

ORDINANCE NO. 3731

ORDINANCE AMENDING CHAPTER 3 (ANIMALS AND FOWL) OF THE CODE OF ORDINANCES OF THE CITY OF ASHEVILLE

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WHEREAS, the City of Asheville has the authority, pursuant to N.C.G.S. § 160A-186 to regulate the keeping of domestic animals; and

WHEREAS, the City of Asheville has the authority, pursuant to N.C.G.S. § 160A-187 and § 67-4.5 to regulate animals which are dangerous to persons or property; and

WHEREAS, the City Council has determined that it is in the interest of the public health, safety and welfare to amend Chapter 3 of the City Code to address animal matters;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Section 1. Chapter 3 (Animals) of the Code of Ordinances of the City of Asheville is hereby repealed in its entirety and the following substituted in lieu thereof:

“Chapter 3 ANIMALS

ARTICLE I. GENERAL

Sec. 3-1. Policy. It is the policy of the Asheville City Council to effectively enforce the provisions of this chapter.

Sec. 3-2. Findings. The Asheville City Council makes the following findings to accomplish the objectives of vigorous and effective enforcement of this chapter:

- (1) That compliance with rabies vaccination laws as spelled out in the North Carolina General Statutes, Part 6 of Article 6 of Chapter 130A, is necessary for the protection of public health, for the protection of owners of the animals and to enable the Animal Control Officer to accomplish his/her duties. The owner of an animal has a serious ownership obligation and duty to the citizens of Asheville to comply with the rabies vaccination laws.
- (2) That the presence of a dog when off-premises in violation of Article II of this chapter often creates substantial anxieties and concerns for the safety and free movement of people and, therefore, the owner has an obligation to the citizens of the City to effectively confine and physically control his/her dog.
- (3) That the possibility of a dog bite causes serious anxiety for citizens of the City and, therefore, owners have an obligation to prevent the creation of that apprehension and concern.
- (4) That a dog owner has a responsibility to be aware of any possible dangers to children under the age of seven years who, at that age, are unable to fully appreciate the possible danger presented by a dog and a dog's reaction to a young child.

- (5) That a dog owner has a responsibility to be aware of any possible dangers to disabled and elderly persons who may not be able to physically ward off an aggressive dog.
- (6) That the Animal Control Officer must have sufficient authority to impose preventive measures, to seize animals, and, if necessary, to determine ownership rights.
- (7) That the City must adopt civil penalties, fines and other sanctions as measures to protect the citizens of the City and to declare that the ownership of pets entails responsibility on the part of the owners.

Sec. 3-3. Purpose. It shall be the purpose of this chapter to prohibit certain acts, omissions and conditions which interfere with the health, safety and general welfare of the inhabitants of the City; to protect the public from unvaccinated, diseased, stray, roaming, or dangerous animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; and to provide for the peace and dignity of the City.

Sec. 3-4. 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:

Abandon means to forsake or release an animal previously in the custody or possession of a person without providing for the adequate, continued care of the animal.

Adult means a person 18 years of age or older who has not been judicially declared incompetent.

Animal means any nonhuman vertebrate creature. Unless otherwise defined, the term animal includes, but is not limited to, dogs, cats, rabbits, fowl, chickens, horses, cows and goats. For the purposes of section 3-9 (9) only, animal shall not include:

- (1) Any small domesticated rodent such as a gerbil, guinea pig, hamster, rat or mouse;
- (2) Any small bird including but not limited to a canary, parakeet, finch, parrot, cockatoo or myna; or
- (3) Any amphibian, fish or non-venomous reptile.

Animal Control Administrator means the designee of the Director of Animal Control responsible for supervising the Animal Control Department of the Asheville Police Department.

Animal shelter means any premises designated by the City for admitting and caring for all animals found running at large or otherwise impounded in accordance with the provisions of this chapter.

At large means an animal roaming unrestrained beyond the owner's exclusive control.

**Attractant means any substance which could reasonably be expected to attract a wild animal or animals or does attract a wild animal or animals, including but not limited to, food products, pet food, feed or grain.**

Beehive means any receptacle, container, or part of receptacle or container which is made or prepared for the use of bees or which is inhabited by bees.

Bona fide farm means the use of one's real property for a farming business or enterprise, zoned or grandfathered for agricultural use. A bona fide farm must comply with all applicable federal, state and local laws.

City Manager means the City Manager of the City of Asheville or his/her designee.

Dangerous animal is defined as:

- (1) An animal that:
  - a. Without provocation has killed or inflicted severe injury on a person; or
  - b. Is determined by the Animal Control Administrator to be a potentially dangerous animal.
- (2) Any animal owned or harbored primarily or in part for the purpose of animal fighting or any animal trained for animal fighting.

Domesticated means any animal traditionally kept, cared for, sheltered, fed or harbored for use as a companion animal.

Exotic pet is any animal that is not classified as domesticated, livestock or a wild animal. This definition does not include feral animals.

Feral means an animal of a species normally domesticated that has reverted to a wild state.

Fowl means any bird traditionally associated with sport, farming or production including, but not limited to poultry and game birds.

Harboring an animal means feeding or sheltering an animal seven days or more unless the animal is being boarded for a fee.

Hatchery means any establishment that operates hatchery equipment for the production of baby chicks or poults.

Household means any room or group of rooms located within a building and forming a single habitable unit with facilities that are used or intended to be used for living, sleeping, cooking and eating.

Impounded means any animal, which taken into the custody of the Animal Control Officer.

Humane care and treatment means maintaining an animal in an appropriate, sanitary environment. Humane care and treatment also considers the age, size, health problems, hardiness and other characteristics of the individual animal in daily care to prevent avoidable harm and suffering.

Kennel means any person, partnership or corporation currently licensed by the State Department of Agriculture and engaged in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs and/or cats.

Livestock means animals commonly associated with farming including, but not limited to, horses, mules, ponies, swine, sheep, cattle and goats. Livestock shall not include chickens or fowl.

Lot means a portion, piece, division or parcel of land, with or without a household, which is identified by a tax map, recorded plat, deed, lease or the like. All contiguous land under common ownership and used for a single purpose shall constitute a single lot.

