

Town Council of the Town of Rutherfordton

Rutherford County, North Carolina

Ordinance No. 11-18

AN ORDINANCE AMENDING CHAPTER 4 ANIMALS OF THE CODE OF ORDINANCES OF THE TOWN OF RUTHERFORDTON.

BE IT RESOLVED by the Town Council of the Town of Rutherfordton that the Code of Ordinances is hereby amended by repealing Chapter 4 in its entirety and replacing it with the following:

ANIMALS

ARTICLE I. IN GENERAL

Sec. 4-1. Purpose.

Pursuant to the authority granted by the general statutes of North Carolina and the general police power of the Town, this ordinance is enacted to protect and promote the health, safety, and welfare of its citizens, and, without limiting the generality of the foregoing purpose, to specifically:

- (a) Regulate, restrict, and/or prohibit, if necessary, animals;
- (b) Protect the public from unvaccinated, diseased, stray, roaming, feral, nuisance, dangerous, aggressive, wild, and/or exotic animals;
- (c) Prohibit and make unlawful animals or acts of animals that interfere with or threaten the health, safety, or welfare of the public, and/or which interfere with the enjoyment of property or the peace of the community;
- (d) Protect animals from abuse or neglect, or conditions which are otherwise harmful to their well-being; and
- (e) Provide for certain remedies and enforcement mechanisms to carry out and/or implement such purposes.

Sec. 4-2. Definitions.

For purposes of this chapter, the following definitions shall apply:

Animal means every non-human living organism of the classes amphibia, reptilian, aves, and mammalia, possessing the capacity of voluntary motion or mobility, including but not limited to domestic animals as hereinafter defined, livestock as hereinafter defined, equine animals as hereinafter defined, exotic animals as hereinafter defined, birds, reptiles, amphibians, and fish.

Animal Control Officer means such person(s) as shall be appointed from time to time by the Town, or any person designated or authorized to act within the Town pursuant to inter-local agreement, to implement and enforce the provisions of this chapter and related applicable state laws, and discharging such other duties and functions related to animals as may be authorized from time to time by the Town Council.

Animal Cruelty means any act, omission, or neglect which causes or permits unjustifiable physical pain, suffering, or death to an animal.

Dangerous Animal means any Animal, other than a working police dog, which has been specifically trained or taught to attack humans or other Animals, or to engage in fights with other Animals, or which has, without provocation, exhibited aggressive behavior toward humans or other Animals by attacking, biting, threatening, terrorizing, injuring, or otherwise causing physical harm or reasonable fear of such harm while not on its Owner's Property, as hereinafter defined, or which has been otherwise determined by the Animal Control Officer to be potentially dangerous due to propensities or tendencies exhibited by the Animal which, under the totality of the circumstances, create a reasonable fear that there is a risk of such behaviors, as well as any Animal which is found to be rabid or diseased.

Domestic Animal means those animals indigenous to the area which normally and customarily share human habitat in the Town, and which are normally dependent upon humans for food and shelter, including but not limited to domestic cats, domestic dogs, domestic ferrets, caged birds, fish confined to an aquarium or fish pond, and such other Animals which are normally kept as household pets and/or are subject to the laws of the state of North Carolina pertaining to rabies or other vaccination, but do not meet the definition of Equine Animals or Livestock.

Equine Animal means any horse, mule, pony, donkey, or hinny.

Exotic Animal means any Animal not indigenous to the area that would ordinarily be confined to a zoo, scientific or zoological exhibit, or similar facility, and which does not meet the definition of a Domestic Animal, Equine Animal, or Livestock. Specifically excluded from the definition of Exotic Animal are caged birds and fish confined to an indoor aquarium or outdoor fish pond, which, even if not indigenous to the area, shall be

considered Domestic Animals.

Kennel, Cattery or Pet Shop means any facility or property which keeps, breeds, sells, or boards Domestic Animals for a fee, and any person who keeps, shelters, harbors, or feeds more than four (4) Domestic Animals over twelve (12) weeks of age at any one time shall be deemed to be operating a kennel, cattery, or pet store.

