

ORDINANCE NO. 2017-O-37

AN ORDINANCE OF THE CITY OF EDGEWATER, FLORIDA AMENDING AND RESTATING CHAPTER 5 (ANIMAL SERVICES) IN ITS ENTIRETY; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR CODIFICATION, AN EFFECTIVE DATE AND ADOPTION.

WHEREAS, at the May 1, 2017 City Council meeting the City Council directed staff to research other cities that permitted Urban Backyard Chickens to be kept in residentially zoned properties; and

WHEREAS, at the July 17, 2017 City Council meeting the City Council directed staff to amend Chapter 5 (Animal Services) to allow Urban Backyard Chickens to be kept in residentially zoned properties; and

WHEREAS, at the August 7, 2017 City Council meeting Ordinance 2017-O-17 to amend Chapter 5 (Animal Services) to allow Urban Backyard Chickens to be kept in residentially zoned properties failed by not receiving a second to the motion; and

WHEREAS, it is necessary to amend Chapter 5 (Animal Services) to recognize the Special Magistrate to hear animal control cases; and

WHEREAS, the City Council of the City of Edgewater, Florida, has made the following determinations:

1. Chapter 5 (Animal Services) was previously amended and restated pursuant to Ordinance No. 2009-O-02 in June of 2009.
2. Amending and restating Chapter 5 (Animal Services) in its entirety will bring the Chapter into compliance with requirements, regulations and current statutes.

NOW, THEREFORE, BE IT ENACTED by the People of the city of Edgewater, Florida:

PART A. AMENDING AND RESTATING CHAPTER 5 (ANIMAL SERVICES) IN ITS ENTIRETY

Amend and restate Chapter 5 (Animal Services) in its entirety of the City of Edgewater Code of Ordinances, Edgewater, Florida as set forth in Exhibit “A” which is attached hereby and incorporated herein.

PART B. CONFLICTING PROVISIONS.

All conflicting ordinances and resolutions, or parts thereof, in conflict with this ordinance, are hereby superseded by this ordinance to the extent of such conflict.

PART C. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property, or circumstance.

PART D. CODIFICATION.

Provisions of this ordinance shall be incorporated in the Code of Ordinances of the City of Edgewater, Florida, and the word “ordinance”, may be changed to “section”, “article”, or other appropriate word, and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Parts B through F shall not be codified.

PART E. EFFECTIVE DATE.

This Ordinance shall take place upon adoption.

PART F. ADOPTION.

This ordinance was scheduled for second reading/public hearing on September 11, 2017 however, due to Hurricane Irma the Council Meeting was re-scheduled to September 18, 2017 with the appropriate legal advertisement done for notice.

After Motion to approve by_ Councilwoman Power and Second by Councilman Blazi, the vote on first reading of this ordinance which was held on September 18, 2017 was as follows:

	<u>AYE</u>	<u>NAY</u>
Mayor Mike Ignasiak	<u> X </u>	_____
Councilwoman Christine Power	<u> X </u>	_____
Councilwoman Amy Power	<u> X </u>	_____
Councilman Dan Blazi	<u> X </u>	_____
Councilman Gary Conroy	<u> X </u>	_____

After Motion to approve by_ Councilman Blazi and Second by Councilwoman Power, the vote on second reading/public hearing of this ordinance which was held on October 2, 2017 was as follows:

	<u>AYE</u>	<u>NAY</u>
Mayor Mike Ignasiak	<u>X</u>	_____
Councilwoman Christine Power	<u>X</u>	_____
Councilwoman Amy Vogt	<u>X</u>	_____
Councilman Dan Blazi	<u>X</u>	_____
Councilman Gary Conroy	<u>X</u>	_____

PASSED AND DULY ADOPTED this 2nd day of October, 2017.

