennel in the county. Facilities shall be subject to inspection during reasonable hours by the animal control officer upon his request. Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article. The premises at noncommercial kennels shall meet the following standards:

- (1) All enclosures housing animals must provide adequate shelter.
- (2) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.

\*Cross reference—Businesses, ch. 8.

- (3) All animals shall have fresh water available at all times.
  - (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
  - (5) All areas housing animals shall be free of accumulated or standing water.
  - (6) All animals housed shall be provided with proper veterinary care to promote good health.
- (Ord. of 6-16-1987, § XIX(B), eff. 1-1-1988)

**Sec. 4-72. Standards for class II kennels.**

All commercial kennels shall, in addition to the other requirements of this article, comply with the minimum standards of this subsection. Owners or operators of Class II kennels must apply to the animal control director, pay any designated fee, and receive a permit to own or operate a Class II commercial kennel in Orange County. Facilities shall be subject to inspection during reasonable hours by an animal control officer upon his or her request. A fee in the amount of \$25.00 shall be assessed against the owners or operators of a facility for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel to the facility. Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article. The premises of commercial kennels shall meet the following standards:

- (1) Buildings or enclosures must be provided, which shall allow adequate protection against extreme weather conditions. Floors of buildings and runs, and walls shall be of a nonporous material or otherwise constructed as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
- (2) Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around and stretch out

to its full length without touching the sides or tops of the cage, kennel or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cage, kennel and run floors of concrete shall have a resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in good repair to protect animals from potential injury, contain the animals, and restrict the entrance of other animals and people.

- (3) Animals shall not be placed in cages, kennels or runs less such cages, kennels or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.
- (4) Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
- (5) Each animal shall be given the opportunity for vigorous daily exercise as appropriate.
- (6) Litter boxes shall be provided for cats and kittens.
- (7) Food shall not be contaminated and shall be wholesome, palatable, and of sufficient quantity and nutritive value and offered at appropriate intervals to meet the normal daily requirements for the condition, size and age of the animal. Food for all animals shall be served in a clean container so mounted that the animals cannot readily tip it over or defecate or urinate in it.
- (8) Supplies of food and bedding shall be stored in facilities that adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (9) All animals shall have fresh, drinkable water available at all times. Water con-

tainers shall be of a removable type and be mounted or secured so that the animals cannot readily tip them over or defecate or urinate in them.

- (10) All food and water containers shall be cleaned and disinfected daily.
- (11) All animals must be fed and watered, and all cages and kennels cleaned each day, including Sundays and holidays.
- (12) Adequate veterinary care shall be provided as needed for each animal.
- (13) Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- (14) Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and animal food and water containers.
- (15) Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents or air conditioning, and shall be ventilated so as to minimize drafts, odors and moisture condensation.
- (16) Facilities for animals shall have ample light by natural or artificial means or both, of good quality and well distributed and as appropriate for each animal's health and well-being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosures shall be so placed as to protect the animals from excessive illumination.
- (17) Every person maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses and telephone numbers of persons responsible for the facility where they may be contacted during any hour of the day or night.

(Ord. of 6-16-1987, § XIX(A), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-2008)

#### **Sec. 4-73. Standards for pet shops.**

All pet shops, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article, comply with the minimum standards of this section. Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article. Owners or operators of pet shops must apply to the animal control director, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county. Facilities shall be subject to inspection during reasonable hours by the animal control officer or other appropriate representative of the animal control officer or other appropriate representative of the animal protection program upon his request. The premises for pet shops shall meet the following standards:

- (1) There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
- (2) Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.
- (3) The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
- (4) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the floor material.
- (5) All animals under three months of age are to be fed at least two times per 24 hours.

Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and shall be of the removal type.

- (6) Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
  - (7) There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
  - (8) All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
- (Ord. of 6-16-1987, § XIX(C), eff. 1-1-1988)

**Secs. 4-74—4-95. Reserved.**

**DIVISION 3. ANIMAL COLLECTION**

**Sec. 4-96. Permit required.**

A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in the county in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a privilege tax set by the board of commissioners and demonstration by the applicant that the requirements of this division shall be met.

(Ord. of 6-16-1987, § XX(A)(Preamble), eff. 1-1-1988)

**Sec. 4-97. Permit application.**

(a) An application for a collection permit shall be made by each individual involved in the collecting of dogs and/or cats in the county for the purpose of sale or other disposal. Any such application for the purpose mentioned in this section shall have to be made to the animal control director on a form prescribed by the animal control director.

(b) An investigation may then be conducted by the animal control director which may include inspection of the premises where the animals are to be kept and any vehicles in which animals are to be transported. A fee in the amount of \$25.00 shall be assessed against an applicant or permit holder for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel.

(c) Upon the determination by the animal control director or person duly authorized by the animal control director that the requirements of this section have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one year shall be issued, upon payment of applicable privilege taxes, to the individual applicant only for the specific individual applicant, premises and vehicles listed on the application.

(d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than 30 days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a civil penalty.

(e) No individual shall be issued a collection permit unless:

- (1) The individual is properly licensed by the U.S. Department of Agriculture and/or the state department of agriculture, and such license is unsuspended and unrevoked.
- (2) The individual complies with this article and all other applicable laws and regulations.
- (3) All requirements of this section have been met.

