

Chapter 3 - ANIMALS⁽¹⁾

Footnotes:

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Charter reference— Spay/neuter clinic and differential license tax, § 7.71 et seq.

Cross reference— Health and sanitation, ch. 10; dead animals, § 10-112; noise from animals, § 15-66; animals prohibited on school grounds, § 15-12.

State Law reference— Protection of animals, G.S. ch. 19A; dogs, G.S. ch. 67; municipal authority to prohibit the abuse of animals, G.S. 160A-182; municipal authority to regulate domestic animals, G.S. 160A-184; municipal authority to restrict or prohibit dangerous animals, G.S. 160A-187.

ARTICLE I. - IN GENERAL

Sec. 3-1. - Purpose.

- (a) Pursuant to authority granted by the general assembly, this chapter is enacted to:
- (1) Regulate, restrict or prohibit, if necessary, animals;
 - (2) Protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild or exotic animals;
 - (3) Make unlawful the acts of animals that interfere with the enjoyment of property or the peace and safety of the community;
 - (4) Protect animals from abuse or conditions harmful to their well-being;
 - (5) Operate an animal shelter; and
 - (6) Carry out any other lawful duties authorized by state laws and applicable ordinances.
- (b) The city council hereby finds that animals kept or allowed to be in violation of any of the sections of this chapter are detrimental to the health, safety, and welfare of the citizens of the city and jeopardize the peace and dignity of the city.

(Code 1985, § 3-1)

Sec. 3-2. - Jurisdiction; interlocal agreements.

- (a) This chapter shall be applicable within the corporate limits of the city.
- (b) No employee of the animal control bureau shall have the authority to enforce this chapter within any other corporate limits or jurisdictions, unless an interlocal agreement pursuant to G.S. 160A-460 et seq. is executed by the city and the incorporated township. Such an interlocal agreement may be entered into at any time, provided the appropriate resolution is adopted by the governing body of any such municipality or township agreeing that this chapter shall be enforced by the animal control officers, as defined in section 3-3, within the corporate limits or jurisdiction of the municipality.

(Code 1985, § 3-2)

Sec. 3-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate shelter means an enclosed area accessible by an animal, of sufficient size and nature so as to provide the animal with reasonable protection from adverse weather conditions.

Aggression-trained dog means any dog that has been trained or conditioned, to any extent, to bite, attack or exhibit aggressive behavior towards humans or other domestic animals for any purpose, including, but not limited to, the security of business property or personal security.

Aggression-training facility means any person who schools, trains or conditions canines to bite, attack or exhibit aggressive behavior towards humans or other domestic animals for any purpose, including, but not limited to, the security of business property or personal security.

Animal means every nonhuman, animate being that is endowed with the power of voluntary motion, including, but not limited to, dogs, cats, livestock and other mammals, birds, reptiles, amphibians and fish.

Animal control officers means persons properly appointed by the city to enforce all sections of this chapter and applicable state laws and who are responsible for discharging such other duties and functions as may be prescribed by the board of commissioners and the city council as set forward by this chapter or any other applicable ordinance or state law or pursuant to interlocal agreements cited in section 3-2.

Bullhook means a tool or device, also known as an elephant goad or an ankus, used in handling and training elephants, consisting of a spike, hook or combination thereof, attached to a shaft or handle.

Bureau means the Charlotte-Mecklenburg Animal Care and Control Bureau.

Bureau manager means the manager of the Charlotte-Mecklenburg Animal Care and Control Bureau. The bureau manager shall have all the powers conferred by state law upon a county dog warden and by this chapter upon animal control officers or by any other applicable ordinances.

Cat means a domestic feline of either sex.

City-sponsored event means any event generally open to the public that is funded in whole or in part by, or endorsed by, the city.

Computation of time. In computing any period of time, any day which the bureau is open shall be counted. This includes Saturdays, Sundays and legal holidays, when applicable.

County dog warden means the manager of the animal control bureau, who shall have all powers conferred by state law upon the county dog warden or by this chapter upon animal control officers.

County rabies ordinance means the county ordinance for the control of rabies and other zoonoses.

Dangerous means any animal whose behavior, temperament, size, or any combination thereof, when considered under the totality of the circumstances, including the nature of the surrounding area, constitutes a reasonable risk of injuring a human or animal or damaging personal or real property. That behavior includes, but is not limited to, an animal's biting or attacking or attempting to attack a human or another animal. However, this definition shall not apply to any animal that has been subject to provocation or if the victim has been trespassing, as defined in this section, upon the animal owner's premises.

Dog means a domestic canine of either sex.

Domesticated means those species of animals that are indigenous to the county and normally and customarily share human habitat in the county and are normally dependent on humans for food and shelter in the county, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep and goats.

Electric prod means any device that delivers an electric shock to control or affect animal behavior.

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

Exotic or wild animal means an animal that would ordinarily be confined to a zoo; one that would ordinarily be found in the wilderness of this or any other country; one that is a species of animal not indigenous to the United States or to North America; or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm, and the latter includes, but is

not limited to, monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animals. Such animals are further defined as being those mammals or nonvenomous reptiles weighing over 50 pounds at maturity, which are known at law as *Ferae naturae*. Exotic or wild animals specifically do not include animals of a species customarily used in the state as ordinary household pets, animals of a species customarily used in the state as domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects.

Exposed to rabies means any animal or human bitten by or exposed to any animal known or suspected to have been infected with rabies.

Guard dogs means dogs primarily kept for the purpose of protecting premises from intruders or for the purpose of attacking a person coming in the vicinity of the dog.

Harboring an animal. An animal shall be deemed to be harbored if it is fed or sheltered 14 days or more, unless the animal is being boarded for a fee.

Health director means the director of the county health department.

Impounded means any animal that is received into custody by any employee of the bureau.

Inoculation means the vaccination of a dog or cat with antirabic vaccine approved by the United States Bureau of Animal Industry, the state department of agriculture and the state board of health at such time as shall be required by state law, the state board of health and/or the local health director bureau manager, as defined in G.S. 106-364(2).

Livestock means all animals of a domesticated, agricultural nature, including, but not limited to, equine animals, bovine animals, sheep, goats, llamas, and swine.

Neutered male means any male dog or cat which has been rendered sterile by a surgical procedure (orchietomy).

Owner means any person owning, keeping, having charge of sheltering, feeding, harboring or taking care of any animal for 14 or more consecutive days, unless the animal is boarded for a fee. If a commercial kennel is involved for breeding, ownership shall be indicated by the kennel operator by showing the registration of the animal in the name of the actual owner of the animal.

Pasture means an auxiliary fenced area with sufficient grass for grazing.

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

Provocation means any act done towards an animal that a reasonable person would expect to irritate or enrage such an animal to the extent that the animal would be likely to bite or attack, including, but not limited to, teasing, harassing, beating, torturing, injuring, or intentionally causing pain to an animal. Provocation does not include any actions on the part of an individual that pertain to reasonable efforts of self-defense or defense of others.

Security dogs is synonymous with *Guard dogs*.

Shelter means any facility designated by the city for the purpose of sheltering any animal lawfully impounded by the bureau.

Spayed female means a female dog or cat that has been rendered sterile by surgical means (ovariohysterectomy).

Tether is defined as a metal chain or coated steel cable to restrain a dog. Rope, bridles, belts, or cords may not be used as a device to secure an animal.

Tethering refers to the practice of securing a dog to a stationary object by means of a metal chain or coated steel cable for keeping the animal restrained. This does not refer to periods when animals are being walked on a leash or for temporary grooming or other professional services.

Trespass means the wrongful or legally unauthorized entrance onto or invasion of the property of an animal owner or lawful possessor. The cause of the individual to be on the property and any other

relevant circumstances shall be considered in order to determine whether a trespass has occurred. A child under the age of seven shall not be deemed to be a trespasser.

Whip means a strip of leather, length of cord or other similar material used to control or affect animal behavior.

(Code 1985, § 3-3; Ord. No. 4501, § 1, 9-13-2010)

Cross reference— Definitions generally, § 1-2.

Secs. 3-4—3-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT¹²¹

Footnotes:

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Cross reference— Administration, ch. 2.

Sec. 3-31. - Bureau.

- (a) *Created; authority.* The Charlotte-Mecklenburg Animal Care and Control Bureau is a consolidated bureau created by the execution of an interlocal agreement between the county and the city. Pursuant to that agreement, the bureau is under the authority of the city.
- (b) *Duties of manager and officers.* There shall be a bureau manager of the bureau. The bureau manager and animal control officers shall be charged with the responsibilities of the following:
 - (1) Enforcing and carrying out the sections of this chapter and of any other ordinance assigning animal control duties and of all relevant state laws, except that the bureau manager and animal control officers shall have no duties or responsibilities whatsoever with respect to organizing and carrying out any rabies vaccination clinics.
 - (2) Making canvasses, including homes and businesses, for the purpose of:
 - a. Ascertaining that all dogs, cats and ferrets are properly licensed, if required;
 - b. Ascertaining that all dogs and cats are currently vaccinated against rabies;
 - c. Organizing and carrying out any such canvas having sole and exclusive authority, control and responsibility for such actions; and
 - d. Ascertaining that sections of this chapter are being followed.
 - (3) Investigating complaints regarding animals.
 - (4) Enforcing the laws with regard to the vaccination of dogs and cats against rabies and enforcement of the county rabies ordinance; investigating all reported animal bites or other human physical contact of the suspected rabid animal, enforcement of quarantine of any animal involved, and submission of bite reports and reports of human contacts to the health director. The county ordinance for the control of rabies and other zoonoses declares that the health director is responsible for county programs to monitor and control rabies and other zoonotic diseases.
 - (5) Supervising the animal shelter and bureau employees.
 - (6) Protecting animals from neglect and abuse.