ATTEST:

**CITY COUNCIL OF THE
CITY OF EDGEWATER, FLORIDA**

Robin L. Matusick
City Clerk/Paralegal

By: _____
Mike Ignasiak
Mayor

<p>For the use and reliance only by the City of Edgewater, Florida. Approved as to form and legality by: Aaron R. Wolfe, Esquire City Attorney Doran, Sims, Wolfe, & Ciochetti</p>	<p>Approved by the City Council of the City of Edgewater, Florida during the City Council meeting held on this 2nd day of October, 2017 under Agenda Item #8m .</p>
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EXHIBIT "A"

Chapter 5 - ANIMAL SERVICES

ARTICLE I. - IN GENERAL

Sec. 5-1. - Short title.

This chapter shall be referred to as the "Animal Services Ordinance of the City of Edgewater, Florida".

Sec. 5-2. - Definitions.

As used in this chapter the following terms shall have the meaning ascribed to them herein:

Abandonment. To forsake entirely or to neglect or refuse to provide for the care and support of an animal.

Adult. A human being of at least 18 years of age.

Adult animal. Any animal at least four months in age, or older.

Animal. Any living dumb creature capable of self-locomotion and includes, but is not limited to: dogs; cats; ferrets; horses; birds, including poultry; rabbits; squirrels; raccoons; monkeys; ducks; geese; goats; sheep; swine and cattle. The term also includes pets and domesticated animals; those animals that are naturally tame and gentle or that by long association with man have become fairly domesticated and reduced to such a state of subjection to man's will that they no longer possess the disposition or inclination to escape; and those animals which are accustomed to living in and about the habitation of man. Fowl, fish, reptiles and bees shall be included in the definition of animals.

Animal at large. Any animal unattended by its owner or off the premises of the owner and not under the actual control of the owner, or any animal that is not securely confined by a secure fence, chain, leash, kennel or other means of confinement.

Animal control officer. Any authorized agent or employee of the city whose duty it is to enforce this chapter or any other law relating to the licensure of animals, control of animals or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or part include assignments that involve the seizure and impoundment of any animal.

Animal hospital. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of animal diseases and injuries.

Animal under restraint. An animal secured by a leash or lead and under the control of a person physically capable of restraining the animal or securely enclosed within the real property limits of the owner's premises. Animal under restraint shall also include the following:

- (1) While on the property of its owner that:
 - a. Reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owners; and
 - b. The animal is:
 1. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure which the animal cannot dig, climb, jump or escape; or
 2. Humanely secured by chain, cable and trolley, rope or tether of sufficient strength to prevent escape; or
 3. Leashed and controlled at any time it is not secured as provided for in subsection 1. or 2. above.
- (2) While off the property of the owner that:
 - a. The animal is securely confined within a vehicle; or
 - b. The animal is caged or tethered in the open bed of a pickup truck as set forth in section 5-22; or
 - c. The animal is securely and humanely confined within a house, building, fence, crate, pen or other enclosure; or
 - d. The animal is humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape; or
 - e. That the animal is leashed and controlled all times it is not secured. The owner or other responsible person must have physical control of the animal on the leash and must be capable of restricting the animal.

Barking dog. Any dog that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more.

Boarder. An animal placed in a kennel for temporary maintenance, care, food, lodging, etc. resulting in monetary compensation.

Breeder. A person other than a pet dealer who shelters, breeds or trains a breed of dog or cat to conform to an approved standard of competition. A person who offers animal offspring with a spay/neuter contract and follows up on the contract with a guarantee to accept return of the offspring for any reason; ensures all offspring have been vaccinated according to Florida law; and who has been issued a breeder permit by the city.

Capture. The securing, restraining, immobilization or confinement of any animal at large by the use of cages, ropes, nets, tranquilizers or any other similar device not intended to permanently injure the animal.

Certificate of registration. A city dangerous-animal registration issued pursuant to this chapter.