Livestock means all domesticated animals which are ordinarily and customarily kept for agricultural purposes, including but not limited to cattle and bovine animals, sheep, goats, bees, chickens, turkeys, llamas, and swine.

Lot means a single parcel of real property, together with any adjacent, contiguous, and/or adjoining parcels of real property if under common ownership.

Nuisance Animal means any animal which causes or creates annoyance by noise or odor, or which has on more than one occasion, turned over garbage or recycling receptacles, or which has, on more than one occasion, destroyed or caused damage to gardens, shrubs, plantings, yards, real property, or personal property, or which is otherwise destructive or has otherwise disturbed the peace, or which has unreasonably interfered with the peaceful use and enjoyment of any public areas or neighboring properties. Any Animal found to be roaming or running at large on more than one occasion, or which has been involved in multiple violations of this Chapter, may also be declared to be a Nuisance Animal in the discretion of the Animal Control Officer.

Owner means any person who keeps, harbors, shelters, or otherwise cares for any animal (excluding kennels and catteries), or who otherwise has a possessory property right in an animal, or has possession, charge, custody, or control of an animal.

Owner's Property means any real property owned, leased, or occupied by the Owner of an Animal, over which real property the Owner of the Animal exerts control and has a right of exclusive possession, and specifically excludes any public or common areas.

Proper Enclosure means a building or other enclosure from which an Animal cannot escape, or an outside area enclosed by a fence of sufficient design and height to prevent the escape of the particular type(s) of Animal to be contained, or suitable electric or invisible fencing such that the Animal cannot leave the area enclosed by the fence.

Service Animal means an Animal that has been specially trained to provide assistance to persons with impaired senses, mobility, or other recognized impairments, and has been properly registered as such, as well as working police dogs.

Stray or Feral Animal means any Animal other than a Wild Animal which is

found to be roaming or running at large and which does not have an Owner, or for which the Owner of the Animal cannot be immediately determined by collar tag or electronic chip, or otherwise determined in the exercise of reasonable diligence.

Wild Animal means any Animal that, while indigenous to the area, would ordinarily be confined to a zoo, scientific or zoological exhibit, or similar facility, and/or any other indigenous Animal which does not meet the definition of a Domestic Animal, Equine Animal, or Livestock, or which may cause a reasonable person to be fearful of bodily harm, disease, or property damage, including but not limited to squirrels, raccoons, skunks, opossums, groundhogs, deer, wolves, foxes, coyotes, bobcats and other wild felines, wild swine, venomous reptiles, reptiles weighing over fifty (50) pounds at maturity, and any other animal known at law as *ferae natura*.

ARTICLE II. DOMESTIC ANIMALS

Sec. 4-3. Physical Restraint of Domestic Animals.

It shall be unlawful for the Owner of any Domestic Animal to allow such Domestic Animal, excluding spayed/neutered domestic cats, to run at large or to otherwise leave the premises of the Owner's Property, unless such Domestic Animal is physically restrained by means of a leash or other suitable device by which the Owner can restrain and/or control the Domestic Animal, or is confined within a vehicle.

Sec. 4-4. Control of Domestic Animals on the Owner's Property.

While on the Owner's Property, Domestic Animals, excluding spayed/neutered domestic cats, must be either in a Proper Enclosure, properly restrained as set forth in Sec. 4-3 above, or in the physical presence of a responsible adult who is in the proximity of the Domestic Animal such that he or she could restrain or exert direct control over the Domestic Animal by verbal or physical means if necessary.

Sec. 4-5. Vaccinations and Tags or Chips.

The Owners of all Domestic Animals of greater than four (4) months of age shall have such Domestic Animals vaccinated against rabies, and shall maintain proper documentation or record of such vaccination, and further shall ensure that such Domestic Animal is at all times wearing a collar tag displaying a record of such vaccination as well as the name and address of the Owner, and/or has an implanted electronic chip containing such information.

Sec. 4-6. Domestic Animals in Season.