- (c) *Uniform.* Every employee of the bureau, while performing the respective duties in subsection (b) of this section, shall wear any required uniform and badge as determined by the bureau manager.
- (d) *Weapons.* The employees of the bureau shall not carry on their person any firearms of any kind unless specifically authorized by the bureau manager or his designee. However, employees of the bureau may store at the animal shelter, or carry in bureau vehicles, firearms, including tranquilizer guns, approved for use by the bureau manager or his designee. Such firearms may be used when necessary to enforce sections of this chapter or other applicable laws for the control of wild, diseased or dangerous animals or for public safety when the bureau manager deems the action necessary. While acting with weapons in their official capacity, employees of the bureau shall be exempt from any section of this Code otherwise requiring permits or city council approval.

(Code 1985, § 3-7; Ord. No. 2840, § 1, 12-13-2004; Ord. No. 4501, § 2, 9-13-2010)

Sec. 3-32. - Inspections; interference; concealment.

- (a) *Inspections.* Whenever it is necessary to make an inspection to enforce any of the sections of this chapter or other applicable law or whenever an employee of the bureau has probable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the employees of the bureau are empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or an administrative search warrant or criminal search warrant is obtained or if legally recognized exigent circumstances exist, as follows:
 - (1) If such property is occupied, the employee of the bureau shall first present credentials to the occupant and request entry, explaining the reasons therefor;
 - (2) If such property is unoccupied, the employee of the bureau shall first make a reasonable effort to locate the owner or other person having control of the property, present proper credentials and request entry, explaining the reasons therefor; and
 - (3) If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an employee of the bureau may obtain an appropriate warrant to conduct a search or inspection of the property or seizure on the property or may act under a legally recognized exigent circumstance if such exists.

Notwithstanding any other section of this chapter, an employee of the bureau shall have the authority to enter upon any land to enforce this chapter or other applicable law if a violation of such law is being committed in the presence of the employee and such entrance is otherwise consistent with the Constitution of the United States. Such entry upon private property shall not be deemed to be a trespass.

- (b) *Interference.* It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct employees of the bureau while they are carrying out any duty created under this chapter or other applicable law.
- (c) *Concealment of animal.* It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement, permit requirement or rabies inoculation requirement of this chapter or any applicable chapter, any unlicensed, uninoculated or unpermitted animal from any employee of the bureau.
- (d) *Concealment of license, permit or rabies inoculation.* It shall be unlawful for any person to refuse to show proof of a license, permit or a rabies inoculation to any employee of the bureau upon request.

(Code 1985, § 3-8)

Sec. 3-33. - Enforcement.

(a) *Methods.* This chapter may be enforced by one or more of the following methods, unless otherwise limited to a specific manner of enforcement by this section or chapter:

(1) *Civil citation.* Enforcement by civil citations shall be in accordance with the following:

a. Civil citations may generally be used to enforce any section of this chapter. Such citations may be used independently or in conjunction with any other enforcement method. Violations of the following sections may only be enforced by the issuance of a civil citation:

3-67(a)	Animals at city-sponsored events
3-70	Reckless riding or driving of animal
3-72(a)	Harboring stray animals
3-101	Failure to have city animal license
3-102	City permits
3-135(d)	Failure to comply with containment order

b. The penalties assessed by civil citations shall be in accordance with the escalating civil penalty table that follows. The civil penalty table applies to all violations that are enforced civilly, regardless of any other method of enforcement that may be additionally used. Each prior offense must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten years before the current offense shall be considered.

c. Each day that an ongoing violation continues shall be considered a separate violation from any previous or subsequent violation, and each separate violation may be the basis of a citation.

Owner's Offense	Penalty
First	\$50.00 fine
Second	\$75.00 fine
Third	\$150.00 fine and/or restraint measures in accordance with section 3-135
Fourth	\$250.00 fine and/or restraint measures in accordance with section 3-135 that shall include a secure enclosure if violation is of section 3-63, 3-66, or 3-71

Fifth	\$500.00 fine and seizure/forfeiture of the animal
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- (2) *Criminal misdemeanor.* The violator may be charged with a misdemeanor and be subject to punishment as provided in section 2-21.
- (3) *Injunction.* The city may apply to the appropriate court for an injunction and order of abatement that would require that a violator correct any unlawful condition relating to this chapter existing on his property.
- (4) *Seizure/forfeiture.* The following sections of this chapter may be enforced by the immediate seizure and forfeiture to the bureau of the animal that is the basis for a violation of the section:

3-61	Abandoned animals
3-62	Abuse of animals
3-63	Animal bite
3-66	Biting or attacking animals
3-69	Nuisance
3-71	Restraint of animals
3-101	License and rabies tags and fees
3-103	Permit for four or more dogs or cats kept outside
3-132	Seizure, forfeiture, and disposition of animals
3-139	Uncared-for animals

The manner of the seizure and the procedure by which the animal may be forfeited to the bureau is that set out in section 3-134 unless otherwise stated by the particular section authorizing the seizure and forfeiture. This subsection shall not be read to limit in any way any seizure or forfeiture authorized by the civil escalating penalties table in subsection (a)(1) of this section.

- (b) *Penalties.* The penalties assessed by civil citations shall be in accordance with the escalating civil penalty table that follows. The civil penalty table applies to all violations that are enforced civilly, regardless of any other method of enforcement that may be additionally used. Each prior offense must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior

offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten years before the current offense shall be considered.

If payment, or appeal, or payment after appeal, for any civil citation is not made within 30 calendar days of the issuance of a civil citation or of the issuance of the appeal decision, the monetary penalty shall be double that stated in the escalating civil penalty table that follows. Issuance or payment shall be considered made when deposited with proper postage in the United States mail or when received by the person being cited or the city. The bureau manager or their designee may waive the doubling of the monetary penalty upon a showing that the tardiness of payment was not due to willfulness or neglect on the part of the cited person.

- (c) *Exception.* Nothing in this chapter shall be construed to prevent sheriff deputies or law enforcement officers of any kind from enforcing any of the sections of this chapter or from exercising their authority as law enforcement officers.

(Code 1985, § 3-9; Ord. No. 2840, § 2, 12-13-2004)

Sec. 3-34. - Negligence per se.

- (a) This section is included in this chapter in order to impose a public duty upon persons having possession of animals to prevent those animals from attacking another person due to a possible violation of the following sections:

3-64	Aggression-trained dogs
3-71	Restraint of animals
3-73	Exotic or wild animals
3-135	Protective measures for containment of animals (failing to comply with instructions to impose preventive measures)

- (b) Such persons having possession of animals have imposed upon them a public duty designed to promote the safety of other persons, and a violation of any of those sections listed in subsection (a) of this section is negligence per se and could give rise to the recovery of damages for personal injuries in a civil action by an injured person against the person owning or having possession, charge, custody or control of the animal causing the injuries.

(Code 1985, § 3-11)

Secs. 3-35—3-60. - Reserved.

ARTICLE III. - CARE, CONTROL AND PROHIBITED OR RESTRICTED ACTS

Sec. 3-61. - Abandoned animals.

- (a) It shall be unlawful for any person owning, possessing or harboring an animal to negligently or willfully abandon that animal.
- (b) For the purposes of this section, animals shall be considered abandoned when the totality of the circumstances reasonably indicates that the owner, possessor, or harborer of the animal has negligently or willfully ceased to provide basic necessities for the animal with the intention to no longer care for the animal.

(Code 1985, § 3-14)

Sec. 3-62. - Abuse of animals.

- (a) *Prohibited.* It shall be unlawful if a person negligently or willfully:
 - (1) Fails to provide adequate food and/or water for any animal he owns, possesses, or harbors;
 - (2) Overworks or overdrives any animal causing physical pain, suffering or death;
 - (3) Beats, tortures, injures, torments, poisons or mutilates any animal causing physical pain, suffering or death;
 - (4) Fails to provide adequate medical attention for any sick, diseased or injured animal he owns, possesses, or harbors;
 - (5) Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease;
 - (6) Teases, molests, or in any way bothers or harasses any animal;
 - (7) Sets any rabbit, hare, raccoon or other such animal loose for the purpose of chasing, hunting or having a race thereafter;
 - (8) Promotes, stages, holds, manages, conducts, carries on or attends any game, exhibition, contest, fight or combat between one or more animals or between animals and humans;
 - (9) Fails to provide an adequate shelter for an animal he owns, possesses, harbors, or encloses, wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.) and allowed to remain dry and comfortable during inclement weather;
 - (10) Conveys any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle or in a truck or the back of a truck without having such animal reasonably secured so as to prevent the animal from leaping or being thrown from the vehicle or in such a way as to cause pain, suffering, unreasonable discomfort or death to the animal;
 - (11) Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death:
 - a. After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an employee of the bureau, in the presence of a police officer, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where probable cause exists to believe that the animal is in the vehicle in violation of this subsection.
 - b. The officer removing the animal shall then impound it and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. In addition, the officer may also use any other enforcement method authorized by section 3-33.