Citation. A written notice issued by an animal control officer to a person who the officer has probable cause to believe committed a civil infraction in violation of this chapter and

that the county court will hear. The citation must contain:

- (1) The date and time of issuance.
- (2) The name and address of the person.
- (3) The date and time the civil infraction was committed.
- (4) The facts constituting probable cause.
- (5) The section violated.
- (6) The name and authority of the officer.
- (7) The procedure for the person to follow in order to pay the civil penalty to contest the citation or to appear in court.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, he/or she shall be deemed to have waived his/or her right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (11) A conspicuous statement that if the person is required to appear in court, he/or she does not have the option of paying a fine in lieu of appearing in court.

Council. The City Council of the City of Edgewater, Florida.

County health officer. The person appointed pursuant to F.S. ch. 154 as director of the Volusia County Health Department and his/or her designated agents.

Cruelty. Any act or omission whereby unjustifiable physical pain, suffering or death of an animal is caused or permitted, including failure to provide proper drink, air, space, shelter or protection from the elements, a sanitary and safe living environment, veterinary care or nutritious food.

Dangerous dog. Any dog that, according to animal control records:

- (1) Has aggressively bitten, attacked, endangered or has inflicted severe injury on a human being on public or private property;
- (2) Has more than once severely injured or killed a domestic animal while off the owner's property;
- (3) Has been used primarily or in part for the purpose of dog fighting or is a dog trained for dog fighting; or
- (4) Has, when unprovoked, chased or approached a person, upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons that dutifully investigated by an animal control officer.

Feral cat. A free roaming, unowned and/or untamed domestic cat. Feral cats may be born in

the wild and never socialized, or may be escaped pets that have reverted to a wild state. A feral cat is also considered as a species of wildlife. (See wildlife.)

Guard or attack dog. A dog trained to attack on command or to protect persons or property and who will cease to attack upon command.

Health certificate. A certificate signed by a veterinarian licensed by the state of origin or an authorized veterinary inspector of the United States Animal Disease Eradication Division that shows the age, sex, breed, description, and health record of a dog or cat and the name and address of the cosigner and of the cosigned. The certificate shall list vaccines administered to the

dog or cat and shall state that the animal has no contagious or infectious diseases and has no intestinal or external parasites, including coccidiosis and ear mites.

Holding or impounding facility. Any holding or impounding facility owned or under contract with the City of Edgewater for services or one that is designated from time to time by the city.

Humanely shall mean treated by kindness and inflicting no harm or pain. Providing adequate food, water, shade, warmth. Providing appropriate security from environmental and physical hazards. Providing appropriate treatment and care for sick or injured animal.

Impoundment. The taking into custody of an animal by an animal control officer.

Kennel. Any place of business where dogs or cats regardless of number are kept for sale, breeding, boarding or treatment purposes, except an animal hospital, grooming facility or pet shop. The term "kennel" shall include any premises used for residential purposes where four or more dogs or cats four months or older are kept, harbored or maintained for monetary compensation.

Licensed veterinarian. Any person who is licensed to engage in the practice of veterinary medicine in the state.

Muzzle. A device designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

Neglect. Failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual and accepted for an animal's health and well-being.

Neutered or spayed. Rendered permanently incapable of reproduction by surgical alteration, implantation of a device, or other physical means, or permanently incapable of reproduction because of physiological sterility as certified in writing by a licensed veterinarian.

Owner. Any person, firm, corporation, or organization possessing, harboring, keeping or having control or custody of an animal or, if the animal is owned by a person under the age of 18 years of age, that person's parent or guardian.

Owner responsibilities. An animal owner shall adhere [to] and provide at the minimum the following for the animal in their care: Treat an animal in a humane manner and shall provide humane care (which includes, but is not limited to: providing adequate, food, fresh water, shelter, space and veterinary care to maintain the animal's health and to prevent or

cure disease) for said animal;

- (1) The owner must live on the premises with the animal.
- (2) Any animal that is kept tethered must be attached to a stationary object, not an object that can become mobile.

Person. Any natural person or persons, firm, association or corporation.