Owner means any person who or legal entity that has a possessory property right in an animal or harbors an animal or has it in his/her care, custody or control, or knowingly permits said animal to remain on any premises occupied by him or her. Presumption of ownership may be rebutted by proof that such person has no property right in the animal, is neither harboring nor caring for the animal and, in the case of a dog, is not the licensed owner. Excepting Article II of this chapter, owner does not include veterinarians or commercial kennel operators temporarily maintaining on their premises for a period of less than 30 days animals owned by other persons.

Owner's real property means any real property owned or leased by the owner of the animal, but does not include any public right-of-way or a common area of a condominium, apartment complex or townhouse development.

Pet means any animal kept for pleasure versus utility.

Pet shop means any person, partnership or establishment that acquires for the purpose of resale or trade, animals bred or supplied by others. Pet shops dealing in dogs or cats must possess a current license from the State Department of Agriculture.

Potentially dangerous animal means an animal that the Animal Control Administrator determines to have:

- (1) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;
- (2) Killed or inflicted severe injury upon a domestic animal when not on the owner's real property.
- (3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

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

Quarantine order is an action taken by an Animal Control Officer to secure any dog, cat or other animal specified by state law, which has bitten a person, for a mandatory 10-day observation period as required by N.C.G.S. §§ 130A-196—199. Quarantine orders may also be issued by the local health director for up to six months when a domestic animal suffers a rabies exposure.

Rabies exposure means any bite or other event in which a person or animal has been suspected of coming in contact with the saliva or nervous tissue of an animal possibly having rabies.

**Refuse means all garbage, trash, substances and materials which are an attractant to a wild animal.**

Secure enclosure means a structure with six sides including the top. The bottom must be concrete unless the sides of the structure are buried one foot deep in a hard-packed soil. The structure shall be a minimum of four feet high and surround at least 150 square feet in area. If the animal is over 15 inches at the shoulder, the structure shall be a minimum of six feet in height.

Secure fence means a padlocked fence that is a minimum of four feet high and secure enough to contain a particular dog at all times.

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

Sufficient food means the provision of food of sufficient quantity and quality to insure proper growth or maintenance of body weight appropriate to the age and species of the animal.

Sufficient shelter means a structure which consists of at least three sides, a floor and a roof and adequate in size and design to preserve the animal's body heat and protect the animal from the elements.

Sufficient water means access to a constant supply of water that is clean, fresh and visibly free of debris and organic material, provided at suitable intervals for the species, and not to exceed 24 hours at any interval.

Tether means fastening an animal so that it can range only within a set radius.

**T-Runner means a device typically constructed from two airline cables and a pulley allowing a length of cable to move freely along a guide cable. When the T-runner is attached to the collar or harness of a dog, the dog may move uninhibited in the area below the guide cable.**

Vaccination means the administration of rabies vaccine as required by N. C.G.S. § 130A-185.

Wild animal means any animal which can normally be found in the wild state, particularly those feral, dangerous or non-domesticated animals which generally do not live in or about the habitation of humans, including, but not limited to, bears, deer, lions, monkeys, raccoons, skunks, squirrels, turkeys, tigers, venomous snakes and wolf hybrids.

Sec. 3-5. Annual registration for dogs; spaying and neutering requirements; unaltered permit required.

- (a) Annual registration for dogs. Any person owning, keeping, harboring or having custody of a dog 6 months old or older or possessing a set of permanent canine teeth, whichever comes first, within the City limits for more than thirty (30) days in a 12-month period is required to obtain a license tag for such dog by registering it with the license-collecting

agent of the City. The period of registration shall include the 12 months following January 1 of each calendar year. The registration fee shall be due and payable on January 1 each calendar year. The City's Fees and Charges Committee shall set the amount of the annual registration fee. **In lieu of the civil penalty, a person cited under this section may register his or her dog with the City within fifteen days of the issuance of the citation and the civil penalty will be voided.**

- (1) When initially registering a dog, the owner shall produce proof of current rabies vaccination and shall thereafter forward proof of vaccination renewal to the license-collecting agent. Failure to maintain current rabies vaccination records with the City shall render the dog registration invalid.
  - (2) Every person owning, keeping, harboring or having custody of a dog subject to the annual registration requirement is required to see that the license tag is valid and is securely fastened to the dog by collar or harness at all times.
  - (3) Working police dogs, registered service dogs, and service dogs in training with credentials shall qualify for exemption from the annual registration fee by including on the license application the name and phone number of the responsible agency and, in the case of service dogs, the individual registration number of the animal.
- (b) Spaying and neutering requirements. Any person owning, keeping, harboring, or having custody of any dog or cat 6 months of age or older is required to spay or neuter said animal unless said person holds an unaltered animal permit issued by the license-collecting agent of the City, or any successor agency authorized by law to issue said permit, except:
- (1) Persons who own, keep, harbor, or have custody of registered service dogs or working police dogs;
  - (2) Individuals who are non-residents of the City and reside temporarily therein for a period not to exceed thirty (30) days within a 12-month period;
  - (3) Animal shelters and veterinary hospitals; and
  - (4) Persons who own, keep, harbor or have custody of a dog or cat and who are in possession of a certification signed by a licensed veterinarian stating that the animal is unfit to be spayed or neutered because the procedure would endanger the life of the animal.
- (c) Obtaining an unaltered permit. Applicants must apply for unaltered permits with the license-collecting agent of the City. The lifetime fee for an unaltered animal permit shall be \$100.00. A certificate will be issued identifying the animal as an unaltered animal and must be made available for inspection at all times. Violations of this provision will be subject to the penalties set forth in Appendix B. A citation will only be issued under this section if the owner is in violation of another provision of this chapter.

Sec. 3-6. Administration. For purposes of administering this chapter, the City Manager may create an Animal Control Division within a City department, designate a local agency or designate other City departments to perform some or all of the functions of said division. There shall be a Director of Animal Control who shall have overall responsibility for administering this chapter. The director may have the authority to hire appropriate staff including the Animal Control Administrator and the Animal Control Officers.