The Owner of every Domestic Animal that has not been spayed or neutered shall confine such Domestic Animal in a Proper Enclosure at all times that the Domestic Animal is in season, and shall take all steps necessary to ensure that it cannot come into contact with other Domestic Animals, and for purposes of this Section electric or invisible fencing shall not be a Proper Enclosure because such installations do not prevent other Domestic Animals from entering onto the Owner's Property and coming into contact with the Owner's Domestic Animal. Provided, however, that nothing herein shall prevent the intentional breeding of Domestic Animals within a Proper Enclosure on the Owner's Property (again, exclusive of invisible fencing), subject to the requirements of Section 4-7 below.

Sec. 4-7. Kennels, Catteries, and Pet Shops.

It shall be unlawful for any person to own or operate a Kennel, Cattery, or Pet Shop within the Town except in accordance with the provisions of state laws and regulations concerning the operation of such facilities, and the Town's Unified Development Ordinance. Any such facility or property must be kept in a clean and sanitary condition such as not to allow any nuisance of noise or odor, or to in any way otherwise interfere with the quiet enjoyment of neighboring properties. All such facilities shall include Proper Enclosures suitable for the number of Domestic Animals contained therein at any one time, and no Kennel, Cattery, or Pet Shop shall be located within one hundred (100) feet of any dwelling or residence, other than that of the Owner of the property on which it is located.

Sec. 4-8. Public Areas.

All Domestic Animals in public areas, including but not limited to Crestview Park, Kiwanis Park, Main Street Park, the Purple Martin Trail, and the Thermal Belt Rail-Trail, shall be subject to the following requirements:

(a) All Domestic Animals in public areas shall be properly restrained in accordance with Section 4-3 above, and shall not be allowed to run at large in any public area;

(b) The Owner of any Domestic Animal that defecates in any public area shall clean up after their Animal and properly dispose of the waste by sealing it in a plastic bag and placing it in a trash receptacle;

(c) Other than Service Animals, it shall be unlawful to allow any Domestic Animal into or onto any of the following areas at Crestview Park:

(1) Tennis courts;

- (2) Basketball courts;
- (3) Restrooms;
- (4) Concession stand;
- (5) Picnic shelter; and/or
- (6) Baseball/Softball playing fields.

ARTICLE III. LIVESTOCK AND EQUINE ANIMALS

Sec. 4-9 Keeping of Livestock and Equine Animals.

It shall be unlawful to keep or maintain any Livestock or Equine Animals within the corporate limits of the Town, except as specifically allowed in this Article.

Sec. 4-10. Keeping of Chickens.

It shall be unlawful for any person to keep or maintain any roosters or male chickens, and hens or female chickens may only be kept within the corporate limits of the Town in accordance with the following:

(a) Chickens may not be allowed to run at large and must be kept within a Proper Enclosure, which must be located as follows:

- (1) In the backyard of a residence and/or in such a manner that the enclosure is not visible from the road or street on which the residence is located, and for vacant Lots, in such a manner that the enclosure is not visible from the street at the front of the Lot;
- (2) More than fifty (50) feet from any well, spring, stream, or other water source;
- (3) More than fifty (50) feet from any drain, sewer, gutter, or similar feature which collects surface water run-off;
- (4) More than fifty (50) feet from the boundary of any adjoining property unless under common ownership; and
- (5) More than one hundred (100) feet from any dwelling or residence other than that of the Owner of the property on which the enclosure is located.

(b) No more than four (4) hens may be kept on any Lot, and no roosters may be kept.

(c) No outside slaughtering of chickens is permitted.

(d) The Proper Enclosure in which the chickens are kept must be maintained in a neat and clean condition, with all waste regularly and properly disposed of in such a manner to prevent offensive odors.

Sec. 4-11. Keeping of Equine Animals, Sheep, or Goats.