- c. So long as an animal is within sight of an employee of the bureau or a police officer, section 3-32 shall not be interpreted to require that any warrant be obtained before removing the animal so long as such removal is otherwise consistent with the United States Constitution.
- (12) Fails to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to allow all animals kept outdoors to protect themselves from the direct rays of the sun; or
- (13) Keeps animals outdoors without access to shelter to allow them to remain dry and comfortable during inclement weather.
- (14) Keeps dogs in outdoor kennels used for the primary purpose of restraining dogs, where there is less than 50 square feet of kennel space per dog. Outdoor kennels shall be kept in a state of repair to prevent injury to the dog(s). Carriers, crates or other similar devices used for training or temporary housing shall only be utilized indoors. This requirement shall not apply to the housing of dogs whose primary purpose is hunting activities.
- (b) *Convictions.* If a person has been criminally convicted twice of a violation of this section or of G.S. 14-360, G.S. 14-361, G.S. 14-361.1, G.S. 14-362 or G.S. 14-363 and any two such convictions have both occurred within the last five years preceding a request by such person for an animal license or permit, the animal license or permit request shall be refused. In that situation, the person shall be eligible to apply for an animal license permit five years after the date of the last criminal conviction.
- (c) *Euthanizing exception.* Nothing in this section shall be construed to prohibit the bureau or veterinarians from euthanizing dangerous, unwanted, injured or diseased animals in a humane manner; nor to prohibit slaughterhouses or medical facilities from the proper, humane and lawful carrying out of their activities or duties.
- (d) *Pet shops.* Animal control officers shall have the authority to conduct inspections of pet stores, to the extent not preempted by state law, in order to determine if there is any abuse of animals. Pet shops shall also be subject to the county ordinance for the control of rabies and other zoonoses as administered and enforced by the county health department. Abuse of animals shall include any act described in this section or any other act that is detrimental to the well-being of the animal. It shall be unlawful for any pet store employee or pet store owner to violate this section.

(Code 1985, § 3-15; Ord. No. 4501, § 3, 9-13-2010)

State Law reference— Protection of animals, G.S. ch. 19A; authority to prohibit the abuse of animals, G.S. 160A-182.

Sec. 3-63. - Animal bite.

- (a) It shall be unlawful for the owner, possessor, or harbinger of an animal to negligently allow the animal to bite a human being, who does not ordinarily reside on the premises, unless the animal has been subject to provocation, or unless the victim has been trespassing, as defined in section 3-3.
- (b) It shall be unlawful for the owner, possessor, or harbinger of an animal, or for the victim if the victim is reasonably physically able, to fail to report to the bureau or 911 as soon as possible that an animal has bitten a person. It shall be unlawful for any person knowing the location of such an animal to fail to inform the bureau of where the animal is located if the owner, possessor, or harbinger has given the animal away or caused in any way the animal to be taken from his premises.
- (c) If the bureau determines that a dog has bitten a human being, the bureau shall have the authority to require protective measures pursuant to section 3-135. The bureau shall have the authority to require the owner to file with the bureau signed, written affidavits, and receipts where applicable, affirming that any of such measures required by the bureau have been and will continue to be complied with. Any breach in compliance with such measures subjects the animal to seizure and forfeiture as provided in section 3-132.

- (d) The bureau manager shall have the authority to waive any or all of these requirements if the bureau manager determines that the bite is inconsequential.

(Code 1985, § 3-15.1)

Sec. 3-64. - Aggression-trained dogs.

- (a) *Authority of bureau.* The bureau shall have the authority to determine whether any individual or business entity is engaged in the aggression training of dogs. If the bureau makes such a determination, the individual or business entity must comply with the requirements of subsection (b) of this section.
- (b) *Registration; confinement.* Individuals or business entities engaged in the aggression training of dogs or the owner, possessor or harbinger of any aggression-trained dog must comply with the following:
 - (1) The individual, business entity, owner, possessor or harbinger has a duty to provide registration information as required by the bureau as it pertains to aggression training of any kind of dogs.
 - (2) The individual or business entity has the duty to maintain a current registration of all dogs thus trained, including the current location or address of the dog, and that information shall be provided to the bureau upon the training of any such dogs.
 - (3) The bureau shall have the authority to inspect the premises engaged in aggression training and to observe training methods and the safety of facilities during the operating hours of the aggression-training facility.
 - (4) Aggression-trained dogs must be maintained in adequate confinement by anyone possessing them in any way. The bureau shall have the authority to require all aggression-trained dogs to be confined in a strong fence at least six feet high and, at the discretion of the bureau, topped by an anticlimb enclosure.
- (c) *Unlawful acts.* It shall be unlawful for any individual, business entity, owner, possessor or harbinger to fail to comply with any of the requirements addressed to him by this section.
- (d) *Imposition of preventive measures.* If the bureau determines that a dog has been aggression trained or trained for fighting or aggressive attack, the bureau shall have the authority to impose the same requirements stated in section 3-135.
- (e) *Appeal.* If the bureau determines that a dog has been aggression trained, or trained for fighting or aggressive attack, and the owner wishes to appeal that or the preventive measures imposed, the appeal shall be the same as that stated in section 3-134.

(Code 1985, § 3-15.2)

Sec. 3-65. - Guard dogs.

- (a) *License tag; signs.* The owner, possessor, or harbinger of a guard dog kept within the city for longer than is necessary to merely pass through the city shall comply with the following:
 - (1) *Identification.* It shall be unlawful for a guard dog kept in the city not to have a current guard dog license tag. Such license tag will supersede the need for any other city licensing tag. Before such a tag can be issued, there must be proof of rabies inoculation of the dog.
 - (2) *Signs.* The owner, possessor, harbinger or user of any guard dogs or the owner of the premises employing the dogs must have posted on the premises a sign that identifies the name, address and telephone number of the owner of the security dogs.

- (b) *Escape.* If a guard dog escapes and bites someone who is not a trespasser, the bureau manager shall have the authority to prohibit that dog from serving as a guard dog within the city. It shall be unlawful to use such a dog as a guard dog after the bureau manager has ordered that the dog shall not be used within the city as a guard dog.
- (c) *Enforcement.* In addition to using any and all enforcement remedies stated in section 3-33, the bureau shall also have the following additional authority in respect to security dogs:
 - (1) If any security dog is seized running at large, the dog shall not be returned to the owner until the owner has obtained a guard dog license tag for that dog and any other guard dogs used or to be used in the city in accordance with subsection (a) of this section and is in complete compliance with all the requirements of subsection (a) of this section.
 - (2) If a security dog is found on the premises without complying with subsection (a) of this section, the bureau manager or his designee shall have the authority to issue a notice of prohibition letter that will prohibit the use of that dog as a security dog within the city, unless there is compliance with all of subsection (a) of this section within 48 hours. Such a notice of prohibition shall, at the same time, be given to the owner of the premises upon which the security dog is utilized. The owner of the premises shall be informed that the continued use of such a security dog on the premises is an unlawful act on the part of the owner in violation of this section. If such a dog remains on the premises after the 48 hours, it shall be an unlawful act on the part of the owner of the dog and on the part of the owner of the premises, and a citation may be issued to either or both of those individuals.

The bureau shall have the authority to seize guard dogs if there has not been compliance with this subsection or for the safety of the public, all in accordance with section 3-133.

(Code 1985, § 3-22)

Sec. 3-66. - Biting or attacking animals.

- (a) It shall be unlawful for an animal that has bitten, attacked or threatened a human or animal to remain at large. Animal control officers shall have the authority to enter upon private property, including entry into a dwelling unit or other similar building, when the animal control officer has observed an animal which has committed the biting, attacking or threatening in violation of this section. Such entry upon private property shall not be deemed to be a trespass. Such entry is authorized so long as it is otherwise consistent with the state and United States Constitutions.
- (b) It shall be unlawful for any person to interfere, to threaten or to otherwise prevent an animal control officer from carrying out and performing his lawful duties under this section.

(Code 1985, § 3-18)

Sec. 3-67. - Animals at city-sponsored events.

- (a) *Prohibited.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, as defined in section 3-3, to take that animal, whether on a leash or not on a leash, into or allow the animal to enter the boundaries of any city-sponsored public event unless such event is specifically designated as exempt from this section due to the event's nature by the bureau manager or designee. The boundaries and the interior of a city-sponsored public event shall consist of any area that is part of the event and shall include any public street, sidewalk or other publicly owned area within that area.
- (b) *Failure to remove animal.* It shall be unlawful for any person with an animal within the boundaries of a city-sponsored public event to fail to obey the command of a law enforcement officer or of an animal control officer to remove such animal from the event.
- (c) *Exception.* This section shall not apply to the following:

- (1) Those animals that are part of an authorized event exhibit. The bureau manager or his designee shall have the authority to specify the conditions for having such animals for the protection of the public and for the well-being of the animals.
- (2) Guide dogs.

(Code 1985, § 3-21)

Sec. 3-68. - Injuring animals.

- (a) It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle.
- (b) It shall be unlawful for any person injuring or killing a domestic animal by striking it with an automobile or other vehicle to fail to notify the owner of the animal, if identification of the animal is available, or the bureau if no identification is possible.

(Code 1985, § 3-23)

Sec. 3-69. - Nuisance.

- (a) It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. By way of example and not of limitation, the following acts or actions of an owner, harbinger or possessor of an animal are hereby declared to be a public nuisance and are, therefore, unlawful:
 - (1) Having an animal that disturbs the rights of, threatens the safety of or injures a member of the general public or interferes with the ordinary use and enjoyment of his property;
 - (2) Permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables;
 - (3) Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare or safety, or failing to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease;
 - (4) Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property;
 - (5) Allowing or permitting an animal to bark, whine, howl, crow, cackle, or cause noise in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises;
 - (6) Maintaining an animal that is diseased and dangerous to the public health;
 - (7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles;
 - (8) Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog or cat or creates a nuisance by attracting other animals. However, this subsection shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed area on the premises of the owner of an animal which is being bred; or
 - (9) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. This subsection shall not apply to visually

impaired persons who have charge, control or use of guide dogs or persons using dogs in conjunction with activities of the Charlotte-Mecklenburg Police Department.