Pet-sitter (nonprofit). A person who, at the consent of the animal owner, provides temporary care for the animal at his or her own residence.

Pet-sitting. A person who temporarily cares for an animal at a family member or friend's residence for temporary care without exceeding the maximum number of animals allowed per residence. The temporary placement shall not exceed a period of 30 calendar days. At no time shall a nonprofit pet-sitter receive compensation for this service. Rescue and/or foster families or groups that are approved by Edgewater Animal Services to provide temporary care for homeless animals that may need medical care are not considered pet-sitters and time periods may extend past the allowable time if approved by Edgewater Animal Services. After a period of 30 calendar days, a person who is possessing, harboring, keeping or having control or custody of an animal shall no longer be considered a pet sitter but shall be considered an owner as defined herein.

Potentially dangerous animal. An animal with a known propensity or disposition to attack unprovoked or otherwise to threaten the safety of humans and domestic animals.

Proper enclosure to confine a dangerous dog. While on the owner's property a dangerous dog is securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Such pen or structure shall have secure sides and a secure top to prevent the dog from escaping over, under or through the structure and shall also provide protection from the elements.

Public nuisance animal. Any animal that unreasonably annoys persons, endangers the life or health of persons or other animals, or substantially interferes with the right of persons to enjoyment of life or property. The term shall include, but is not limited to:

- (1) An animal that damages the property of anyone other than its owner or causes the loss of property;
- (2) An animal that has bitten a person without provocation;
- (3) An animal that bites, attacks or wounds another animal without provocation;
- (4) Any animal that barks, bays, cries, howls or makes any other noise continuously and/or incessantly for a period of ten minutes or barks intermittently for one-half hour or more while not being provoked.
- (5) An animal that chases motor vehicles in a public right-of-way;
- (6) An animal that is not under restraint as defined in this section;
- (7) A dangerous animal;
- (8) Any animal that damages, urinates or defecates on public or private property as prohibited by section 5-12;

- (9) Any animal that is repeatedly found running at large;
- (10) Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (11) Any animal in heat that is not confined so as to prevent attraction or contact with other animals as set forth in section 5-20;
- (12) Any animal, whether or not on the property of its owner, that without provocation molests, attacks, or otherwise interferes with the freedom of movement of persons in a public right-of-way; and
- (13) Any animal that causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored.

Sanitary. A condition of good order and cleanliness to minimize the possibility of disease transmission.

Severe injury. Any physical injury that results in broken bones, multiple bites or disfiguring lacerations requiring sutures or reconstructive surgery.

She/her. The feminine gender shall include the masculine gender and the masculine gender shall include the feminine gender unless the context requires otherwise.

Shelter. A secure weather-resistant structure which protects an animal from exposure to the elements and which is a minimum of six inches higher than the animal's height at full stand with head erect, one and one-half [times] the animal's full body length, and with sufficient width to permit the animal to turn around.

Spay/neuter contract. Contract between owner and purchaser guaranteeing the animal has been or will be spayed/neutered.

Stray. Any unlicensed and unattended animal off the premises of its owner.

Sterilized. Rendered permanently incapable of reproduction by surgical alteration, implantation of a device, or other physical means, or permanently incapable of reproduction because of physiological sterility as certified in writing by a licensed veterinarian.

Unaltered/unsterilized. Any animal that has not been spayed or neutered.

Unprovoked. When a victim has been conducting himself peacefully and lawfully and has been bitten or chased in a menacing fashion or attacked by an animal.

Vaccinated. An animal that has been administered a current rabies vaccine.

Wildlife. Any indigenous or free-roaming animal (i.e., raccoon, opossum, armadillo, squirrels, feral cats).

Wildlife hybrid. Any offspring of any wildlife or hybrid bred with a dog or cat or an animal which is represented as a hybrid by its owner.

Sec. 5-3. - Animal control officers.