(a) It shall be unlawful to keep any Equine Animal, sheep, or goat on any Lot within the corporate limits of the Town that is less than two (2) acres in size. For any Lot larger than two (2) acres in size, the number of Equine Animals, sheep, or goats that may be kept is as follows:

Lots 2-5 acres in size	no more than five (5) total Animals
Lots 5-10 acres in size	no more than ten (10) total Animals
Lots larger than ten (10) acres	no more than one (1) Animal per acre

(b) Equine Animals, sheep, or goats kept in accordance with this Section may not be allowed to run at large, and must be kept in a Proper Enclosure, the outside perimeter of which is located as follows:

(1) More than fifty (50) feet from any well, spring, stream, or other water source;

(2) More than fifty (50) feet from any drain, sewer, gutter, or similar feature which collects surface water run-off;

(3) More than fifty (50) feet from the boundary of any adjoining property, unless under common ownership; and

(4) More than one hundred (100) feet from any dwelling or residence other than that of the Owner of the property on which the enclosure is located.

(c) The Proper Enclosure in which the Equine Animals, sheep, or goats are kept must be maintained in a neat and clean condition, with all waste regularly and properly disposed of in such a manner to prevent offensive odors.

- (d) No outside slaughtering of sheep or goats is permitted.

Sec. 4-12. Keeping of Bees.

The keeping of bees shall be allowed only in accordance with the following:

- (a) Any hive or other enclosure for the keeping of bees must be located at least twenty-five (25) feet from any adjoining property boundary, unless under common ownership, and at least one hundred (100) feet from any residence other than that of the Owner of the property on which it is located; and
- (b) No more than four (4) hives may be located on a Lot of less than two (2) acres in size.

ARTICLE IV. EXOTIC ANIMALS AND WILD ANIMALS

Sec. 4-13. Keeping of Exotic Animals.

It shall unlawful to keep or maintain any Exotic Animal within the corporate limits of the Town, subject to the following exceptions:

- (a) Properly permitted pet shops, to the extent permitted by and operated in accordance with the Town's Unified Development Ordinance;
- (b) Zoos, scientific or zoological exhibits, laboratories, or research facilities, to the extent permitted by and operated in accordance with the Town's Unified Development Ordinance; and
- (c) Exhibitors licensed by the United States Department of Agriculture for displaying such Animals for educational purposes, provided that the Animals are maintained in a manner sufficient to prevent escape.

Sec. 4-14. Keeping of Wild Animals.

It shall be unlawful to keep or maintain any Wild Animal within the corporate limits of the Town, subject to the following exceptions:

- (a) Zoos, scientific or zoological exhibits, laboratories, or research facilities, to the extent permitted and operated in accordance with the Town's Unified Development Ordinance; and
- (b) Exhibitors licensed by the United States Department of Agriculture for displaying such Animals for educational purposes, provided that the Animals are

maintained in a manner sufficient to prevent escape.

Sec. 4-15. Confinement/Proper Enclosure.

Any Exotic Animal or Wild Animal permitted under one of the listed exceptions under Section 4-13 or 4-14 above may not be allowed to run at large and must be confined in a manner meeting all current regulations promulgated by the state wildlife commission and/or the United States Department of Agriculture, and which also meets the requirements of the North Carolina Animal Welfare Act. Further, the confinement must, in the judgment of the Animal Control Officer, be sufficient to prevent escape and otherwise protect the safety and welfare of the public.

Sec. 4-16. Bird Sanctuary.

The entire area embraced within the corporate limits of the Town is designated as a bird sanctuary, pursuant to N.C.G.S. 160A-188.

ARTICLE V. NUISANCE AND DANGEROUS ANIMALS

Sec. 4-17. Declaration of Public Nuisance.

It shall be unlawful to keep any Nuisance Animal within the corporate limits of the Town, and the keeping of any such Animal is hereby declared to be a public nuisance.

Sec. 4-18. Keeping of Dangerous Animals.

It shall be unlawful to keep any Dangerous Animal within the corporate limits of the Town.

ARTICLE VI. ANIMAL CRUELTY

Sec. 4-19. Animal Cruelty Prohibited.

It shall be unlawful for any person to engage in any act of Animal Cruelty within the corporate limits of the Town.