- (b) It shall be the duty of anyone reporting an alleged nuisance under this section to reveal his identity to the bureau or the investigating law enforcement agency. Anonymous reports of alleged nuisances under this section shall not be investigated solely on the basis of the anonymous report.
- (c) In addition to any other enforcement remedies available under this chapter, if the bureau manager shall declare an animal a nuisance under this section, the bureau manager has the authority to order the owner to confine the animal in accordance with section 3-135. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

(Code 1985, § 3-24)

Sec. 3-70. - Reckless riding or driving of animal.

- (a) It shall be unlawful for any person to run, drive or ride any animal in a reckless, disorderly or careless manner through any street, alley or highway.
- (b) It shall be unlawful for any person to drive or cause to be driven through any street or highway any loose or unhaltered horse, mule, cow or other livestock; nor shall the keeper of any such animal knowingly permit any loose horse, mule or cow to be driven from his property onto streets, alleys or highways.

(Code 1985, § 3-25)

Sec. 3-71. - Restraint of animals.

- (a) *Physical restraint.* It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, excluding cats, to keep such animal on his own premises or off the premises, unless such animal is under sufficient physical restraint to controls the animal, or within a vehicle or adequately contained by a fence on the premises or other secure enclosure. If the physical restraint used is a leash requiring a person to control the animal, the person using such restraint must be of sufficient age and physical size or ability to reasonably restrain the animal. If the secure enclosure is an invisible fence system, then all components of the system must be in working order and in proper place. Additionally, there must be a visible, permanent sign on the premises stating that there is an invisible fence.
- (b) *Tethering.* Dogs may be tethered to a stationary object only if conditions (1)—(9) are met:
 - (1) A tether shall be equipped with a swivel on both ends.
 - (2) A tether shall be a minimum of ten feet in length and shall be made of either metal chain or coated steel cable.
 - (3) Tethers shall be attached to a buckle-type collar or harness and under no circumstances shall the tether itself be placed directly around a dog's neck. Tethers shall not be used in conjunction with training collars such as choke or pinch-style collars.
 - (4) The weight of the tether shall not exceed ten percent of the total body weight of the dog but shall be of sufficient strength to prevent breakage.
 - (5) The tether by design and placement shall allow the dog a reasonable and unobstructed range of motion without the possibility of entanglement, strangulation or other injury. The tether shall allow the dog access to adequate food, water and shelter.
 - (6) A dog must be four months of age or older to be tethered.
 - (7) Only one dog shall be attached to a single tether.

- (8) Pulley systems, running lines, and trolley systems may be used in conjunction with a tether.
 - (9) Pulley systems, running lines or trolley systems shall be at least ten feet in length and no more than seven feet above the ground.
 - a. The line of the pulley system, running line or trolley system to which the tether is attached shall be made of coated steel cable.
 - b. No tether shall be affixed to a stationary object which would allow a dog to come within five feet of any property line.
 - (10) An animal control officer may in his/her discretion order a more restrictive tethering requirement if circumstances require and it is not detrimental to the health, safety or welfare of a dog.
 - (11) Exemptions. Citizens residing in townhomes, apartments, condos or similar multi-family housing units with lot sizes insufficient to meet the length and property line requirements specified in subsections (2), (8) and (9) above, may only tether dogs for temporary exercise and relief.
- (c) *Adult with animal on premises.* If a responsible adult is physically outdoors, and immediately adjacent to the animal, on the land where the owner of the animal resides, and the animal is under the person's direct control and is obedient to that person's commands, this section shall not apply during the duration of the time the animal is in the company and under the control of that adult and the animal is on the premises. An adult is defined as a person 18 years of age or older.
 - (d) *Public parks.* It shall be unlawful for any person owning or having possession, charge, custody, or control of any dog to take the dog into or allow the dog to enter any public park without being at all times under the restraint of a leash, except while in designated off-leash areas, in accordance with the rules and regulations pertaining to such off-leash areas. This subsection shall not apply to the following:
 - (1) Parks that have been designated as leash-free parks by the governmental agency responsible for the park.
 - (2) Guide and hearing-aid dogs that are in the company of blind or deaf persons or being trained for such purposes.
 - (3) Dogs employed or hired by law enforcement agencies or by the governmental agency responsible for the park to perform a governmental purpose within the park.

(Code 1985, § 3-26; Ord. No. 4501, § 4, 9-13-2010)

Sec. 3-72. - Harboring stray animals.

- (a) It shall be unlawful for any person, without the actual consent of the owner, to harbor, feed, keep in possession by confinement or otherwise have any animal which does not belong to him, unless he has, within 24 hours of the time the animal came into his possession, notified the bureau. Upon receiving such notice, the bureau may take the animal and deal with it as provided in section 3-131.
- (b) It shall be unlawful for any person to refuse to surrender such an animal to an employee of the bureau upon demand.

(Code 1985, § 3-28)

Sec. 3-73. - Exotic or wild animals.

- (a) *Unlawful act.* It shall be unlawful for any person to keep, maintain, possess or have under his control within the city any venomous reptile or any other wild or exotic animal.

- (b) *Exceptions.* This section shall not apply to lawfully operated and located pet shops, zoological gardens, scientific research laboratories, circuses, veterinarians harboring such animals for purposes of providing professional medical treatment, wildlife rehabilitators with proper permits, or exhibitors licensed by the United States Department of Agriculture displaying such animals for educational purposes, provided that the animals are maintained in a manner so as to prevent escape.
- (c) *Permits not authorized; effects of annexation.* Permits for the keeping or maintenance of wild or exotic animals are not authorized. Persons in newly annexed areas have 30 days from the date of annexation to comply with this section.
- (d) *Compliance with state and federal regulations and safe confinement.* The confinement of exotic or wild animals exempted from subsection (a) of this section by subsection (b) of this section must meet the regulations promulgated by the state wildlife commission, the minimum standards under the Animal Welfare Act and all applicable rules promulgated by the United States Department of Agriculture. In addition to meeting these minimum standards, all such venomous reptiles and all such wild or exotic animals shall be confined, restrained or controlled in such a manner so that the physical safety, or property, of any person lawfully entering the premises shall not be endangered.
- (e) *Presence on public rights-of-way.* Animals described under subsection (a) of this section but exempt under subsection (b) of this section shall not be allowed on any public street, sidewalk, or other public way, except in a fully enclosed cage or adequate structural restraint. The use of a leash, with or without a muzzle, shall not be considered adequate restraint. Exempt from this subsection are animals that are part of a featured performance at a special event with a city festival or parade permit where the animal handler is licensed by the United States Department of Agriculture.
- (f) *Handling.* The handling of exotic or wild animals exempted from subsection (a) of this section by subsection (b) of this section must meet the regulations promulgated by the state wildlife commission, the minimum standards under the Animal Welfare Act and all applicable rules promulgated by the United States Department of Agriculture. In addition to meeting these minimum standards, no permanent or transient animal exhibition or circus shall induce or encourage animals to perform through the use of chemical, mechanical, electrical, or manual devices in a manner that is likely to cause physical injury or suffering. Further, the use of bullhooks, electric prods, whips or other devices to handle, train, or otherwise interact with elephants, felines and primates when they are on display, performing or being trained is prohibited. All equipment used on a performing animal shall fit properly and be in good working condition. An animal control officer shall be authorized to inspect the premises at any time on demand.

(Code 1985, § 3-30)

Secs. 3-74—3-100. - Reserved.

ARTICLE IV. - LICENSING AND PERMITS

Sec. 3-101. - License and rabies tags and fees.

- (a) *License.* It shall be unlawful for any dog, cat, or ferret owner, possessor or harbinger who resides in the city to fail to provide their dog, cat, or ferret over four months of age with a current city license tag. The owner, possessor or harbinger of any above-described animal must have their animal vaccinated and must have a current rabies vaccination tag showing that such animals have been vaccinated. No license will be issued unless proof of inoculation is shown. Any dog, cat, or ferret owner, possessor, or harbinger who moves into the city for the purpose of establishing residency, or who becomes a resident as a result of annexation, shall have 30 days in which to obtain a license.
- (b) *License fee.*
 - (1) Licenses shall be renewed annually from the date of issuance, except for sterile dogs or cats, which may have a three-year renewal term. The failure of any owner to renew a license by the

30th calendar day after such license is due for renewal shall result in an additional \$10.00 late renewal fee. The license fee for all dogs, guard dogs, cats, and ferrets shall be as follows:

Dogs	Fertile	\$30.00
	Sterile	\$10.00/1 year, \$25.00/3 years
Guard dogs		\$30.00
Cats	Fertile	\$30.00
	Sterile	\$10.00/1 year, \$25.00/3 years
Ferrets	Fertile	\$30.00
	Sterile	\$10.00

- (2) Any owner of an animal who can furnish a statement from a licensed veterinarian that the animal, due to health reasons, could not withstand spay/neuter surgery, shall be charged at the sterile rate.
 - (3) Any owner of one or more purebred dogs or cats who can furnish proof of participation in at least three nationally recognized conformation or obedience shows within the past 12 months, shall be charged at the sterile rate. The exemption rate only applies to the dogs or cats in the owner's household of the same breed that were shown. Proof of participation must go beyond records showing that a filing fee was paid, and the owner must validate the actual showing of the animal.
 - (4) Any animal owner 62 years of age or older who owns a sterilized animal may receive their license free of charge.
 - (5) Any handicapped owner of a dog which is used for seeing or hearing purposes and is spayed or neutered shall obtain a license free of charge.
 - (6) Any governmental agency that owns for a governmental purpose, an animal subject to licensing, shall obtain their license free of charge.
- (c) *Guard dog license.* It shall be unlawful for any dog owner, possessor or harbinger to bring a dog into the city to function as a guard dog without first obtaining a city guard dog license. Such license will supercede the normal dog license required by subsection (a).
 - (d) *Rabies inoculation.* It shall be unlawful for any person who owns, possesses, or harbors a dog, cat, or ferret not to have the animal inoculated against rabies.
 - (e) *Rabies tag.* It shall be unlawful for the owner, possessor, or harbinger of any dog or cat in the city not to have the dog or cat wear the rabies vaccination tag issued to them by the veterinarian administering the rabies vaccine. It shall be unlawful for the owner, possessor, or harbinger of any ferret in the city not to have in the owner's possession the rabies vaccination tag issued to that person by the veterinarian administering the rabies vaccination. Dogs and cats not wearing such tags, and for which the owner cannot promptly display a valid rabies tag, may be impounded pursuant to Code section 3-44.