Sec. 3-7. Powers and limitations of Animal Control Officers. The powers and limitations of Animal Control Officers shall be:

- (a) To carry out the responsibilities of section 3-6, the Animal Control Officer shall have the power to:
- (1) Take up and deliver any animal at large in violation of this chapter to the animal shelter.
  - (2) Issue all appropriate permits, citations and notices required for the enforcement of this chapter.
  - (3) Recommend that an animal be declared a potentially dangerous animal if the Animal Control Officer determines that the animal so qualifies as that term is defined in this chapter. Upon a declaration of a potentially dangerous animal by the Animal Control Administrator, the Animal Control Administrator shall notify the owner of the animal in writing, giving the reasons for the declaration. The owner may appeal the declaration of the Animal Control Administrator by filing written objections with the Animal Control Appeal Board as set forth in this chapter.
  - (4) Organize and carry out canvasses of the City, including homes and any businesses utilizing security dogs; and, insuring that the provisions of this chapter and state law related to animal control are adhered to.
  - (5) Investigate complaints of City residents with regard to animals.
  - (6) Protect animals from neglect or abuse.
  - (7) Enforce state law with regard to an owner's failure to obtain proper vaccination of dogs and cats against rabies.
  - (8) Investigate all reported animal bites or other exposures to suspected rabid animals, and submit reports to the Buncombe County Health Director.
  - (9) Issue orders and warnings regarding the presence of bears or other wild animals in an area, and directing residents in the area to remove attractants, as defined herein or as specified in the order or warning. Said warning or order shall not exceed 60 days duration.**
  - (10) The Animal Control Officer shall have no duties or responsibilities with respect to organizing and carrying out rabies vaccination clinics.

- (b) The authority of the Animal Control Administrator to enforce the provisions of this chapter relating to dangerous dogs does not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
  - (2) A dog being used in a lawful hunt.
  - (3) A dog where the injury or damage inflicted by the dog was sustained by a domesticated animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domesticated animal appropriate to the work of the dog.
  - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort; was tormenting, abusing or assaulting the dog; had tormented, abused or assaulted the dog; or was committing or attempting to commit a crime.

Sec. 3-8. Inspection, interference, or concealment.

- (a) Inspections. Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Animal Control Officer has reasonable suspicion to believe that there exists in any household or upon any premises any violation of this chapter, the Animal Control Officer is hereby empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon him/her by this chapter as follows:
- (1) If such property is unoccupied, the Animal Control Officer shall first make a reasonable effort to locate the owner or other persons having control of the property; and
  - (2) If such property is occupied, the Animal Control Officer shall first present proper credentials to the occupant and request entry, explaining the reasons therefore; 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 located after due diligence, the Animal Control Officer may seek an administrative inspection warrant as provided in N.C.G.S. § 15-27.2.
- (b) Interference. It shall be unlawful for any person to interfere with, hinder, resist, or obstruct the Animal Control Officer while the Animal Control Officer is carrying out any duty created under this chapter.
- (c) Concealment of animal. It shall be unlawful for any person to conceal any animal for the purpose of evading any federal, state or local law.

Sec. 3-9. Public nuisance.

- (a) The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance shall include, but not be limited to, the following:
- (1) The keeping of any animal which by continued or repeated howling, yelping, barking or otherwise, causes loud noises which would disturb the quiet, comfort or repose of a reasonably prudent person on adjoining property;
  - (2) The keeping of any animal which habitually is at large;
  - (3) The keeping of a cage or pen constructed and used for the purpose of restraining animals within ten feet of the outer limits of the lot upon which the cage or pen is situated; provided, however, this setback requirement shall not be applicable where the placing of the cage or pen within the ten-foot area does not result in locating the cage or pen within 50 feet of the nearest household occupied by persons other than the owner or keeper of the cage or pen. This subsection shall not apply to the fencing of all or a major portion of a lot;
  - (4) Allowing or 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, or defecating upon the property of another;
  - (5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person on adjoining property;
  - (6) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community; **provided, that nothing herein shall be construed to prohibit keeping or maintaining a bird feeder, or from feeding birds, unless said activity constitutes an attractant and its cessation is ordered by the Animal Control Officer pursuant to this ordinance.**
  - (7) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, animals walked on a leash, bicycles or other vehicles;
  - (8) Failing to confine a female dog while in heat in a secure enclosure in such a manner that she will not be in contact with another dog, or attract other animals.
  - (9) Except as otherwise provided in section 3-10, the keeping of seven or more animals per household or lot, regardless of lot size and regardless of whether any of the provisions of this section are violated. This subsection shall not apply to offspring under the age of 16 weeks and to animals kept by a kennel or pet shop licensed in accordance with state and local law and to animals kept by a kennel, pet shop or other facility licensed or registered by the Department of Agriculture or the Veterinary Medical Board.
  - (10) The tethering of any animal to public property or in a public right-of-way.

**(11) After having received a warning or order from an Animal Control Officer to remove an attractant, knowingly or willfully keeping or storing attractants in a manner contrary to the warning or order.**

Sec. 3-10. Permits.

- (a) Except for animals kept on a bona fide farm, the keeping of animals in excess of that designated in section 3-9(9) shall be allowed only upon the issuance of a written permit by the Animal Control Administrator. The procedure for obtaining a permit shall be as follows:
- (1) Pay the amount of the permit application fee as set by the City's Fees and Charges Committee.
  - (2) The application for each such permit shall contain the following information and documentation:
    - a. Size of the lot where the animals reside;
    - b. Size of the primary enclosure and housing facility where the animals reside;
    - c. The breeds of the animals;
    - d. The number of animals;
    - e. Purpose of the animals (i.e., pets, breeding, training);
    - f. Whether the keeping of the animals will be on a temporary (30 days or less) or permanent (in excess of 30 days) basis;
    - g. Whether the animals will be kept primarily indoors or outside;
    - h. The sex of the animals and whether the animals are spayed or neutered;
  - (3) Upon receipt of an application, an Animal Control Officer shall make an inspection of the subject premises. The Animal Control Officer may solicit comments from other interested parties.
  - (4) If the Animal Control Administrator determines that the animals can be kept in such number and in such manner as not to constitute a threat to the health, safety or welfare of other persons residing near the property set forth in the permit application, the Animal Control Administrator shall issue a permit allowing the keeping of such animals in accordance with the terms of the permit.
  - (5) All permits shall set forth an expiration date that shall not exceed twelve (12) months from the date of issuance and shall require the keeping of the animals at the permitted location in such numbers and in such manner as the Animal Control Administrator shall determine is necessary in keeping with the health,

safety and welfare of the animals and the general public. In addition, the permit shall require the signed consent of the permittee for inspection of the premises at reasonable times by the Animal Control Officer.