Sec. 4-20. Specific Acts Prohibited.

Without limiting the generality of Section 4-19, the following conduct or actions are specifically made unlawful within the corporate limits of the Town:

- (a) Failure of an Owner to provide adequate food, water, and/or shelter for

any Animal which is lawfully kept in accordance with this Chapter;

(b) Failure of an Owner to keep Domestic Animals up to date on all required vaccinations or inoculations, and/or failure to provide appropriate veterinary or medical care to any Animal in need of such care due to illness or injury;

(c) Beating, torturing, mutilating, poisoning, tormenting, or otherwise causing physical injury to an Animal;

(d) Keeping any Animal in unsanitary or inhumane conditions;

(e) Promoting or participating in any staged fighting of Animals; and

(f) Confining an Animal in a motor vehicle under such conditions or for such period of time as to threaten the welfare of the Animal due to heat, lack of food and water, and/or lack of proper ventilation.

ARTICLE VII. ENFORCEMENT

Sec. 4-21. Violations of Section 4-5

In addition to any remedies or penalties which may be imposed pursuant to Sections 4-22, 4-23, 4-24, or 4-25 below, the Owner of any Domestic Animal who shall fail to have such Domestic Animal properly inoculated against rabies, and/or who fails to ensure that such Domestic Animal is at all times wearing a collar tag or implanted electronic chip, all as required by Section 4-5 of Article II, shall be issued a civil citation assessing a civil penalty of fifty dollars (\$50.00).

Sec. 4-22. First-Time Violations of Articles II, III, or IV.

Upon the receipt by the Animal Control Officer of a complaint or report from a citizen concerning a suspected or alleged violation of any of the provisions of Articles II, III, or IV of this Chapter, or at any time upon his/her own initiative if he/she reasonably believes that a violation of Articles II, III or IV has occurred, *and the Animal Control Officer and/or the Rutherfordton Police Department have no record of any prior complaints or reports concerning the Owner or the Animal*, then the following shall apply:

(a) The Animal Control Officer shall investigate the complaint or report and if it is found that a violation has occurred, issue a written Notice of Violation to the Owner of the Animal in question which shall include the following:

(1) A description of the nature of the violation(s), with citation(s) to

the applicable Sections of this Chapter;

(2) A directive that the violation(s) be abated or otherwise remedied or removed within thirty (30) days of the Notice of Violation;

(3) Notice that the failure to voluntarily and timely abate, remedy, or remove the violation(s) in accordance with the Notice of Violation will result in the imposition of fines and/or other penalties as set forth in Subsection (b) below; and

(4) A full copy of this Chapter 4 of the Town's General Code of Ordinances.

(b) In the event that the Owner shall, after receipt of the Notice of Violation as set forth in subsection (a) above, fail to timely comply with the directive to abate, remedy, or remove the violation(s) of the ordinance, the Animal Control Officer shall issue a civil citation assessing a penalty of fifty dollars (\$50.00).

(c) In the event that the Owner shall, after receipt of the Notice of Violation as set forth in subsection (a) above, and the civil citation as set forth in subsection (b) above, continue in their failure to abate, remedy, or remove the violation(s) of the ordinance, the Town may apply to the appropriate court of Rutherford County for injunctive relief and/or an order of abatement, together with collection of any unpaid civil penalties.

(d) In the event that the first-time violation of Article II, III, or IV concerns an Animal roaming or running at large, then the Animal may be seized and impounded in accordance with Section 4-26 below.

Sec. 4-23. Subsequent Violations of Articles II, III, or IV.

Upon the receipt by the Animal Control Officer of a complaint or report from a citizen concerning a suspected or alleged violation of any of the provisions of Articles II, III, or IV of this Chapter, or at any time upon his/her own initiative if he/she reasonably believes that a violation of Articles II, III, or IV has occurred, *and the Animal Control Officer and/or the Rutherfordton Police Department have record of prior complaints or reports concerning the same Owner or the same Animal*, then the following shall apply:

(a) The Animal Control Officer shall investigate the complaint or report and if it is found that a violation has occurred, issue a written directive to the Owner that the violation(s) be immediately abated or otherwise remedied or removed, and shall also issue a civil citation to the Owner reciting prior violation(s) of Chapter 4 of the

ordinances and assessing a civil penalty of one hundred dollars (\$100.00) for a second violation, and two hundred dollars (\$200.00) for a third or any subsequent violation.