- (f) *Reclaim.* If the bureau has lawfully acquired custody or control of an animal and the bureau has probable cause to believe that the animal does not have the lawfully required inoculation against rabies, then the bureau shall have the authority to inoculate the animal against rabies. The owner, possessor, or harbinger of the animal shall not have the right to reclaim the animal until the owner, possessor, or harbinger has paid the city for the cost of the rabies inoculation.

(Code 1985, §§ 3-22(b)(2), 3-34; Ord. No. 2310, §§ 1, 2, 6-9-2003; Ord. No. 2840, § 3, 12-13-2004)

State Law reference— Municipal authority to levy an annual license tax on the privilege of keeping domestic animals, G.S. 160A-212.

Sec. 3-102. - City permits.

- (a) *Required.* It shall be unlawful for any person to own, keep, have, or maintain any equine animals, cloven-hoofed animals or other livestock or any chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl in the city without first receiving from the bureau a permit to do so or to continue to have any of such animals or fowl after a permit has been denied.

This section shall not apply to, and no permit shall be required for, any agricultural operation within G.S. 106-700, which pertains to nuisance liability of agricultural operation, or to any rabbit that is kept exclusively inside its owner's residence. The permit shall be valid for one year from the date of issuance and shall be renewed annually. The annual fee for such permit shall be \$40.00 per household. The application shall list all such animals and fowl on the premises. Before a permit is issued an employee of the bureau shall inspect the premises to determine if the keeping of the animals or fowl on the premises will endanger or is likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

- (b) *Denial.* When a permit is denied for any reason, the applicant shall be given a written explanation of the reason for denial.

- (c) *Compliance required prior to issuance.* An owner or possessor of such animals or fowl shall comply with the following applicable subsections before a permit is issued. Compliance with the following applicable subsections will create a rebuttable presumption that a permit shall be issued. That presumption may only be rebutted by specific findings supported by competent evidence that, despite compliance with the following, the presence of such animals or fowl is still likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business:

- (1) *Fowl and other specifically identified animals.* The keeping of chickens, turkeys, ducks, guineas, geese, pheasants or other domestic fowl or rabbits shall be in compliance with the following:
- a. Such animals must be confined in a coop, fowl house or rabbit hutch not less than 18 inches in height. The fowl must be kept within the coop or fowl house and the rabbits in the hutch at all times.
 - b. The coop or fowl house must be used for fowl only and the hutch for rabbits only, and both must be well ventilated.
 - c. The coop, fowl house or hutch shall have a minimum of four square feet of floor area for each fowl or rabbit.
 - d. The run must be well drained so there is no accumulation of moisture.
 - e. The coop, fowl house or hutch shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors. It shall be cleaned daily, and all droppings and body excretion shall be placed in a flyproof container and double-bagged in plastic bags.

- f. The coop, fowl house or hutch shall be a minimum of 25 feet from any property line.
 - g. No more than 20 such fowl or rabbits shall be kept or maintained per acre. The number of fowl or rabbits should be proportionate to the acreage.
- (2) *Pigeons*. Pigeons, while allowed to fly to and from the premises, must be provided with adequate space on the premises, and sanitary conditions must be maintained.
 - (3) *Cloven-hoofed animals*. The keeping of cloven-hoofed animals, equines and other livestock shall be in compliance with the following:
 - a. Such animals must be provided with adequate shelter to protect them from the elements.
 - b. The shelter shall be kept clean, sanitary and free from accumulations of animal excrement and objectionable odors.
 - c. The shelters for cows and other large livestock, which are covered by the zoning ordinance in appendix A to this Code, shall be kept at a minimum of 75 feet from any property line. The shelters for goats and other small livestock shall be kept at a minimum of 25 feet from any property line.
 - d. Each cow or other large livestock, excluding equines, shall have a minimum pasture area of two acres. Each goat, sheep or other small livestock shall have a minimum pasture area of one-fourth acre.
 - (4) *Slaughter*. Any slaughter of any livestock or poultry not regulated by state law or otherwise forbidden or regulated shall be done only in a humane and sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another.
 - (5) *Annexation*. An owner or possessor of animals on property that is newly annexed has 90 days from the date of annexation to bring the property into compliance and to have obtained permits required by this section.
 - (6) *Exceptions*. A permit shall not be required for animals of any kind if the animals are kept by a governmental authority or other appropriately certified and recognized academic institution, museum, raptor center, etc.
- (d) *Revocation*. The bureau may revoke any permit:
 - (1) When the permit has been mistakenly issued without compliance with this section;
 - (2) When the applicant has submitted false information;
 - (3) For a violation of any of the sections of this chapter;
 - (4) When, in the opinion of the bureau manager, the health, safety or welfare of any person or property is menaced by the keeping of such animals; or
 - (5) When the animals become a nuisance.

If a permit is revoked, the applicant shall be given a written explanation of the reasons for the revocation. Upon the determination of a violation of this section, and if the violation pertains to a correctable condition on the property, the owner shall have 30 days in which to bring the property or condition into compliance with this chapter

(Code 1985, § 3-37; Ord. No. 2840, § 4, 12-13-2004)

Sec. 3-103. - Permit for three or more dogs or cats kept outside.

- (a) It shall be unlawful for any person to own, to keep custody of or to take care of three or more dogs or cats or any combination of three dogs and cats or more, four months or older, which are frequently outside on the premises, unless the person has a special permit issued by the animal control bureau.

- (b) If a person has three or more dogs or cats frequently outside on the premises, the bureau manager or his designee must make the following five findings in order to issue a special permit:
- (1) Noise from the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
 - (2) Any odor or unsanitary conditions caused by the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
 - (3) Three or more dog runs or other dog-related structures or any combination thereof shall not be permitted if the structures can be seen from an abutting occupant's property in a residentially zoned district.
 - (4) There is no evidence that the dogs or cats pose any health problem or disease exposure for abutting occupants.
 - (5) The dogs or cats do not interfere in some other similar manner with the peaceful use and enjoyment of abutting property.

If the bureau manager or his designee denies a person a special permit, the bureau manager or his designee must state the reasons for the denial in writing. If the bureau manager or his designee has any recommendations or conditions that would enable the person to be in compliance with the standards, the bureau manager or his designee must state those recommendations or conditions in writing. The bureau manager or his designee is authorized to issue a special permit with specific conditions attached to the permit. The bureau manager or his designee shall have the authority to charge a reasonable administrative fee for the necessary review and issuance of the permit.

- (c) The fee for a permit shall be \$40.00 and the permit shall remain valid as long as the person is in compliance with the terms and conditions, if any, of the permit. If any of the circumstances change, such as, but not limited to, more animals, different breed for a particular dog, new structures or other such similar change that might reasonably violate the five standards set forth in subsection (b) of this section, the permit shall automatically terminate and be null and void. The person must secure a new permit, or the person shall be in violation of this section.
- (d) The bureau manager or his designee shall have the authority to revoke the permit at any time if there is a violation of the standards stated in subsection (b), for a violation of any term or condition of the permit if there has been any misrepresentation, or for any other similar reason. The bureau manager or his designee shall state in writing the basis of the revocation.

(Ord. No. 2840, § 5, 12-13-2004)

Editor's note— Ord. No. 2840, § 5, adopted December 13, 2004, amended § 3-103 in its entirety to read as herein set out. Formerly, § 3-103 pertained to permits for four or more dogs or cats kept outside and derived from the Code of 1985, § 3-39.

Sec. 3-104. - Appeal of denial or revocation of permit.

Any person who is denied a permit or has a permit revoked under sections 3-102 and 3-103 shall have the right to appeal the denial or revocation to the office of the city manager. Such appeal shall be in writing and shall state the basis of the appeal. The written appeal must be filed with the city clerk within ten days after the notice of denial or revocation of the permit is given to the appellant by the bureau. Such notice shall be considered given to the appellant when a notice letter with adequate postage and properly addressed to the last mailing address provided to the bureau by the person is placed in the United States mail or when personal notice is given to the person, whichever occurs first. The appellant, in addition to filing the appeal with the city clerk, shall also file a copy of the appeal letter with the bureau manager. Upon receipt of a proper appeal, the city manager or his representative shall conduct a hearing to determine if the permit should be denied or revoked. A properly filed appeal shall not affect the denial of a permit unless and until such time as the city manager or his representative overturns the denial. A

properly filed appeal shall toll the revocation of an existing permit until a decision is entered on the appeal by the city manager or his representative.

(Code 1985, § 3-38)

Sec. 3-105. - Nonresident exceptions.