(a) Animal control officers shall be the enforcement officials for this chapter and in that regard are authorized to investigate, on public or private property, violations of this chapter, impound animals, issue warnings and citations, and take other lawful actions as provided herein to enforce the provisions of this chapter. During an investigation, the animal control officer may request the owner to exhibit the animal, and, if applicable, the license of such animal.

(b) Animal control officers are not authorized to enter into any dwelling unit, structure or fenced enclosure for purposes of investigation, but may enter into a fenced enclosure to impound any animal known or suspected of biting or scratching any person or any animal infected with or showing symptoms of rabies.

(c) Animal control officers are not authorized to bear arms or make arrests. However, animal control officers may carry a device to chemically subdue and tranquilize an animal, provided that the animal control officer has successfully completed a minimum of 16 hours of training in marksmanship, equipment handling, safety and animal care and can demonstrate proficiency in chemical immobilization of animals in accordance with guidelines prescribed in the Chemical Immobilization Operational Guide of the American Humane Association.

Sec. 5-4. - Interfering with animal control officers.

It shall be a violation of this chapter for any person to interfere with, hinder, resist, or obstruct an animal control officer in the performance of his or her duties or to release or remove any animal from the custody of an animal control officer.

Sec. 5-5. - Animal control documents.

The following documents shall be maintained by the animal control division:

- (1) Accurate and detailed reports and records of the licensing, impoundment and disposition of all animals coming into the custody of an animal control officer;
- (2) Accurate and detailed records of all reported bite cases and investigations for a minimum of three years; and
- (3) Accurate records of all license certificates.
- (4) A log containing the date, time, location and description of animal carcasses discovered on public property in accordance with section 5-21 herein.

Sec. 5-6. - Special Magistrate.

(a) *Creation, powers and duties.* The Special Magistrate is hereby created and shall exercise the following powers and duties under this chapter:

- (1) Hear appeals of the initial determination of an animal control officer classifying a dog as dangerous pursuant to F.S. § 767.12.
- (2) Hear appeals regarding the confiscation of a dog to be destroyed pursuant to F.S.

§ 767.13.

- (3) To hear appeals relating to the issuance of a notice of revocation regarding an unaltered animal permit pursuant to section 5-37.
- (4) To subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by any law enforcement officer of the city or as otherwise permitted by law.
- (5) To take testimony under oath.
- (6) To issue orders having the force of law to command whatever steps are necessary to address the appeal. Such orders may require:
 - a. Obedience training to the animal in question.
 - b. Muzzling of an animal while off the property of the owner.
 - c. Confinement of an animal indoors.
 - d. Confinement of an animal in a secure enclosure.
 - e. Reduction of the number of animals kept in any one location.
 - f. The sterilization of an animal.
 - g. Any other measure or sanction designed to protect the health and safety of the public.

Sec. 5-7. - City designated as bird sanctuary.

All lands within the corporate limits of the city are hereby declared to be and designated as a bird sanctuary. It shall be unlawful for any person to intentionally kill, trap or injure any bird within said area. It shall be unlawful to establish, maintain or keep a bird aviary within 100 feet of any structure used for human habitation or work. This does not apply to a bird inside an owner's dwelling or a permitted business with the appropriate licensing to permit such activity.

Sec. 5-8. - Animals prohibited.

Unless it is provided in an approved Planned Unit Development (PUD) Agreement, it shall be unlawful for an owner to keep or permit to be kept within the city any horses, hogs, Vietnamese pot-bellied pigs, sheep, goats, bees, cattle, chickens, or other farm animals, and any animal from the wild, unless said species are both kept on property appropriately zoned and lawfully permitted, if necessary, by the Florida Fish and Wildlife Conservation Commission. All venomous snakes permitted by the Florida Fish and Wildlife Conservation Commission shall also be required to register with the city's animal control division. The prohibition contained herein applicable to horses, hogs, Vietnamese pot-bellied pigs, sheep, goats, bees, cattle, chickens, or other farm animals, unless it is provided in an approved Planned Unit Development (PUD) Agreement, shall not apply to any property within the city that either:

- (1) Maintains an agricultural property designation with the Volusia County Property Appraiser's office as [of] June 15, 2009; or
- (2) Was previously zoned for agricultural purposes and proof is made to the city that such species resided and existed on the property prior to any zoning change and have continuously resided and existed on the property since the zoning change.