(b) In the event that the Owner shall, after receipt of the written directive and the civil citation as set forth in subsection (a) above, continue in their failure to abate, remedy, or remove the violation(s) of the ordinance, the Town may apply to the appropriate court of Rutherford County for injunctive relief and/or an order of abatement, together with collection of any unpaid civil penalties.

(c) Following a third violation of Articles II, III, or IV of this Chapter by the same Owner, without regard to whether all of the violations have involved the same Animal, and in addition to the remedies and/or penalties set forth in subsections (a) and (b) above, the Animal Control Officer may order the immediate seizure and impoundment of the Animal involved in the most recent violation(s), in accordance with the provisions of Section 4-26 below.

(d) In the event that the subsequent violation of Article II, III, or IV concerns an Animal roaming or running at large, then the Animal may be seized and impounded in accordance with Section 4-26 below, and further, if the violations involve the same Animal roaming or running at large on multiple occasions, the Animal may, in the discretion of the Animal Control Officer, be declared a Nuisance Animal, subjecting the Animal and/or its Owner to the provisions of Sections 4-24 and 4-26(c) below.

Sec. 4-24. Violations of Article V

Upon the receipt by the Animal Control Officer of a complaint or report from a citizen concerning a suspected or alleged violation of any of the provisions of Article V of this Chapter, or at any time upon his/her own initiative if he/she reasonably believes that a violation of Article V has occurred, the following shall apply:

(a) The Animal Control Officer shall investigate the complaint or report and if it is found that a violation of Article V has occurred, issue a written directive to the Owner that the violation(s) be abated or otherwise remedied by the confinement, destruction, or permanent removal of the Animal from the corporate limits of the Town within forty-eight (48) hours of the issuance of the written directive for confinement, destruction, or permanent removal.

(b) The Animal Control Officer Shall also issue a civil citation to the Owner assessing a civil penalty of one hundred dollars (\$100.00), and stating that each day that the violation is unabated shall be treated as an additional violation, such that the civil penalty shall continue to accrue at one hundred dollars (\$100.00) per day that the violation continues after the forty-eight (48) hour notice period.

(c) In the event that the Owner shall, after receipt of the written directive and/or the civil citation as set forth in subsections (a) and (b) above, continue in their failure to confine, destroy, or permanently remove the offending Animal, the Town may apply to the appropriate court of Rutherford County for injunctive relief and/or an order of abatement, which may include express leave of the court for the humane destruction of the Animal, together with collection of any unpaid civil penalties which accrue through the date of the granting of any such judicial relief.

(d) In the event that the Owner shall, after receipt of the written directive and/or the civil citation set forth in subsections (a) and (b) above, continue in their failure to confine, destroy, or permanently remove the offending Animal, then, in addition to the remedies and/or penalties set forth above, the Animal Control Officer may order the immediate seizure and impoundment of the Animal in accordance with the provisions of Section 4-26 below.

(e) In the event that the Animal Control Officer shall find that a violation of Article V has occurred, and shall further conclude, in his/her sole and absolute discretion, that the Animal in question poses a significant risk of imminent harm or damage to persons or property, or otherwise poses a threat to the public health or safety, the Animal Control Officer may order the immediate seizure and impoundment of the Animal with or without prior notice to the Owner of the Animal, in accordance with the provisions of Section 4-26 below.

Sec. 4-25. Stray or Feral Animals

Any Stray or Feral Animal may be immediately seized and impounded in accordance with the provisions of Section 4-26 below.