The sections of this chapter requiring certain animals to be licensed or permitted shall not apply to those animals owned by, in the charge of or under the care of nonresidents of this city who are traveling through or temporarily sojourning in the city for a period not exceeding 30 days. The licensing sections shall not apply to animals temporarily brought into this city for the exclusive purpose of entering animals in a show or other exhibition. These exemptions do not apply to nonresidents of the city who bring dogs into the city for guard-dog purposes.

(Code 1985, § 3-40)

Secs. 3-106—3-130. - Reserved.

ARTICLE V. - IMPOUNDMENT, SEIZURE/FORFEITURE, CONTAINMENT, SPAY/NEUTER SERVICES AND DISPOSITION OF ANIMALS

Sec. 3-131. - Impoundment.

- (a) Any domesticated or exotic animal that is found to be un-owned or to be in violation of any provision of this chapter is subject to immediate impoundment if the animal's owner is non-existent, unknown, or found to be unavailable after a reasonable attempt to identify, locate, and/or notify the animal's owner has been made. Any animal that is so impounded shall be held by the bureau for three working days, excluding the day of impoundment.
- (b) If the owner of the animal appears during the three-day holding period, the owner may redeem the animal by paying the applicable impoundment and boarding fee, any and all outstanding civil citations that may have been issued pursuant to a violation of this chapter, and also by bringing the animal into full compliance with all provisions of this chapter and any applicable state law. The animal shall not be released to the owner until the owner has fully complied with the above requirements. The owner shall have ten calendar days from when they first appear and claim the animal in which to accomplish such compliance and redeem the animal. The owner shall be responsible for a boarding fee for the entire time the animal is held by the bureau. Failure to do so shall result in the forfeiture of the animal to the bureau. The bureau manager may grant a time extension to any owner actively attempting to redeem their animal.
- (c) Any animal for which no owner appears within the three-day holding period shall be deemed abandoned and shall be forfeited to the bureau.
- (d) Nothing in this section shall prevent the bureau from seizing and/or forfeiting an impounded animal pursuant to any other provision of this chapter or state law.

(Code 1985, § 3-44; Ord. No. 2310, § 4, 6-9-2003)

Sec. 3-132. - Seizure, forfeiture, and disposition of animals.

- (a) *Authority to seize and forfeit animals.* In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the bureau shall have the authority to summarily seize and forfeit to the bureau any animal when the bureau determines that there is probable cause to believe that the animal:

- (1) Under the totality of the circumstances, is dangerous or prejudicial to the public safety or public health and the bureau has issued a probable cause notice on the animal (dangerous animals).
- (2) Is the subject of a violation of the following sections of this chapter:

3-61	Abandoned animals
3-62	Abuse of animals
3-63	Animal bite
3-66	Biting or attacking animals
3-69	Nuisance
3-71	Restraint of animals
3-101	License and rabies tags and fees
3-103	Permit for four or more dogs or cats kept outside
3-139	Uncared-for animals

- (3) Is the subject of a violation of this chapter that is punishable by escalating civil penalties under section 3-33 and the escalated penalty appropriate to the specific violation includes seizure of the animal (civil).
- (b) *Procedure.* The procedures by which such seizures and forfeitures shall be accomplished shall be in accordance with subsequent sections as follows:
- (1) Dangerous animal seizures made pursuant to subsection (a)(1) of this section shall be conducted in accordance with the procedures set out in section 3-133.
 - (2) Seizures made pursuant to subsections (a)(2) and (a)(3) of this section shall be conducted in accordance with the procedures set out in section 3-134.

(Code 1985, § 3-49)

Sec. 3-133. - Dangerous animal seizure and forfeiture procedure.

- (a) *Probable cause notice required.* No animal shall be seized on the basis that it is dangerous or prejudicial to the public safety or public health without the prior issuance of a probable cause notice. This limitation shall not prohibit seizure based on other lawful authority, nor the subsequent issuance of a probable cause notice for an animal otherwise seized or impounded.
- (b) *Probable cause notice.* Probable cause notices may only be issued by a person of supervisory rank with the bureau. The probable cause notice shall state the following:

- (1) The specific facts constituting probable cause for declaring the animal dangerous;
- (2) That a prompt hearing to determine whether or not the animal is dangerous shall be held as soon as possible;
- (3) That anyone in possession of the animal shall immediately turn the animal over to the bureau; and
- (4) If the animal's owner is known, the probable cause notice shall also order the owner to immediately contact the bureau and shall state the manner in which the bureau may be contacted.

The bureau shall notify the owner as soon as reasonably possible of the probable cause notice if the owner is known. If the owner is unknown, the bureau shall make reasonable efforts to determine who the owner is and try to notify the owner. If any bureau employee has any communication with the bureau manager about a particular case regarding a suspected dangerous animal, that employee shall keep a written report of the date and the content of any such communication.

- (c) *Owner's duties.* The owner shall turn the animal over to the bureau immediately upon receiving a probable cause notice. The bureau shall have the authority to seize immediately any animal for which a probable cause notice has been issued. It shall be unlawful for the owner or occupant of a premises to fail to give an animal to the bureau immediately upon the presentment of a probable cause notice.
- (d) *Authority to permit animal to remain on premises.* The supervisor who issued the probable cause notice shall have the authority to authorize that an animal may remain on the premises or elsewhere prior to the seizure/forfeiture hearing if the supervisor is satisfied that the animal's confinement shall be adequate for protecting the public and for the well-being of the animal. The supervisor who allows the animal to remain without seizure shall order the animal to be kept adequately confined and shall issue a containment order in compliance with section 3-135. A failure of the animal to be kept so confined shall result in the immediate seizure of the animal. The bureau shall always have the authority to summarily seize an animal after the probable cause notice has been delivered and before the seizure hearing.
- (e) *Request for hearing.* The owner of an animal subject to a probable cause notice shall have the right to a hearing to determine whether the animal shall be declared dangerous as defined in this chapter. The owner of the animal shall request a hearing by submitting a written request during normal working hours to the bureau within ten working days after the delivery of the probable cause notice or all reasonable efforts to deliver (delivery) the probable cause notice to the owner.
- (f) *Failure to request hearing.* If the owner fails to properly file a timely request for a hearing with the bureau, the bureau manager shall determine whether the animal is dangerous. The standard to be applied is whether, by a preponderance of the evidence, the animal is dangerous or prejudicial to the public safety or public health. The bureau manager shall make findings of fact to support the determination, and the determination shall be conclusive. The bureau manager may dispose of the animal as provided for in subsections (i) and (j) of this section. If the bureau manager, due to a conflict of interest or any other circumstance, is unable to make such determination, the bureau manager or the chief of police shall appoint a person to make the determination.
- (g) *Hearing.* Upon a proper and timely request, a hearing shall be held. The supervisor who issued the probable cause notice or his designee shall present whatever relevant evidence the supervisor has that the animal should be declared dangerous. The owner shall be entitled to present whatever relevant evidence the owner wishes and to have legal representation. All testimony before the hearing officer shall be sworn testimony. The entirety of the hearing shall be recorded. If physical evidence is presented by either side, the hearing officer shall have such evidence photographed as part of the record and shall describe the item fully for the record.
- (h) *Bureau manager as hearing officer.* The bureau manager shall be the hearing officer and shall conduct the hearing to determine whether the animal shall be declared dangerous or not. The bureau manager shall not function as the hearing officer if there is any conflict of interest or the

appearance of such. The bureau manager shall determine whether it is necessary for the bureau manager to withdraw as a possible hearing officer, in which event the hearing officer shall be designated by the chief of police or his designee. The bureau manager shall disclose any facts, knowledge or any information known by the bureau manager regarding the particular situation for the record at the very beginning of the hearing. The bureau manager shall respond to any questions about any past knowledge about the particular situation. The appellant shall have the right to state for the record any specific findings of fact about the particular situation that the appellant believes precludes the bureau manager from conducting an impartial hearing of the case.

- (i) *Decision and written orders.* The standard to be applied is whether, by a preponderance of the evidence, the animal is dangerous or prejudicial to the public safety or public health. The hearing officer's decision shall be supported by specific findings of fact and specific conclusions based upon the findings of fact. The bureau manager, if the bureau manager acts as hearing officer over the objections of the appellant, shall make specific findings of fact and conclusions regarding such objections for that particular case. All findings of fact must be supported by competent and material evidence in the record and must be included in the record.