- (6) No permit issued pursuant to this section shall be a defense to any action brought pursuant to section 3-9(1) through (10). The Animal Control Administrator may refuse to issue a permit, and after having issued a permit may revoke a permit upon finding any of the following:
  - a. Any material misstatement or misrepresentation in the application for a permit.
  - b. Any willful violation by the applicant or permittee of this chapter or of the Animal Welfare Act, N.C.G.S. §. 19A-20 et seq.
  - c. Any violation of the terms and conditions of the permit issued pursuant to the terms of this chapter.
  - d. Any violation of federal, state or local laws that relate to animals, zoning, nuisances or condition of the property.
- (7) Upon the issuance, failure to issue, or revocation of any permit under this section, the applicant may appeal to the Director of Animal Control for a determination concerning such issuance, failure to issue or revocation; provided, however, that any such appeal must be made in writing and delivered to the Director of Animal Control within ten (10) days following the issuance, failure to issue or revocation from which an appeal is taken.
- (8) Upon revocation or expiration of a permit or the failure to issue a permit, the animals in violation of this section must be removed from the lot within seven days.

Sec. 3-11. Sanitation. No keeper of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property without permission of the occupant of said property, unless such keeper immediately removes and disposes of all feces deposited by such animal by the following methods:

- (a) Collection of the feces by appropriate implement and placement in a paper or plastic bag or other container; and
- (b) Removal of such bag or container and disposition thereafter in a manner as otherwise permitted by law.

Sec. 3-12. Animal care.

- (a) It shall be unlawful for any owner to fail to provide his/her animals with sufficient food, water, shelter and protection from the weather, veterinary care and with humane care and treatment.

- (b) It shall be unlawful for any person to willfully or intentionally beat, injure, endanger, wound, torture, torment, disfigure, poison, overdrive, overload or otherwise abuse any animal.
- (c) It shall be unlawful for any person to cause, instigate, permit, organize or attend any dogfight, cockfight or other combat involving animals.
- (d) No person may transport 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, in such a way as to cause pain, suffering, possible pain or death to the animal. Provided, however, there shall be no prohibition against the humane transportation of horses, cattle, sheep, poultry, or other livestock in trailers or other vehicles designed, constructed, and adequate for the size and number of animals being transported.
- (e) It shall be unlawful for any person to place or confine an animal or allow 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. After making a reasonable effort to find the driver of a vehicle in which an animal is confined, the Animal Control Officer, in the presence of a law enforcement officer, may use the least intrusive means to enter the vehicle if necessary to remove the animal, where reasonable cause exists to believe the animal may die if not immediately removed.
- (f) It shall be unlawful to trap a wild animal in the City limits **without a permit and/or license as required by the North Carolina Wildlife Resources Commission or successor agency. Live animals known to transmit the rabies virus, including but not limited to foxes, coyotes, skunks, bobcats, beavers, ground hogs and bats, shall not be trapped, handled, kept, transported or destroyed except by Animal Control Officers or other authorized persons.**
- (g) Any person injuring or killing a domesticated animal by striking it with an automobile or other vehicle shall make reasonable and immediate efforts to notify the owner of said animal. If the owner cannot be contacted and the animal is still alive, reasonable measures must be taken to notify Animal Control.
- (h) It shall be unlawful for any person to sponsor, promote, or train a wild or domesticated animal to participate in any unnatural behavior in which the animal is wrestled, fought, harassed or displayed in such a way that the animal is abused or harmed. This section shall in no way apply to zoological parks, animal exhibitions or circuses.
- (i) It shall be unlawful to tether a dog unless the tether is no less than 15 feet in length, and cannot become tangled or prevent the animal from moving freely or having access to food, water or shelter. **When the Animal Control Officer finds a dog being treated inhumanely based on the tethering, the Animal Control Officer has the discretion to order the owner to restrain the dog by a T-runner device on the premises. The Animal Control Officer shall order such a change in writing. The Owner shall have two weeks from receipt of the order to properly install a T-runner adequate to secure the dog. The humane standards in this section shall also apply to the use of a T-runner. [NOTE: The City Council directed reconsideration of this provision**

**prior to the effective date of the ordinance; users are advised to check for subsequent amendments.]**

- (j) It shall be unlawful for any person to abandon any animal.
- (k) It shall be unlawful for any person to auction, sell or trade any dog or cat in a public place without a valid permit from the N.C. Department of Agriculture. In addition it shall be unlawful to adopt any animal in a public place within the City unless the entity placing the animal is an active North Carolina non-profit corporation **whose principal place of operation is located in Buncombe County**, the animal is spayed or neutered prior to adoption and the animal has all of its necessary vaccinations as set forth by state law.
- (l) It shall be unlawful for anyone to give away, sell or adopt any dog, cat, or rabbit under the age of eight weeks old without accompanying its mother.
- (m) It shall be unlawful for any person to give away any live animal as a prize or as an inducement to enter any contest, game or other competition.

Sec. 3-13. Animal bite.

- (a) It shall be unlawful for an animal to bite a human being who does not ordinarily reside on the premises, except a dog being used by a law enforcement officer to carry out the law enforcement officer's official duties or a dog that bites a person committing or attempting to commit a crime.
- (b) The victim of a bite and the animal owner shall immediately report the incident to the Asheville Police Department. It shall be unlawful for any person to withhold accurate information revealing the location of the bite animal. A physician who attends the victim of a bite shall report the bite within 24 hours.
- (c) It shall be unlawful for the owner of an animal under a quarantine order to fail to comply with the order in its entirety. The owner may also be subject to citation, preventive measures and/or dangerous dog classification as a result of the bite incident. The owner has the duty to report any changes in the animal's health or behavior or confinement during quarantine to an Animal Control Officer immediately.
- (d) If the owner is unwilling or unable to comply with an order of quarantine, the Animal Control Officer may immediately seize the animal for impoundment and quarantine at the animal shelter at the owner's expense. If an owner fails to comply with the quarantine order, he/she waives the right to contest the seizure of the animal. Each day of non-compliance shall constitute a new violation.
- (e) Wild mammals, including but not limited to, coyotes, raccoons, skunks, fox, bats and groundhogs involved in a rabies exposure shall be sacrificed and tested for rabies when they can reasonably be obtained. Other species may be tested at the discretion of the State Veterinarian of the Department of Epidemiology. Dogs, cats or other animals specified by state law that die during quarantine shall be tested for rabies.