Sec. 4-26. Seizure, Impoundment, Forfeiture and/or Destruction of Animals

Any Animal ordered to be seized by the Animal Control Officer pursuant to Sections 4-22(d), 4-23(c), 4-23(d), 4-24(d), 4-24(e), or 4-25, shall be seized by Rutherford County Animal Control Services, pursuant to its then-current agreement with the Town of Rutherfordton, and immediately placed in the custody of the Rutherford County Animal Shelter, or such other animal control facility as may be appropriate, and shall thereafter be impounded, held, forfeited, and/or destroyed as follows:

(a) *Seizure of Stray or Feral Animals.* For any Stray or Feral Animal which has been seized pursuant to Section 4-25, the Animal Control Officer shall post a notice of the seizure, including the time and location of the seizure and a description of the Animal, on the Town's website, at the animal control facility at which the Animal is being held, and at the Town Hall, for a period of three (3) days, after which time the Animal may be made available for adoption or humanely euthanized, in

accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure. If a person claims to be the Owner of a Stray or Feral Animal which has been seized pursuant to Section 4-25, the Animal may be released to such person claiming ownership of the Animal in the discretion of the Animal Control Officer, and provided as follows:

(1) The Animal has not been deemed by the Animal Control Officer to be either a Nuisance Animal or a Dangerous Animal;

(2) The Owner shall be cited for a violation of Section 4-3, 4-5, 4-10(a), 4-11(b), and/or 4-15, as appropriate, and any civil penalties, as well as any charges assessed by the shelter facility, shall be paid in full; and

(3) In the case of a Domestic Animal, the Animal has been inoculated, tagged, and/or chipped as required by Section 4-5 above.

(b) *Seizure of Animals Running at Large.* For Animals running at large which are seized pursuant to Sections 4-22(d) or 4-23(d), and for which ownership of the Animal can be determined:

(1) The Animal Control Officer shall provide written notice of the seizure to the Owner of the Animal stating the following:

(i) The date and location of the seizure;

(ii) Citation of the ordinance section authorizing the seizure;

(iii) The location at which the seized Animal is being held; and

(iv) The procedure for re-claiming their Animal, which shall include a requirement that all outstanding civil penalties be paid to the Town, in addition to any charges levied by the county facility at which the Animal was impounded.

(2) In the event that an Animal seized pursuant to Sections 4-22(d) or 4-23(d) shall not be reclaimed by its Owner within three (3) days of proper notice as set forth in subsections (b)(1) above, then the Animal shall be forfeited and may be made available for adoption or humanely euthanized, in accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure.

(c) *Seizure of Animals for Multiple Instances of Roaming or Running at*

Large. For Animals which are seized pursuant to Section 4-23(d), *and have been declared by the Animal Control Officer to be a Nuisance Animal due to multiple instances of the same Animal roaming or running at large:*

(1) The Animal Control Officer shall provide written notice of the seizure to the Owner of the Animal stating the following:

(i) The date and location of the seizure, with a description of the Animal;

(ii) Notice that the Animal has been declared a Nuisance Animal and citing the basis therefor;

(iii) Citation of the ordinance section(s) authorizing the seizure;

(2) The Animal may be re-claimed by its Owner within three (3) days of the notice set forth above, only upon the following conditions:

(i) All outstanding civil penalties are paid to the Town, in addition to any charges levied by the county facility at which the Animal was impounded; and

(ii) The Owner has signed a statement agreeing to confine, destroy, or permanently remove the Animal from the corporate limits of the Town within forty-eight (48) hours of its release to the Owner, and acknowledging that the failure to do so will result in the immediate seizure and permanent forfeiture of the Animal.

(3) In the event that an Animal seized pursuant to Section 4-23(d) and declared to be a Nuisance Animal thereunder shall not be reclaimed by its Owner within three (3) days of proper notice as set forth in subsection (c)(1) above, or if an Owner of Animal violates an agreement executed pursuant to subsection (c)(2)(ii) above, or if the Animal is thereafter again found to be roaming or running at large, then the Animal shall be immediately seized and deemed forfeited, and may be made available for adoption or humanely euthanized, in accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure.