The hearing officer shall issue a written order based on his decision. The written order shall declare whether the animal is found to be dangerous or prejudicial to the public safety or public health or nondangerous. If the animal is found to be dangerous or prejudicial to the public safety or public health, the hearing officer shall have the authority to terminate the owner's ownership rights in the animal and to dispose of the animal in accordance with this subsection, or the hearing officer may suspend the termination of ownership rights conditioned upon the owner's compliance with such terms as the hearing officer deems necessary to ensure that the animal may be kept by the owner in safety. If such terms are part of a written order suspending seizure/forfeiture, the terms and the written order shall comply with the requirements of section 3-135. The bureau manager shall have the authority to modify the terms when it is necessary to ensure the safety of the public. The termination of ownership rights may be invoked upon the failure to comply with any of the terms. Written orders shall include the following statements:

- (1) Whether the animal is dangerous and prejudicial to the public safety or health or nondangerous. (If nondangerous, nothing further is required.)
 - (2) That the bureau has the authority to terminate ownership rights of the animal and to order the humane destruction of the animal.
 - (3) Whether the ownership rights are being presently terminated or if such termination is suspended.
 - (4) If the termination is suspended, the terms and condition on which the termination is suspended in compliance with section 3-135.
 - (5) That a failure to comply with the written order could result in termination of ownership rights and humane destruction of the animal.
 - (6) That any appeal to the superior court of the hearing officer's decision must be filed within 30 days.
- (j) *Disposition of animal.* The bureau manager shall have the discretion to dispose of any animal forfeited to the bureau under this section in one of only two specific ways:
 - (1) By humane destruction of the animal; or
 - (2) By giving the animal to an individual or an organization subject to the protective and inspection conditions required by the bureau manager for the well-being of the animal, for the protection of the public and for the purpose of preserving and taking care of the animal. Such conditions shall reserve the bureau's right to seize and humanely destroy the animal upon any failure to comply with the conditions. An animal declared to be dangerous by the bureau manager shall not be disposed of for research or experimental purposes.
 - (k) *Appeal to superior court.* The decision of the bureau manager or of the city manager or his designee shall be subject to review by the superior court by proceedings in the nature of certiorari. Any petition

for writ of certiorari for review by the superior court shall be filed with the clerk of superior court within 30 days after delivery of or reasonable efforts to deliver the decision to the owner or the owner's representative. Prior to the filing of the petition for writ of certiorari with the clerk of superior court, a cash bond must be provided to the city for all costs incurred thus far by the city's retention of the animal and for an approximate time for the course of the appeal, as well as for the cost of the transcript prepared for the court. The city shall reimburse the petitioner for the cost of the petitioner's transcript and the court's transcript if the court reverses the decision and determines that the animal is not dangerous. If a petition for writ of certiorari is filed in superior court, the animal shall be confined at the animal shelter or at a location solely acceptable to the bureau. Appeal shall not toll compliance with any written or containment order pending the hearing of such appeal.

(Code 1985, § 3-19; Ord. No. 2840, § 6, 12-13-2004)

Sec. 3-134. - General seizure/forfeiture procedure.

- (a) *Applicability.* When an animal has been or shall be seized pursuant to section 3-132(a)(2), (a)(3), the procedures in this section shall be followed.
- (b) *Manner of seizure.* The actual act of seizing the animal shall be done in any manner consistent with state law and the United States Constitution.
- (c) *Notice and holding period.* The bureau shall conduct reasonable efforts to identify, locate, and notify the animal's owner. The animal shall be held three working days, excluding the day of seizure, from the date notice is sent to the owner or from the date of seizure if the owner cannot be identified or located after reasonable efforts to do so. The notice, if sent, shall include the following statements:
 - (1) An order to the animal's owner to contact the bureau immediately.
 - (2) A brief statement of the date, location, and reason for the seizure of the animal.
 - (3) A statement that the animal is subject to forfeiture and humane destruction within three working days from the date the notice was sent.
 - (4) A statement that a hearing will be held, at the owner's request, to determine if the animal shall be forfeited.
 - (5) A statement of the methods by which the owner may contact the bureau.
- (d) *Hearing.* A hearing shall be held if the owner has contacted the bureau within the three days and requested a hearing. The hearing shall be conducted in the same manner and with the same remedies and consequences as those set out in section 3-133. If the violation that is the basis of the seizure is found by the preponderance of the evidence to have occurred, the hearing officer shall have the authority to order the same remedies available in section 3-133(i) and (j). However, if a forfeiture is ordered, the animal may be placed for general adoption to the public if it is healthy, nonaggressive, and has not bitten. If the animal's owner fails to contact the bureau and request a hearing within the three days after the notice is sent, the animal shall be forfeited to the bureau.
- (e) *Appeal.* Appeal from a determination under this section shall be conducted in compliance with section 3-133(k).

(Code 1985, § 3-49)

Sec. 3-135. - Protective measures for containment of animals.

- (a) *Circumstances requiring special preventive measures.* The bureau shall have the authority to require the owner or custodian of an animal to comply with specific preventive measures, as described in subsection (b) of this section, whenever the bureau has the authority to seize the animal for possible forfeiture or when otherwise authorized by this chapter. Preventive measures shall only

be ordered after taking into consideration the totality of the circumstances, including, but not limited to, the following:

- (1) *Nature of the particular animal.* The behavior, size, temperament, breed, capacity for inflicting serious injury, number of animals or other such similar factors that would be relevant to a determination of whether preventive measures need to be imposed for a particular situation;
 - (2) *Adequacy of confinement.* The adequacy of the current enclosure or confinement, if any;
 - (3) *Immediate surrounding area.* The likelihood that the conditions pertaining to the particular animal and the animal's confinement are detrimental to the safety or welfare of citizens or the peace and tranquility of citizens in the immediate surrounding area;
 - (4) *History and ability.* The history of the animal and the animal's owner in compliance or noncompliance with this chapter as well as the owner's ability to adequately restrain the animal when viewed in light of all relevant factors.
- (b) *Preventive measures.* If the bureau determines that the circumstances require special preventive measures, the bureau shall have the authority to require the following:
- (1) Appropriate, specific preventive measures which might include, but are not limited to, the following: necessary repairs for any fence or enclosure, measures to ensure that a gate will remain closed, a fence or secure fence as described in this subsection or any other similar device that would provide greater assurance for the confinement of the animal, all of which are subject to being specifically approved for their adequacy by the bureau.

A fence shall be at least a minimum of four feet high and shall constitute a secure-enough enclosure sufficient to contain the animal at all times. The minimum size of the enclosure may be at least 150 square feet. If the animal is over 15 inches at the shoulder or is deemed capable of climbing a standard four-foot fence, the animal control supervisor may require a six-foot fence. A secure fence means a fence, as immediately described above, that may also be enclosed on all six sides, including the top. The bottom must be concrete, unless the sides of the fence are buried one foot deep in a hard-packed soil. Any reference to "fence" or "secure fence" shall be defined as stated in this subsection. Preventive measures may also specifically include mandatory spay/neuter for any animal that has been declared dangerous by the bureau.
 - (2) The owner to tattoo, or electronically tag, the animal at the owner's expense if that is necessary for identification, investigative or enforcement purposes.
 - (3) The owner to procure liability insurance in the amount of at least \$100,000.00 at the owner's expense or to have the animal tattooed or to display a sign on the premises warning of the animal on the premises. The bureau shall have the authority to require the owner to show signed, written statements about maintaining the liability insurance, the designated enclosure for the animal and the duty to notify the animal control bureau if the animal escapes, and to require the owner to give the bureau the authority to seize and impound the animal if the owner fails to comply with this subsection.
- (c) *Containment order.* If the bureau determines that specific preventive measures must be complied with by the owner of an animal, the bureau shall make reasonable efforts to notify the owner of the containment order. All containment orders shall be in writing and shall state the reasons that preventive measures are required, shall identify the specific preventive measures that must be implemented, and shall state the designated time period within which to comply with the containment order. The bureau shall have the authority to exercise discretion for extensions of time if that is reasonable in view of the good-faith progress of the owner in implementing the preventive measures.
- (d) *Failure to comply with containment order.* It shall be unlawful for an owner to fail to comply with a containment order within the designated time for compliance stated in the written order or any extension thereof. The penalty for a willful failure to comply with a containment order shall be a civil penalty in accordance with section 3-33 or seizure/forfeiture of the animal in accordance with sections 3-33 and 3-134.

- (e) *Owner's challenge to containment order.* The owner may submit in writing a challenge to the bureau's determination that subsection (a) of this section is applicable to the owner's premises or submit in writing a challenge to the specific preventive measures required by the bureau. The challenge must comply with all of the requirements as for a request for hearing as set out in section 3-133. A challenge that meets those requirements shall be heard in the same manner and with the same appeal to superior court as set out in section 3-133. The hearing officer shall review the containment order under the standards of this section but shall follow the process for the hearing as set out in section 3-133. If the animal has been seized and the owner wishes to appeal the seizure and potential forfeiture as well as challenge the containment order, both matters may be addressed in the same hearing.

(Code 1985, § 3-27; Ord. No. 2840, § 7, 12-13-2004)

Sec. 3-136. - Fees.

- (a) *Generally.* The bureau shall charge and collect fees from owners or possessors who redeem their animals. The following services and fees for those services are hereby authorized. The city manager or his designee shall have the authority to establish a fee schedule for the following services and categories:
- (1) *Impounding.* Any animal that is taken into custody by the bureau pursuant to this Code or state statute.
 - (2) *Boarding.* Dog per day, cat per day, large animals (e.g., equines, bovines, sheep, goat, swine, etc.) per day, small animals (e.g., rabbits, birds, poultry, hamsters, etc.) per day. Any animal not deemed to fit in a particular enumerated category shall be considered a large animal.
 - (3) *Adoption.* Large animals; dog, puppy, cat or other small animal; pick up a special service fee; replacement fee for metal tags.
 - (4) *Electronic tagging.* The bureau is hereby authorized to, and may without the consent of the animal's owner or possessor, humanely implant any animal lawfully impounded with an electronic tagging device similar to a micro-chip that will allow the animal to be positively identified. The cost shall be deferred by the owner or possessor prior to the animal being released back into their custody.

The fees shall be reviewed annually, and the city manager or his designee is authorized to make such adjustments in such fees as deemed appropriate. The city manager or his designee shall have the authority to establish animal categories and to set escalating impoundment fees for animals for recurring violations by the same owner. An accurate copy of the fee schedule shall be posted in a conspicuous place in the office of the animal control bureau, and a copy shall also be filed with the city clerk's office.

The fees in this subsection do not include applicable charges for any license or inoculation that may be required by this chapter or other applicable law. If the animal to be redeemed is not licensed, permitted, or inoculated as required by law, the owner must have the dog or cat inoculated and obtain a proper license or permit before release of the animal.