(f) The following information shall be provided on or with the application for a collection permit:

- (1) The name, address and telephone number of the applicant.
- (2) U.S. Department of Agriculture and/or state department of agriculture license number under which the applicant operates.
- (3) A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping of animals, and all arrests or convictions involving any matter or law in any way pertaining to animals.
- (4) A complete description, including vehicle identification number and vehicle license number of each vehicle that will be used to collect and/or transport animals.
- (5) The address and location where the animals will be kept or maintained for the five days after collection.

(Ord. of 6-16-1987, § XX(A)(1), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-08)

**Sec. 4-98. Permit requirements.**

No permit shall be issued or remain valid unless the animal control director or person duly authorized by the animal control director is satisfied that both the vehicles in which the animals will be collected and transported and/or the premises where the animals will be housed meet the following requirements:

- (1) *Premises.* All premises shall meet the same standards as set for class II commercial kennels in section 4-72.
- (2) *Vehicles.*
  - a. Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.
  - b. The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.

- c. The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.

(3) *Enclosures in or on vehicles.*

- a. Enclosures, including compartments, cages, cartons or crates, used to transport animals are to be well constructed, well ventilated, and designed in such a way to protect the health and ensure the safety of the animals.
- b. These enclosures must be constructed or placed on the vehicles so that:
  - 1. Every animal in the vehicle has sufficient fresh air for normal breathing.
  - 2. The openings of these enclosures are easily accessible for emergency removals at all times.
  - 3. The animals are adequately protected from the elements, including heat and cold.
  - 4. The animals are adequately protected from one another.
- c. Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six months of age shall not be transported in the same enclosure with adult animals, other than their mother.
- d. Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.
- e. Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.
- f. All enclosures used to transport animals shall be disinfected after each use and as needed.

- (4) *Care in transit.*
- a. The attendant or driver shall be responsible for inspecting the animals frequently enough to ensure the health and comfort of the animals and to determine if emergency care is needed and to obtain emergency care if needed.
  - b. If any animal is in a vehicle for more than three hours, it shall be provided fresh, drinkable water, and food as appropriate.
  - c. Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

(Ord. of 6-16-1987, § XX(A)(2), eff. 1-1-1988)

**Sec. 4-99. Records.**

(a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:

- (1) The number of animals received by the collector.
- (2) The sex, breed and a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal.
- (3) The name, address and telephone number of the location to which the animal will be taken for the following five days.
- (4) The name, address and telephone number of the collector.
- (5) The name, address and telephone number of the person surrendering the animal.

(b) A written report containing the information in subsection (a) of this section shall be delivered by the person collecting the animals to the animal shelter within 24 hours of the surrender of the animal.

(c) A record shall be kept of the disposition of every animal collected.

(d) Every collector shall maintain a copy of all receipts and disposition records for one year. (Ord. of 6-16-1987, § XX(A)(3), eff. 1-1-1988)

**Sec. 4-100. Quality assurance program.**

A quality assurance program to ensure adherence to this division shall be carried out within the animal control division. (Ord. of 6-16-1987, § XX(B), eff. 1-1-1988)

**Sec. 4-101. Application and enforcement of division.**

The animal control director shall be responsible for the full and proper application of this division. Questions concerning the applicability or interpretation of this division shall be the responsibility of the animal control director. (Ord. of 6-16-1987, § XX(C), eff. 1-1-1988)

**Secs. 4-102—4-130. Reserved.**

**ARTICLE III. WILD ANIMALS\***

**DIVISION 1. DISPLAY OF WILD AND EXOTIC ANIMALS**

**Sec. 4-131. Definitions.**

As used hereinafter, the following terms shall mean:

*Board:* The Board of County Commissioners of Orange County.

*Director:* The Director of the Orange County Health Department.

*Display:* "Display" shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fight, wrestle or

\***Editor's note**—At the county's instruction sections 4-131—4-138, 4-161—4-165 were superseded by sections 4-181—4-184, 4-201—4-205. These sections were renumbered per county instruction. Derivation for sections 4-131—4-138, 4-161—4-165 is Ord. of 4-5-1983, eff. 4-5-1983; Ord. of 4-5-1983, eff. 4-5-1983; Amend. of 8-14-2001, eff. 8-14-01)

**State law reference**—Possession or harboring dangerous animals, G.S. 153A-131.

participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups or institutions or individuals. "Displayed" means to be the subject thereof.

*Educational Purposes:* Teaching and instructing with the intent and effect of imparting knowledge to others.