Sec. 3-14. Wild animals. No person shall keep or permit to be kept on his/her premises a wild animal. This section shall not apply to zoological parks, animal exhibitions or circuses nor apply

to the possession, exhibition or handling of reptiles by employees or agents of duly constituted museums, laboratories, educational or scientific institutions in the course of their educational or scientific work.

Sec. 3-15. Dead animals. It shall be unlawful for any person to leave or place the carcass of any animal that he or she owns upon any street, alley, or lot, or to allow the animal to remain unburied on his/her property. This shall not be construed to prohibit the placing of a carcass of a small animal on the right-of-way or within six feet thereof, for pickup by the proper authorities such as the North Carolina Department of Transportation.

Sec. 3-16. Keeping of bees. No beehive shall be kept by any person within the City within **100** feet of any household other than that of the owner of the beehive. **Any person keeping a bee hive must get a permit in accordance with Article IV of this Chapter.**

Sec. 3-17. Bird sanctuary.

- (a) The area embraced within the corporate limits of the City and all land owned or leased by the City outside the corporate limits is hereby designated as a bird sanctuary.
- (b) It shall be unlawful for any person to:
  - (1) Shoot, hunt, kill, trap or otherwise take any bird or other wild fowl;
  - (2) Collect or destroy any bird's nest or eggs; or
  - (3) Disturb or annoy any bird within such sanctuary without a permit issued by the North Carolina Wildlife Resources Commission.
- (c) The provisions of this section shall not apply to any bird classed as a pest under N.C.G.S. § 113-300.2 and the Structural Pest Control Act of North Carolina of 1955 or the North Carolina Pesticide Law of 1971.

Sec. 3-18. Appeals

- (a) Upon determination made by the Animal Control Officer from which an appeal is authorized in this chapter, the owner of the animal may appeal the determination by filing written objections with the Director of Animal Control within three (3) business days of the violation. The owner shall be required to post a bond in the amount of the fine or penalty assessed with the application of appeal. Failure to post the bond will result in an invalid appeal. Upon timely receipt of an appeal and the posting of the bond, the Director of Animal Control or his/her designee shall render a decision within 30 days of the filing of the appeal. The decision of the Director of Animal Control shall be final. If the owner's appeal is successful, the City shall refund any fines or penalties paid by the owner regarding the matter that was appealed.
- (b) Any appeal from the declaration that a dog is dangerous or potentially dangerous shall be made to the Animal Control Appeal Board. The Animal Control Appeal Board shall consist of three City Employees appointed by the Director of Animal Control. The Appeal Board shall schedule a hearing within 10 days of the filing of the appeal. Any appeal from the final decision of such Appeal Board shall be taken to superior court by filing

notice of appeal and petition for review within 10 days. The appeal shall be heard de novo before a superior court judge sitting in Buncombe County

Sec. 3-19. Injunctions. Any provision of this chapter that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement. When a violation of such a provision occurs, the City or any resident of the City may apply to the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

Sec. 3-20. Penalties.

- (a) In addition to impoundment or seizure of the animal and unless otherwise designated, any violation of this Chapter, except as set forth in subsection (d) shall be deemed a non-criminal violation for which a civil penalty as set forth in Appendix B of this Code may be assessed to the owner of such animal.
- (b) The owner shall be issued a written notice of violation and penalty and the owner shall require payment to be made to the City within three (3) business days of receipt of the notice. Notice of the civil penalty and violation shall be delivered in person to the owner or mailed by certified mail, return receipt requested, to the owner's last known address.
- (c) Upon the owner's failure to pay the required amount within the designated three (3) business day period, the City may institute a civil action in the nature of debt to recover such amount.
- (d) A violation of sec. 3-8(b), sec. 3-8(c), sec. 3-12(c), sec. 3-13(b), or sec. 3-30(b) shall constitute a criminal offense and may be punished as set forth in N.C.G.S. § 14-4.

Sec. 3-21. Exceptions. Animal Control Officers shall have authority to conduct inspections of pet stores, kennels, zoos, circuses, and animal exhibits to the extent not preempted by federal or state law, in order to determine if there is a violation of this chapter.

Sec. 3-22. Severability. If any section or part of this chapter should be held invalid for any reason, such determination shall not affect the remaining sections or parts, and to that end, the provisions of this chapter are severable.

Sec. 3-23. Vaccination

- (a) The owner of every dog and cat over four months of age shall have the animal vaccinated against rabies. Rabies vaccine shall be administered only by a licensed veterinarian or by a certified rabies vaccinator.
- (b) Only animal rabies vaccine licensed by the United States Department of Agriculture shall be used on animals in this state.
- (c) A rabies vaccination tag is also furnished to the owner; dogs are required to wear the tag at all times. For the purpose of this subsection, cats are exempt from the requirement to wear the tag.

- (d) Owners are required to have dogs and/or cats revaccinated so that the animal's immunity to rabies does not expire.

