

**ORDINANCE NO. 2016 - 552**

**AN ORDINANCE TO AMEND DANGEROUS DOG DETERMINATION AND PRECAUTIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH, NORTH CAROLINA that:**

**Section 1.** Section 12-3004 of the Raleigh City Code is hereby amended by adding "For purposes of this article, voice command is not recognized as sufficient physical restraint." after the first sentence of the definition of "Animal at large."

**Section 2.** Section 12-3004 of the Raleigh City Code is hereby amended by deleting the definition of "dangerous dog" in its entirety and substituting in lieu thereof the following:

Any dog that the animal control division has determined: has killed or inflicted serious injury on a person without provocation; is owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting; has inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; has killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or 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 shall not apply to a dog that has been subject to provocation nor shall it apply to any dog responding to a trespass upon the animal owner's premises, if the victim is the trespasser. Provocation must be clearly established.

**Section 3.** Section 12-3004 of the Raleigh City Code is hereby amended by deleting the definition of "potentially dangerous dog" in its entirety.

**Section 4.** Section 12-3004 of the Raleigh City Code is hereby amended by adding the definition "Provocation. Conduct or actions on the part of any person or animal that is likely to arouse a violent or aggressive response by an animal. This term does not include any action on the part of an individual or animal that pertains to reasonable efforts of self-defense." to follow immediately after the existing definition of "Pet shop."

**Section 5.** Section 12-2004 of the Raleigh City Code is hereby amended by adding "Serious injury. Physical injury that results in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization." to follow immediately after the existing definition of "Public nuisance animal."

**Section 6.** ARTICLE C. – NUISANCE ANIMALS of the Raleigh City Code is hereby amended by adding "AND DANGEROUS DOGS" immediately after "NUISANCE ANIMALS"

**Section 7.** Section 12-3022 of the Raleigh City Code is hereby amended by deleting it in its entirety and substituting in lieu thereof the following:

“Sec. 12-3022. PRECAUTIONS AGAINST DANGEROUS DOGS

- (a) When a dog has been determined to be a dangerous dog by the animal control division it shall be unlawful for the owner to:
  - (1) leave a dangerous dog unattended on the owner’s real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog. Any secure enclosure or locked pen shall be constructed in such a manner that a dog cannot escape by means of digging under or jumping over the enclosure or pen, or otherwise becoming free unless freed by the owner;
  - (2) permit a dangerous dog to go beyond the owner’s real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled. Voice command is not recognized as secure restraint under this Article.
- (b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice to:
  - (1) The animal control division of the City of Raleigh, stating the name and address of the new owner or possessor of the dog; and
  - (2) The person taking ownership or possession of the dog, specifying the dog’s dangerous behavior and the fact that the animal control division of the dog has been determined dangerous.
- (c) A dog that has been determined dangerous and subsequently is found at large will be impounded for not less than five (5) days at the owner’s expense. If all reasonable attempts to seize the dangerous dog are unsuccessful, the animal control division or the police department may humanely tranquilize and seize the animal, without prior notice to the owner.”

**Section 8.** ARTICLE C of Chapter 3 of PART 12 of the Raleigh City Code is hereby amended by adding the following:

Sec. 12-3023 APPEAL OF A DANGEROUS DOG DETERMINATION

- (a) A request for appeal of a determination that a dog is dangerous must be made in writing and filed with the City Clerk within five (5) business days of the action or decision complained of and must state with particularity the grounds of the appeal. An appeal hearing shall be conducted by the City Manager or his designee.

- (b) The City Manager or his designee shall render a decision within three (3) business days of the hearing.
- (c) The decision of the City Manager or his designee is subject to appeal in Superior Court in the nature of certiorari. Any and all sanctions or penalties imposed and upheld by the City Manager or his designee shall be enforceable during the pendency of any appeal.
- (d) If the decision is in favor of the owner, efforts to implement the sanction(s) shall cease. Decisions rendered by the City Manager or his designee apply only to the violation(s) and sanction(s) appealed and do not prevent the animal control division from enforcing subsequent violations of the same provision or any other provision.

**Sec. 12-3024 SUMMARY DESTRUCTION OF ANIMALS THAT CANNOT BE SEIZED BY REASONABLE MEANS.**

Notwithstanding any other provision of this Chapter, any animal that is determined to be dangerous or who is attacking a human being or pet and that cannot be seized, retrieved, humanely trapped, or tranquilized through reasonable means may be summarily destroyed, if such destruction is necessary for the protection of life or property or for the public health and safety.

**Sec. 12-3025. 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 was trespassing at or near the time of the bite.
- (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 division of 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.

**Section 9.** Section 13-3067 of the Raleigh City Code is hereby amended by adding "In addition to the requirements for securing a dangerous dog in accordance with Section 12-3011," at the beginning of the first sentence and replacing the word "All" with "all" after the addition of the new language.

**Section 10.** Section 12-3069(b) of the Raleigh City Code is hereby repealed in its entirety, rewritten, and reenacted as follows:

(b) The first violation of this chapter shall subject the violator to a civil penalty of one hundred dollars (\$100.00); the second violation during a twelve-month period shall be subject to a one hundred fifty dollar (\$150.00) penalty; the third violation during a twelve-month period shall be subject to a two hundred fifty dollar (\$250.00) penalty; the fourth and subsequent violations shall be subject to a five hundred dollar (\$500.00) penalty. Civil citations shall be served personally upon the violator by an animal control officer, by a member of the Raleigh Police Department, or by any other means authorized for the service of civil process by the North Carolina Rules of Civil Procedure.

**Section 11.** All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

**Section 12.** If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

**Section 13.** This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. 14-4(a) or similar limitations.

**Section 14.** This ordinance shall become effective March 15, 2016.

**ADOPTED: March 1, 2016**

**EFFECTIVE: March 15, 2016**

**DISTRIBUTION: Department Heads**

*This ordinance prepared by the Raleigh City Attorney's Office*