A residential premises shall not exceed a maximum number of five dogs or cats, or a combination thereof, and must provide proof from a licensed veterinarian that each dog or cat

has been sterilized. Any premises that harbors an unsterilized dog or cat over six months of age must obtain a breeders permit, an unaltered animal permit or both (those that are applicable under the circumstances).

Sec. 5-9. - Reserved.

Sec. 5-10. - Feeding of wildlife prohibited.

It shall be unlawful for anyone to feed, entice, shelter or encourage any wildlife, including feral cats as defined in section 5-2, or as otherwise prohibited by state law.

Sec. 5-11. - Wildlife hybrids prohibited.

(a) It shall be unlawful to own, harbor, keep, transport, sell or breed any wildlife hybrid of the family canis or felis or breed any wildlife with a dog or cat unless the owner or breeder is in possession of a permit issued by the Florida Fish and Wildlife Conservation Commission ("FWC") authorizing such activity. This prohibition shall not apply to such animals who are within the corporate limits of the city prior to August 1, 1997, as long as they can provide proof of such residence and existence of that permitted animal prior to that date. However, the keeping or maintenance of any such animals shall be subject to such regulations as the city council may enact.

(b) All wildlife hybrids not exempted from the provisions of this section shall be deemed contraband and shall be delivered to a person possessing an appropriate state permit, an animal control officer or the holding or impounding facility currently under contract with the city for services or one that is designated from time to time by the city.

Sec. 5-12. - Animals defecating on public or private property prohibited.

(a) No owner of any animal shall cause or allow such animal to defecate on any public or private property other than that of the owner unless such owner immediately removes and disposes of all feces deposited by such animal by the following methods:

- (1) Collection of the feces by appropriate implement and placement in a container;
- (2) Removal of such container to the property of the owner and disposition thereafter in a manner consistent with applicable laws.

- (b) No owner shall permit any waste matter from an animal to collect and remain on the property of the owner or on the property of others so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition.
- (c) No owner shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
- (d) The owner of any animal shall keep his own property free of animal excrement to the extent that is necessary to prevent noxious or offensive odors from escaping onto adjacent property or public rights-of-way.

Sec. 5-13. - Animals prohibited in parks and on beaches.

No animal shall enter into or on any public park or beach in the city unless such park or beach is designated and posted by the city as an animal park. This provision shall not apply to animals assisting disabled persons or dogs being used by law enforcement officials for law enforcement activities.

Sec. 5-14. - Running at large prohibited.

- (a) *Prohibition of animals at large.*
 - (1) No owner shall permit, either willfully or through failure to exercise due care and control, any animal to run at large off the premises of the owner as defined in section 5-2.
 - (2) Upon finding an animal at large, an animal control officer may issue a warning or in his/her discretion, a citation for such violation or, alternatively, if the owner cannot be identified and located with reasonable effort, such animal may be seized and impounded.
- (b) *Seizure of at large animals; harboring and finder ownership.*
 - (1) When an animal is at large on private property, the animal may be seized by the property owner or tenant in a humane manner. The animal shall be delivered to an animal control officer, or the city's designated holding or impounding facility within two business days unless the person seizing the animal wishes to keep the animal as his/her own. If the person seizing the animal wishes to keep the animal, he/she shall notify the animal control officer who shall attempt to determine ownership of the animal. If no owner is found within three calendar days, the finder shall be conclusively presumed to be the owner of such animal.
 - (2) Any person seizing an animal and then delivering the animal to an animal control officer, the designated holding or impounding facility shall do so at his/her own risk. Upon delivery the finder shall sign a delivery document stating the date, time and location where the animal was found and a description of the animal.
 - (3) If the ownership of a found animal is in dispute, the person claiming previous ownership of the found animal must provide the finder with proof of ownership in order to successfully reclaim the animal. Such proof may include documentation

of prior veterinary records of such animal and/or identifying photographs.