## ARTICLE II. REGULATION AND DISPOSITION OF ANIMALS

### Sec. 3-27. Restraint of animals.

- (a) Every person owning or having possession, charge, care, custody or control of any animal shall keep such animal exclusively upon the owner's real property. However, such animal may be off the owner's real property if it is under the physical control of a competent person and physically restrained by a chain, leash or harness, not to exceed eight (8) feet in length and held in the hand of said person. For the purposes of this subsection only, a cat belonging to the species *Felis catus* or *Felis domesticus* which is actually kept as a pet shall not be subject to this restriction. Exceptions to this section:
  - (1) Service animals trained to provide assistance to persons impaired in sight, hearing, or mobility, do not have to be under physical restraint while off the owner's premises if the dog is under the impaired person's direct control and is obedient to that person's commands. The Animal Control Officer may request proof of assistance animal registration to satisfy this exception.
  - (2) Inside the gated portion of any designated City Dog Park, which is designated leash optional.
  - (3) The Animal Control Officer may place a special order of restraint on individual cats known to violate sec. 3-9 or sec. 3-13 of this chapter. Possible restrictions include, but are not limited to, indoor confinement, microchip identification, and the construction of retaining structures and/or cat enclosures.
  - (4) A working police dog in the course and scope of its duties.
  - (5) The release into flight of doves, homing pigeons, or other species of bird that is bred or trained to return to its loft, home or nesting place upon being released from a remote location. This exception shall only apply to outdoor events for which a permit has been issued by the City, and only upon a finding by the City Manager, or his or her designee that said release will not constitute a danger to the public health or safety, and that said birds are kept in a manner consistent with the recommendations of the International Federation of Homing Pigeons, the American Racing Pigeon Union, the National Aviation Welfare Alliance, or similar organizations
- (b) If an animal is kept on the premises by a fence, the fence must be adequate to contain the animal. If it is an effective, working invisible fence, then there must be a visible, permanent sign on the premises stating that there is an invisible fence.
- (c) Except as provided herein, it shall be unlawful for any person owning or having possession, charge, custody or control of a domesticated animal, wild animal, or livestock, to take the domesticated animal, wild animal, or livestock into picnic areas, pond areas, Riverside Cemetery, the children's play areas of any City park, or into any areas designated or permitted by the City as part of a community festival or event area.

This restriction shall not apply to animals assisting persons impaired in sight, hearing or mobility.

Sec. 3-28. Preventive measures for regulation of dogs.

(a) Circumstances requiring special preventive measures. Upon the finding of any violation in this chapter, or the Animal Control Administrator making a declaration that a dog is potentially dangerous, the Animal Control Officer shall have the authority to require the owner of a dog to comply with specific preventive measures, as described below, after taking into consideration the following factors:

- (1) Nature of the particular dog. The behavior, size, temperament, capacity for inflicting serious injury, the number of dogs involved or other such factors which would be relevant to a determination of whether or not additional preventive measures need to be imposed for a particular situation;
- (2) Adequacy of confinement. The adequacy of the enclosure or confinement, if any;
- (3) Immediate surrounding area. The likelihood that the conditions pertaining to the particular dog and the dog's confinement are detrimental to the safety, welfare or peace and tranquility of a reasonably prudent person in the vicinity;
- (4) Children under the age of seven, elderly persons and disabled persons who live in close proximity to the premises occupied by the dog.
- (5) The dog bit a human being or another domesticated animal without provocation or approached a person in an apparent attitude of attack.
- (6) Dogs trained for fighting or aggressive attack;
- (7) History of the dog. Restrictions were previously placed on the dog in this City or in another jurisdiction; and
- (8) Reputation of the dog. The dog has a known propensity, reputation, or tendency to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.

(b) Preventive measures. If the Animal Control Officer determines that the circumstances require special preventive measures, then the Animal Control Officer shall have the authority to require appropriate, specific preventive measures which might include, but are not limited to, the following:

- (1) Necessary repairs to any fence or enclosure.
- (2) Measures to ensure that a gate will remain secure.
- (3) A secure fence or any other similar device that would provide greater assurance for the confinement of the dog.
- (4) Requiring the owner to tattoo or microchip the dog at the owner's expense.

- (5) Posting of "Beware of Dog" signage.
- (6) Requiring the owner to purchase and show proof of sufficient liability insurance.
- (7) Preventive measures required for dogs classified "Dangerous" as defined in N.C.G.S. § 67-4.1:
  - a. The dog may not be left unattended on the owner's real property unless confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog and approved by an Animal Control Officer.
  - b. The dog may not go beyond the owner's real property unless securely restrained and muzzled.
  - c. The owner of a dangerous dog must provide the Asheville Police Department with written notice of transfer of ownership or possession stating the name and address of the new owner or possessor of the dog and with written notice to the new owner or possessor specifying the dog's dangerous behavior and the Animal Control Administrator's declaration.
  - d. The owner of a dangerous dog must notify the Asheville Police Department in writing of any change in the owner's address or location where the dog resides.
- (c) Written order. If the Animal Control Officer determines that a dog owner must take specific preventive measures, the Animal Control Officer shall make reasonable efforts to notify the owner by a written order, stating the reasons that preventive measures are required, identifying the specific preventive measures that must be implemented, and stating the designated time period for compliance with the written order. The written order shall further state that failure to comply within the time period prescribed may result in the assessment of a civil penalty and/or seizure of the animal. The Animal Control Officer shall have the authority to allow for reasonable extensions of time limits based on good faith progress of implementation of the preventive measures. Any approved extensions shall be in writing.
- (d) Failure to comply with the written order. It shall be unlawful for an owner to fail to comply with a written order to take preventive measures within the designated time for compliance stated in the written order or any extension thereof. Additionally, the Animal Control Officer shall have authority to seize and impound the animal if the owner fails to comply with the aforementioned order. Each day of non-compliance shall constitute a new violation.
- (e) Owner's challenge to the written order. The owner may submit in writing a challenge to the Animal Control Officer's determination that specific preventive measures are required. The owner's written challenge must be received in the office of the Director of Animal Control within three business days of the date of the written order. The Director of Animal Control or his/her designee shall handle the appeal in accordance with the procedures set forth in section 3-18 of this chapter.

- (f) **Review of Written Order.** When a dog is regulated by an order of preventive measures as authorized by this section (except for dogs declared dangerous or potentially dangerous), a review of the order may be requested by the owner. The review will be conducted by the Animal Control Administrator when the following criteria have been met: (1) the request has been submitted in writing; (2) the order has been in effect without incident or review for twenty-four (24) months; (3) there have been no violations of the Animal Control Ordinance by the owner for the past twenty-four (24) months. Upon receipt of a valid review request, the Animal Control Administrator will conduct an inspection and uphold the existing order, modify the order or nullify the order based on the totality of the circumstances. The decision of the Animal Control Administrator is subject to appeal as set forth in subsection (e) of this section.
- (g) **Injury to Person.** If an animal has caused serious injury to any person, upon the finding by the Animal Control Officer that an animal is a danger to the health, safety or welfare of the general public, the owner shall forfeit his or her ownership rights and the animal shall be put down. The Animal Control Officer shall make the decision in writing and serve said decision upon the owner. The owner may appeal this decision pursuant to Sec. 3-18.