*Person:* Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

*Wild or exotic animals:* "Wild or exotic animal" shall mean any or all of the following animals, whether bred in the wild or in captivity, and also any or all of their hybrids with domestic species. It is not the intent of this section to include domesticated species such as horses, cows, sheep or llamas. The words in parentheses are intended to act as examples only and are not to be construed as being an exhaustive list or to otherwise limit the generality of each group of animals:

- (1) Non-human primates and prosimians (such as chimpanzees, monkeys).
- (2) Felids, except domesticated cats.
- (3) Canids, including wolf hybrids, and except domesticated dogs.
- (4) Ursids (bears).
- (5) Elephants.
- (6) Marine mammals (such as whales, seals, sea lions, dolphins and otters).
- (7) Crocodylians (such as alligators and crocodiles).
- (8) Marsupials (such as kangaroos and opossums).
- (9) Snakes and reptiles.
- (10) Ungulates (such as hippopotamus, rhinoceros, giraffe, camel, zebra, deer).
- (11) Hyenas.
- (12) Mustelids (such as weasels, otters and badgers).
- (13) Procyonids (such as raccoons and coatis).

(14) Xenarthras (such as anteaters, sloth and armadillos).

(15) Viverrids (such as civets, and genets).  
(Ord. of 8-14-2001(1), § 1, eff. 8-14-01)

**Sec. 4-132. Display of wild or exotic animals prohibited.**

It shall be unlawful for any person to display or sponsor a display of wild or exotic animals on any public or private property within Orange County.  
(Ord. of 8-14-2001(1), § 2, eff. 8-14-01)

**Sec. 4-133. Enforcement.**

Any person displaying or sponsoring a display of a wild or exotic animal at the date that this Ordinance is adopted to prohibit such display shall comply with the Ordinance's prohibition on the display of wild or exotic animals within 30 days of the effective date of this Ordinance.

(a) *Investigations.* The Orange County Animal Control Division shall investigate any complaints, reports or information that wild or exotic animals are being displayed or will be displayed in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (1) If the Orange County Animal Control Division determines that wild or exotic animals are being displayed in Orange County in violation of this Ordinance, the investigating officer(s) shall issue a written warning to the person displaying the wild or exotic animal(s). The written notice shall be delivered, via hand delivery to a responsible person or via posting at the site of the display.
- (2) The person against whom the warning is issued shall desist all activities in violation of this Ordinance as of the business day the written notice is given.

(b) *Penalties.*

- (1) Criminal Offenses - A violation of any provision of this Ordinance constitutes a Class 3 Misdemeanor and shall be punishable as provided in

North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

- (2) Civil penalty - A person who violates any of the provisions of this Ordinance shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Director shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty.

- (3) Injunctive Relief.
- a. Whenever the Orange County Health Department, the Orange County Planning and Inspections Department or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Ordinance, the agency shall report the violation or threatened violation to the Director. The Director may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County of Orange

for injunctive relief to restrain the violation of threatened violation.

- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Ordinance.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

#### **Sec. 4-134. Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)

#### **Secs. 4-135—4-180. Reserved.**

### DIVISION 2. KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY\*

#### **Sec. 4-181. Definitions.**

As used hereinafter, the following terms shall mean:

*Board:* The Board of County Commissioners of Orange County.

*Director:* The Director of the Orange County Health Department.

*Owner:* Any person, firm, or corporation who keeps, has charge of, shelters, feeds, harbors, or takes care of any wild animal in Orange County.

\***Note**—The August 14, 2001 amendments completely replaced the provisions of the April 5, 1983 Ordinance.

*Wild Animals Dangerous to Persons and Property, hereinafter referred to as "Wild and Dangerous Animals":* The term applies to the following animals: all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of the animals specified herein. In order to properly administer the provisions of this Ordinance, the Board may add to or remove from the classification of wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated herein may be made only if the Board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, requires the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

(Ord. of 8-14-2001(2), § 1, eff. 8-14-01)

**Sec. 4-182. Keeping of wild and dangerous animals prohibited.**

No person, firm or corporation shall keep, shelter, feed, harbor, or take care of any wild and dangerous animal within Orange County.

(Ord. of 8-14-2001(2), § 2, eff. 8-14-01)

**Sec. 4-183. Exemptions.**

The provisions of this Ordinance shall not apply to the keeping of wild and dangerous animals as follows, provided, such keeping is in all respects in compliance with applicable federal and state rules and regulations:

Animals used for teaching and/or research purposes at The University of North Carolina at Chapel Hill.

(Ord. of 8-14-2001(2), § 3, eff. 8-14-01)

**Sec. 4-184. Enforcement.**

(a) *Investigations.* The Orange County Health Department, the Orange County Inspections Division, and the North Carolina Wildlife Resources Commission shall investigate any complaints that

a wild animal is possessed or harbored in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

(b) *Penalties.*

(1) Criminal Offenses - A violation of any provision of this Ordinance constitutes a misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

(2) Civil penalty - A person who violates any of the provisions of this Ordinance shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Director shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Ordinance.

(3) Injunctive relief.

a. Whenever the Orange County Health Department, the Orange County Inspections Division or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Ordinance, the agency shall report the violation or threatened violation to the Director. The Director may, either before or after the institution of any other action or proceeding authorized by this Ordinance

nance, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation or threatened violation.

- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Ordinance.

(Ord. of 8-14-2001(2), § 4, eff. 8-14-01)

**Sec. 4-185. Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

(Ord. of 8-14-2001(2), § 5, eff. 8-14-01)



Chapter 5

**RESERVED**

CD5:1