- (4) Any person who seizes an animal pursuant to this section shall exercise utmost care to treat the animal humanely and to avoid inflicting any cruelty, injury, sickness, hunger or other ailment or affliction upon the animal during either the seizure or delivery of the animal. Any person unable to comply with this section shall not seize an animal.

Sec. 5-15. - Animals under restraint.

While on or off the property of the owner, it shall be the duty of every owner to keep the animal under restraint and control as defined in section 5-2.

Sec. 5-16. - Restraint of guard dogs.

- (a) Every owner of a guard or attack dog shall keep such dog confined in a building, compartment or other enclosure. Any such enclosure shall be completely surrounded by a fence at least six feet in height and shall be topped with an anti-climbing device constructed of angle metal braces with at least three strands of equally separated barbed wire stretched between them.
- (b) All anti-climbing devices shall extend inward at an angle of not less than 45 degrees nor more than 90 degrees when measured from the perpendicular.
- (c) The area of confinement shall have all gates and entrances securely closed and locked and all fences properly maintained and escape proof.
- (d) The area of confinement shall be posted at all gates and along each outside boundary with appropriate warning signs showing "warning bad dog" along with a picture of a "bad dog".
- (e) The provisions of this section shall not apply to dogs owned or controlled by government law enforcement agencies.

Sec. 5-17. - Public nuisance animals prohibited.

It shall be a violation of this chapter for an owner to allow an animal to become a public nuisance animal as defined in section 5-2 or for an owner to keep a public nuisance animal.

Sec. 5-18. - Poisoning or trapping of animals.

- (a) An animal control officer may set box or live-cage traps for animals which have allegedly bitten a person or another animal, for public nuisance animals or for the purpose of humane rescue in the interest of the animal itself as determined by an animal control officer. Traps shall not be set during hours when an animal control officer is unavailable to retrieve or release a captured animal. A trap shall be checked a minimum of once every eight hours by an animal control officer or the person requesting the trap. Any person who requests a trap for an animal destroying property shall:

- (1) Fill out the appropriate documentation/agreement with the animal control

division;

- (2) Pay a fee, if applicable as established by resolution of the city council;
 - (3) Adhere to the policies and requirements for obtaining such trap from the animal control division; and
 - (4) The person requesting the trap shall immediately notify an animal control officer when an animal is captured.
- (b) Except for the trapping of rats, mice and crabs, the trapping of animals by persons other than an animal control officer or without a permit from the Florida Fish and Wildlife Conservation Commission ("FWC") is prohibited. Animal control officers are authorized to confiscate any trap used in violation of this section.
- (c) No person shall leave or deposit any poisonous or injurious substance of any kind on public or private property which would injure or kill an animal except as set forth below:
- (1) When contracting the services of a professional, licensed exterminator for moles only commercial mechanical devices intended for that purpose shall be used.
 - (2) Products, substances or poisons which are completely enclosed in a tamper-resistant or tamper-proof bait station accessible only to rats and mice.
- (d) Professional trappers or trappers for hire not retained by the city shall obtain a business tax receipt and certificate of use (if applicable), register with an animal control officer and adhere to all requirements contained in this section.

Sec. 5-19. - Cruelty to animals prohibited.

- (a) It shall be unlawful for an owner to by act or omission inflict cruelty on an animal.
- (b) No owner shall abandon an animal.
- (c) It shall be unlawful for any person to strike, beat, abuse or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death upon such animal. However, reasonable force may be used to drive away vicious or trespassing animals.

Sec. 5-19.1. – Animal neglect prohibited.

- (a) It shall be unlawful for any person to neglect any animal as defined in Section 5-2.