Sec. 3-29. Impoundment.

- (a) Any animal that is found to be in violation of section 3-27 shall be subject to immediate impound. Any person finding any animal upon his/her property, in violation of section 3-27, to his/her injury or annoyance, shall be authorized to restrain such animal in a humane manner and to thereupon either notify the Animal Control Officer, who shall take possession of the animal for impoundment, or deliver the animal directly to the animal shelter. The animal may, consistent with the provisions of this chapter, be redeemed by the owner upon payment of the costs assessed by the City. Upon failure of the owner to redeem the animal as set forth herein, the animal shall be disposed of by the animal shelter as provided in this chapter.
- (b) Generally. Any dog or cat which appears to be lost, stray or unwanted, or which is found to be not wearing a currently valid rabies vaccination tag, as required by state law or this chapter or not under restraint in violation of this chapter, may be impounded by Animal Control and confined in the animal shelter in a humane manner. Impoundment of such an animal shall not relieve the owner thereof from any penalty that may be imposed for violation of this chapter.
- (c) Notice to owner. Upon impounding an animal, the Animal Control Officer shall inspect the animal for identification such as a tag, microchip or tattoo and make a reasonable effort to notify the owner and inform such owner of the condition whereby the animal may be reclaimed. Any owner concerned about the loss or possible impoundment of an animal must check the animal shelter since all animals seized or impounded under this ordinance shall be available for inspection and reclamation during the shelter's normal business hours. The seventy-two (72) hour period begins when the Animal Control Officer delivers the animal to the animal shelter.
- (d) Redemption by owner generally. The owner of an animal impounded under this section may redeem the animal and regain possession thereof within seventy-two (72) hours

after notice of impoundment is given as required by subsection (c) of this section, by complying with all applicable provisions of this Ordinance, and making payment of any veterinarian fees and any redemption fees as determined by City of Asheville. Fee rates shall be available for public inspection in the office of the Director of Animal Control. The owner shall make all redemption payments or payment arrangements at the animal shelter.

- (e) Destruction or adoption of unredeemed animal generally. An unredeemed animal may be destroyed or adopted according to the following procedures:
  - (1) If the owner does not redeem the animal within the period prescribed by subsection (c) of this section, ownership of the animal shall revert to the animal shelter.
  - (2) If an impounded animal is not redeemed by the owner within the period prescribed in subsection (c) of this section, it may be destroyed in a humane manner or offered for adoption to any responsible adult who is willing to comply with this article. Such animal may be adopted or purchased by the first such person who meets adoption requirements, pays the adoption or purchase fee and rabies vaccination fee.
  - (3) The operator of the animal shelter shall require that all dogs and cats released for adoption from the animal shelter be spayed or neutered.
  - (4) No animal which has been impounded by reason of its being a stray, or unclaimed by its owner shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to state law.
- (f) Procedure for redemption or adoption of unvaccinated animals. Unvaccinated animals may be redeemed or adopted according to the following provisions:
  - (1) **Any person adopting or reclaiming any dog or cat from the animal shelter shall obtain a rabies vaccination and a microchip for the animal prior to taking possession. If the dog or cat was previously vaccinated, proof of vaccination shall be required. Animals must display all tags required by this Chapter prior to being released.**
  - (2) **Payment for rabies vaccination, tag replacement and microchip purchase shall be the responsibility of the person redeeming or adopting the animal.**
- (g) Suspected rabid animals not to be redeemed or adopted. Notwithstanding any other provision of this section, animals impounded which appear to be suffering from rabies shall not be redeemed or adopted, but shall be dealt with in accordance with this chapter and applicable state laws.
- (h) Destruction of wounded or diseased animals. Notwithstanding any other provision of this section, any animal impounded that is badly wounded or diseased and has no identification may be destroyed immediately in a humane manner. If the animal has identification, the Animal Control Department and/or the animal shelter attendants shall attempt to notify the owner before disposing of such animal. However, if the owner

cannot be readily reached, and the animal is suffering, the Animal Control Department and/or the animal shelter attendants may destroy the animal in a humane manner.

Sec. 3-30. Seizure and disposition of animals.

- (a) In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the Animal Control Officer shall have the authority to summarily seize any animal from the premises when the Animal Control Officer determines that the animal is receiving insufficient care or treatment as set forth in section 3-12 or that the animal in the surrounding circumstances is dangerous to the health, safety or welfare of the general public. Upon summarily seizing an animal, the Animal Control Officer shall provide the owner with a written order of seizure. The Animal Control Officer shall give notice of this section by posting a copy of it at the location where the animal was seized or by delivering it to a person residing on the property of the owner within twenty-four (24) hours from the time the animal was seized.
- (b) Obligation of owner to comply with seizure order. When the Animal Control Officer serves the owner with a written order of seizure, it shall be unlawful for the owner to fail to comply with the order or to interfere with the Animal Control Officer. A sworn officer shall accompany the Animal Control Officer to seize the animal.
- (c) A challenge to the seizure order. If the owner wishes to challenge the seizure order, then the owner must submit in writing the basis of the challenge within three business days of the seizure of the animal, not counting the day of seizure of the animal. The challenge must be filed with the Director of Animal Control. The challenge to the seizure order shall be handled in the same manner as provided for in section 3-18 of this chapter.
- (d) Owner's redemption of animal. The owner is entitled to redeem the animal, unless the Animal Control Department retains the animal upon some other basis of legal authority, by paying all applicable fees, citation fees, boarding fees, any other costs that are attributable to the seizure of the animal, and complying with any outstanding order of the Animal Control Officer.
- (e) Termination of owner's rights. If an owner fails to comply with the requirements that constituted the basis for seizing the animal, or fails to reclaim the animal within the time allowed to appeal the seizure, then the animal shelter shall have the authority to humanely destroy the animal or place the animal for sale to the public, or to place the animal with a local humane society for future placement through the humane society, unless the animal's owner provides a security bond or cash in accordance with subsection (f).
- (f) Security Bond. Any person claiming an ownership interest in any animal confined pursuant to this chapter may prevent the disposition of the animal after the holding period set forth in subsections 3-29(c) or 3-30(e) by posting a security bond or cash with the animal shelter prior to the animal being adopted or euthanized in an amount sufficient to guarantee payment of all of the reasonable expenses expected to be incurred in caring and providing for the animal, including the estimated cost of medical care, for at least thirty (30) days; However, such security bond shall not prevent the animal shelter from disposing of the animal at the end of the thirty (30) day period covered by the posted bond/cash, unless the person claiming an ownership interest in the animal posts an additional security bond or cash with the animal shelter to secure