No fees whatsoever shall be charged or collected on any animal which has been unlawfully impounded. Any such animal shall immediately be delivered upon demand to the owner or person entitled to the custody of the animal.

If the owner of a dog or cat pays for spay/neuter services for that person's animal impounded by the bureau before the release of the animal to the owner, the owner shall receive a \$100.00 credit towards any redemption fees, including the impounding fee but excluding the electronic tagging fee, as stated in this subsection.

- (b) *Adoption requires animal spay/neuter surgery.* The adoption of an animal shall be a conditional purchase. In addition to the adoption fees stated in subsection (a) of this section, the purchaser of a dog/puppy, cat/kitten or rabbit at the animal control shelter shall pay the cost of spay/neuter services,

as provided in section 3-137, for the adopted animal. The payment for the spay/neuter services shall be made at the time the person selects such an animal for adoption and shall be nonrefundable. An animal that is immediately eligible for surgery shall not be released to the new owner until the surgery has been completed and medical authorization to release the animal has been given. If the animal is not immediately eligible for spay/neuter surgery, the new owner shall enter into a contractual agreement to present the animal for surgery on a specific date and at a specific time determined by the bureau. If a person adopts an animal and fails to return with the animal for the appointment for spay/neuter services, that person shall forfeit the money paid for the surgery effective upon the scheduled date of the surgery, and the person shall be in violation of this section for failure to comply with that condition of purchasing the animal. Further, the purchaser shall consent to the animal control shelter's right to seize such animal unless the purchaser immediately presents the animal for surgery at the spay/neuter clinic or can provide proof satisfactory to the animal control bureau that the surgery has been performed by another veterinary clinic. If the animal control shelter seizes the animal upon the premises of the owner, the appropriate warrant for seizure shall be required.

- (c) *Refunds.* The bureau manager shall have the discretionary authority to grant a refund of money paid pursuant to this section for the cost of spay/neuter services when the animal has died before such services can be performed or if it is subsequently determined that such surgery is unnecessary or inappropriate or for some other exceptional reason which would make it unjust for the city to retain the cost for the spay/neuter services paid to the city, and a refund would be appropriate. This is discretionary authority for the bureau manager; the bureau manager may decline to exercise such authority for any reason whatsoever. If such discretionary authority is exercised, the finance department will be authorized, pursuant to a written memorandum from the bureau manager to the director of the finance department to refund such money with whatever appropriate documentation is required by the finance department. If the discretionary authority is not exercised by the bureau manager or if an individual remains dissatisfied with the decision of the bureau manager, the individual must file a notice of claim with the office of the city manager for any further review of such a request.

(Code 1985, § 3-45; Ord. No. 2310, § 5, 6-9-2003; Ord. No. 2840, § 7, 12-13-2004)

Sec. 3-137. - Spay and neuter services.

- (a) *Establishment or provision of services.* The bureau is authorized to establish, equip, operate and maintain and provide spay/neuter services (referred to as "services") for dogs, cats, rabbits and ferrets; to employ personnel for those services; and to appropriate and expend tax and nontax funds, including property taxes, for those purposes. In lieu thereof, the bureau is further authorized to contract with any individual, corporation, nonprofit corporation, governmental body or any other group for the purpose of operating or providing services for dogs, cats, rabbits and ferrets within the city. The bureau may appropriate and expend tax and nontax funds, including property tax, for those purposes.

The city manager or his designee shall have the authority to establish the cost of services for dogs/puppies, cats/kittens, rabbits, and ferrets based on estimated costs in providing the services. The city manager or his designee shall maintain documented records justifying any such increases or decreases. A change in service charges shall occur no more than once in each six-month period.

- (b) *Consent waiver and form.* A person submitting a dog, cat, rabbit or ferret for the services of the clinic shall first be required to sign a consent form certifying under penalty of perjury that he is the owner of the animal or is otherwise authorized to present the animal for the operation. Such persons may be required to furnish proof of such ownership or authority. By signing the consent form, the owner shall waive any and all liability for any injury or death to an animal arising out of the spaying or neutering operation or any services provided incidental thereto. The person presenting the animal for such operation shall indemnify the bureau against any person's claim that the bureau did not have the authority or right to destroy the animal.

- (c) *Boarding charge.* The bureau shall establish a return date by which a person submitting an animal for the operation as provided in this section shall pick up the animal or be subject to a reasonable boarding fee, established in accordance with section 3-136, to commence the date after such return date. If the animal is not picked up by the seventh day after the return date, the bureau may dispose of the animal by any disposition method authorized by this chapter.

(Code 1985, § 3-47)

Sec. 3-138. - Rabies impoundment.

The county ordinance for the control of rabies and other zoonoses shall apply for rabies impoundment. Consistent with that ordinance, the bureau manager shall have the authority to order confinement of an animal which shows symptoms of rabies or which has bitten a person and to take whatever other action is necessary for confinement, observation and disposition of the animal.

(Code 1985, § 3-46)

State Law reference— Rabies, G.S. 130A-184 et seq.

Sec. 3-139. - Uncared-for animals.

- (a) Whenever the bureau finds that any animal is or will be without proper care because of injury, illness, incarceration or other excusable, involuntary absence of the person responsible for the care of such animal, the bureau may impound such animal until it is reclaimed by its owner. The owner must pay the applicable fees in section 3-136 in the same manner as any other owner would reclaim an impounded animal prior to the release of such animal by the bureau.
- (b) Any animal that has been impounded under subsection (a) of this section and that is not reclaimed can be kept, in the discretion of the bureau manager, up to ten days and may be disposed of by the bureau pursuant to section 3-140.
- (c) If the owner of the animal notifies the bureau of the owner's intent to claim the animal but will not be able to until after the ten-day impoundment period, the bureau shall have the authority to grant extensions, in its discretion, when the bureau has concluded, after investigating the request, that the owner or an agent for the owner is not able to reclaim the animal within the time period specified in subsection (b) of this section. The owner shall be charged double the redemption fee stated in section 3-136 if the animal is claimed after the ten-day period when permission has been granted to claim the animal after the ten-day period. If the bureau has concluded that the owner or an agent is in a position to reclaim the animal, the bureau can inform the owner or agent that the request is denied and proceed to dispose of the animal in accordance with section 3-140.

(Code 1985, § 3-29)

Sec. 3-140. - Sale or euthanasia.

- (a) *Unclaimed animals.* If an animal is not redeemed by the owner during the applicable period of redemption or has been relinquished to the bureau, the animal shall be disposed of as follows:
- (1) After the required period of time for holding an animal has expired, unclaimed animals may be offered to the first member of the public paying the applicable fee. The bureau manager shall be authorized not to offer for sale any animal when it is reasonable to believe that continued medical observation of the animal is necessary or for any other exceptional reason. Owner released or unclaimed animals also may be humanely euthanized at the discretion of the

bureau or may be adopted to the general public or sold at public auction. Adoption or sale may be refused to anyone who, in the opinion of the bureau manager:

- a. Is unqualified to own the animal due to drunkenness;
 - b. Has a record of cruelty to animals;
 - c. Is under 18 years of age;
 - d. Has committed acts of harassment to animals residing at the shelter;
 - e. Owns other animals which are in violation of requirements of this chapter;
 - f. Refuses to comply with adoption requirements of this chapter;
 - g. Has released two or more animals to the bureau in the past six months;
 - h. Lacks adequate housing and/or fencing to contain the animals; or
 - i. Has any other incapacity.
- (2) The bureau may accept any animal the owner wishes to release to the bureau. The owner shall sign a release card vesting all rights and title to the animal in the bureau. All released animals shall immediately be available for public sale or public auction or humane euthanasia as the bureau manager deems appropriate.
- (3) An employee of the bureau shall execute a bill of sale to the purchaser of any animal sold, and, thereupon, the title to such animal shall be vested in the purchaser.
- (4) Employees of the bureau may adopt bureau animals but shall do so using the same procedures as any member of the general public would.
- (5) The bureau shall have the authority to carry out the humane euthanasia of any animal lawfully taken into custody by the bureau which is:
- a. Affected with any dangerous, painful, incurable or communicable disease; or
 - b. Incurably crippled or suffering incurably after reasonable effort has been made to notify the owner.
- (b) *Bites.* All dogs and cats that bite a person shall be immediately confined for ten days in a place designated by the bureau manager or the health director. If the owner or the person who controls or possesses the dog or cat that has bitten a person refuses to confine the animal as required by this subsection, the bureau manager or the health director may order the seizure of the animal and its confinement for ten days at the expense of the owner. The disposition of an animal other than a dog or cat that bites a person shall be at the discretion of the health director in consultation with the consulting veterinarian. If any animal is unclaimed after the ten-day confinement, the bureau manager may dispose of the animal, unless the bureau manager receives instructions of a different nature from the health department.
- (c) *Disease.* Any animal which appears to be suffering from any disease shall not be sold but may be reclaimed by its owner at the discretion of the bureau manager on a conditional basis only, provided that the owner provides proper veterinary medical treatment for the animal in accordance with the bureau manager's instructions. If the person fails to comply with the instructions, the bureau manager shall have the right to seize the animal since the release of the animal has been conditioned upon compliance with those instructions.
- (d) *Other authorized dispositions.* Animals that are available for sale to the general public and that qualify for use by the Charlotte-Mecklenburg Police Department, for use by the U.S. Customs Department or other affiliated organization, or for use by a local veterinarian as a blood donor may, at the bureau manager's discretion, be released to these organizations at no charge.

(Code 1985, § 3-48; Ord. No. 2979, § 1, 5-23-2005)