(d) *Seizure of Animals for Multiple Violations.* For Animals which are seized pursuant to Section 4-23(c) due to multiple violations of Chapter 4 by the Owner of the Animal:

(1) The Animal Control Officer shall provide written notice of the seizure to the Owner of the Animal stating the following:

- (i) The date and location of the seizure;
- (ii) Citation of the ordinance section authorizing the seizure;
- (iii) The location at which the seized Animal is being held; and
- (iv) The procedure for re-claiming their Animal, which shall include a requirement that all outstanding civil penalties be paid to the Town, in addition to any charges levied by the county facility at which the Animal was impounded, *and* a further requirement that the Owner sign a statement agreeing to prevent future violations of this Chapter and acknowledging that any such future violation may result in the immediate seizure and permanent forfeiture of the Animal.

(2) In the event that an Animal seized pursuant to Section 4-23(c) shall not be reclaimed by its Owner within three (3) days of proper notice as set forth in subsection (d)(1) above, or if an Owner of Animal violates an agreement executed pursuant to subsection (d)(1)(iv) above, then the Animal shall be forfeited and may be made available for adoption or humanely euthanized, in accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure.

(e) *Seizure of Nuisance Animals.* For Nuisance Animals which are seized pursuant to Sections 4-24(d) or 4-24(e), the Animal Control Officer shall provide written notice of the seizure to the Owner of the Animal stating the following:

- (1) The date and location of the seizure, with a description of the Animal;
- (2) Notice that the Animal has been declared a Nuisance Animal and citing the basis therefor;
- (3) Citation of the ordinance section(s) authorizing the seizure; and
- (4) Notice that the Animal has been forfeited and shall be made available for adoption or humanely euthanized, in accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure.

(f) *Seizure of Dangerous Animals.* For Dangerous Animals which are seized pursuant to Sections 4-24(d) or 4-24(e):

(1) The Animal Control Officer shall provide written notice to the Owner of the Dangerous Animal stating the following:

(i) The date and location of the seizure, with a description of the Animal;

(ii) Notice that the Animal has been declared a Dangerous Animal and citing the basis therefor;

(iii) Citation of the ordinance section authorizing the seizure;

and

(iv) Notice that the Animal has been forfeited and shall be humanely euthanized, in accordance with the then current policies, practices, protocols, or procedures of the county shelter facility in whose custody the Animal was placed following its seizure, subject to the Owner's right to appeal as set forth in subsections (2) and (3) below.

(2) Within three (3) days of a notice under subsection (d)(1) above, the Owner of any Dangerous Animal seized pursuant to Sections 4-24(d) or 4-24(e) may appeal the forfeiture and destruction of the Dangerous Animal by delivering a written statement to the Animal Control Officer acknowledging ownership of the Animal, submitting payment of any outstanding civil penalties and county charges, and setting forth in detail any evidence that the Animal is not a Dangerous Animal and/or that the seizure and forfeiture is otherwise not in accordance with this Chapter or North Carolina state law.

(3) Upon the receipt of a proper and timely notice of appeal, the Animal Control Officer shall submit same to the appeal panel of Rutherford County Animal Control Services for their consideration, and such appeal shall thereafter be conducted in accordance with the then current policies, practices, protocols and procedures of Rutherford County Animal Control Services.

Sec. 4-27. Criminal Charges.

In addition to all other remedies and penalties set forth in this Article, any person who violates any provision of this Chapter, other than Article VI concerning Animal Cruelty, may be charged with a Class 1 misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment not to exceed thirty (30) days.

Persons who violate Article VI may be charged in accordance with Article 47 of Chapter 14 of the North Carolina General Statutes.

Part II. All ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Part III. This Ordinance shall become effective upon its adoption.

ADOPTED this 6th day of December, 2017 by the Town Council of the Town of Rutherfordton, North Carolina.

ATTEST:

Mara Short, Town Clerk

APPROVED AS TO FORM:

David Lloyd, Town Attorney



MAYOR Jimmy Dancy