payment of the animal's reasonable expenses for an additional thirty (30) days, and does so prior to the expiration of the first thirty (30) day period. The amount of the bond/cash shall be determined by the Director of the animal shelter or his/her designee based on the current rate for board and on the condition of the animal after examination by a veterinary professional. Failure to post the security bond within the time allowed shall result in the animal being immediately forfeited to the animal shelter. The owner must comply with any order issued by the Animal Control Officer and pay all City fees and fines before the animal may be released from the animal shelter.

- (g) Security bond forfeited upon failure to pay costs. If the fees, costs, and penalties owed for the animal are not paid in full by the end of each security period, the security bond already posted shall be forfeited to the animal shelter on said date and used to pay the remaining unpaid fees, costs, and penalties owing for the animal. The animal's owner shall remain responsible for all remaining unpaid fees, costs, and penalties. Any security bond/cash remaining after the payment of all fees, costs, and penalties shall be remitted to the person who posted the bond/cash.

Secs. 3-31--3-35. Reserved.

### ARTICLE III. LIVESTOCK & EXOTIC PETS

Sec. 3-36. Permit for keeping.

- (a) Except for animals on a bona fide farm, or animals participating in a permitted event, no livestock shall be kept by any person within the City; provided, however, that livestock and exotic pets may be kept in the City if a written permit has been issued by the Animal Control Administrator.
- (b) **No permit shall be issued under this section allowing any person to keep, stable, pasture, feed or water such livestock or exotic pets at any time within 100 feet of any household other than that of the owner of the animal.** This paragraph shall not apply to animals that reside exclusively inside the person's household.
- (d) **Livestock used for ground clearing and nuisance plant removal shall be allowed on a temporary basis upon the issuance of a temporary permit issued by the Animal Control Administrator. The fee for said permit shall be established in the City's Fees and Charges Manual. All conditions as specified in this Chapter for animal care shall apply and no temporary permit shall be issued for longer than fourteen (14) days. Any violation of this Chapter shall allow the Animal Control Administrator to order the immediate removal of said livestock.**

Sec. 3-37. Inspection of applicant's premises. Before the Animal Control Administrator grants a permit required by this article, it shall be the duty of the Animal Control Officer to inspect the premises where the permit for keeping livestock is desired. In making such inspection, the Animal Control Officer shall ascertain whether or not the premises, including any stables, sheds or other enclosures **in, and are able to be maintained in** a clean, sanitary and healthful condition.

Sec. 3-38. Issuance of permit.

- (a) The owner must first pay the permit application fee **and an annual permit fee** as set by the City's Fees and Charges Committee. If, after making the inspection referred to in section 3-37, the Animal Control **Administrator finds** that all ordinances of the City and laws of the state relating to the keeping of animals have been complied with and the keeping of **the proposed animals** will not interfere with the health, safety and general welfare of the surrounding neighborhood, a permit shall be issued.
- (b) In issuing the permit, the Animal Control Administrator may attach specific terms, including an expiration date. A permit issued under this section may be revoked by the Animal Control Administrator at any time upon violation of the terms of the permit or any other provision of this chapter. Upon such revocation, the animal in violation must be removed from the premises by the owner within seven days from such expiration or revocation.
- (c) Any permit issued pursuant to this section shall not be a defense to any action brought under section 3-9(1) through (10).

Secs. 3-39--3-49. Reserved.

#### **ARTICLE IV FOWL**

##### **Sec. 3-50. License for keeping.**

- (a) **Except for fowl on a bona fide farm, or fowl participating in a permitted event, no fowl shall be kept by any person within the City except in accordance with this Article. Roosters are expressly prohibited unless on a bona fide farm. Roosters previously permitted by the City are grandfathered for the life of the rooster so long as the owner of the rooster maintains compliance with this Chapter and the Rooster does not create a public nuisance. Licensing of all fowl will be required upon expiration of any existing fowl permit authorized by the City.**
- (b) **Fowl shall be permitted according to the distance requirements as set forth in Sec. 3-9(a)(3). This paragraph shall not apply to fowl that reside exclusively inside the person's household.**

##### **Sec. 3-51. Issuance of permit.**

- (a) **The owner must pay an annual license fee as set by the City's Fees and Charges Committee and register the fowl with the license-collecting agent of the City. The Animal Control Administrator may inspect the property to determine whether the owner is in compliance with this Chapter.**
- (b) **A license issued under this section may be revoked by the Animal Control Administrator at any time upon violation of the terms of the license or any other provision of this Chapter. Upon such revocation, the fowl and/or coop in violation must be removed from the premises by the owner within seven (7) days from such expiration or revocation.**
- (c) **Any license issued pursuant to this section shall not be a defense to any action brought under section 3-9(1) through (10).**

**Sec. 3-52. Enclosure specifications. Each person holding a license to keep fowl within the City shall comply with the following rules and regulations:**

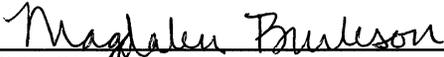
- (a) The fowl house and run must be fully enclosed, and the fowl kept within it at all times.
- (b) The fowl house must be used for fowl only and it must be well ventilated and constructed of materials conducive to regular cleaning and sanitation.
- (c) The fowl run must be well drained so there will be no accumulation of moisture.
- (d) The floor and walls of the fowl house must be kept in a clean, sanitary and healthful condition, with all dropping and organic waste material removed and disposed of in a proper manner.
- (e) The number and type of fowl must be appropriate for the size and furnishings of the coop and run.

Section 2. That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declared that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 4. That this ordinance shall be in full force and effect on July 1, 2009.

Read, approved and adopted the 28<sup>th</sup> day of April, 2009.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

Approved as to form:

  
\_\_\_\_\_  
City Attorney