Sec. 5-20. - Female animals in heat.

An owner of a female animal in heat must be in compliance of section 5-37 (Mandatory spay and neuter) and have complied with the requirements to hold an unaltered animal permit for said female animal.

It shall be a violation of this chapter for the owner of any female animal in heat to fail to keep the animal confined in a building or secure enclosure, veterinary hospital or boarding kennel in such a manner that the female animal cannot come in contact with another animal except for

controlled and intentional breeding purposes. Any female animal not confined as herein provided shall be impounded and shall not be redeemed during the period of heat. Such animal shall be redeemed in accordance with the provisions of section 5-41.

Sec. 5-20.1. - Attempting to breed.

An unsterilized male animal attempting to breed with a female in heat who is in compliance of section 5-20 (Female animals in heat) and section 5-37 (Mandatory spay and neuter), shall be found in violation of section 5-14 (Running at large prohibited), [and] section 5-37 (Mandatory spay and neuter) and shall also be in violation of this section.

Sec. 5-21. - Disposition of dead animals.

(a) When any animal dies for any reason other than rabies or a suspicion of rabies, the owner shall immediately dispose of the carcass of such animal by burying it at least three feet below the surface of the ground. If the animal dies as a result of rabies or if rabies is suspected, the carcass shall be surrendered to the animal control officer pursuant to section 5-54.

(b) When an animal control officer discovers a dead animal on private property, the animal control officer shall provide written notice to the owner, ordering the owner to dispose of the carcass within 24 hours. If the owner fails to comply or cannot be located, the animal control officer shall dispose of the carcass and shall bill the owner for the cost of disposal.

(c) When an animal control officer discovers a dead animal on public property, the animal control officer shall dispose of the carcass and make a reasonable effort to identify and notify the owner of the animal.

(d) A log shall be maintained by the animal control division listing the date, time and location where a carcass was discovered and a description of the animal for the purpose of providing information to owners seeking information on missing animals.

Sec. 5-22. - Animals transported in vehicles.

Any animal transported in any open vehicle shall either be within a cage, crate or pen which is well-ventilated and secured within the body of the vehicle or restrained by a tether affixed to the center of the vehicle and attached to the collar or harness of the animal so as to prevent the animal from escaping or causing injury to itself or any person. The tether shall be short enough to prevent the animal's head from reaching the sides or back of the vehicle. Nothing in this section shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designated and constructed for such purposes.

Sec. 5-23. - Duties of driver when vehicle strikes animal.

Any operator of a motor vehicle who strikes an animal shall immediately report such injury or death to the animal's owner. In the event the owner cannot be located, the motor vehicle operator shall report the accident as soon as possible to an animal control officer.

Sec. 5-24. - Dogs and cats transported or offered for sale or gift.

Any dog or cat transported into the city for sale or offered in the city for sale or gift shall be subject to the health requirements set forth in F.S. § 828.29. City-operated or county-operated animal control agencies and registered, nonprofit humane organizations shall be exempt from the provisions of this section.

Secs. 5-25—5-29. - Reserved.

ARTICLE II. - VACCINATIONS, LICENSES AND PERMITS

Sec. 5-30. - Vaccination of dogs, cats and other animals.

All dogs, cats, ferrets and other animals that a veterinarian would normally vaccinate, four months of age or older, must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species.

The owner of every dog, cat, ferret and other animal shall have that animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies shall not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

Sec. 5-31. - License required.

Every person who owns a dog, cat, ferret or other animal over the age of four months within the city shall annually obtain a license for such animal from the city's animal control division no later than January 1 of each year. Expiration date of the annual license is December 31. Any renewal notice may be placed in a newspaper of general circulation or newsletter that is distributed to all residents.

(1) *Application.* Application for such license shall be made by the owner within ten days after acquiring any dog, cat, ferret or other animal over four months of age or within ten calendar days after a dog, cat, ferret or other animal becomes four months of age. The application shall be in such form and shall require such information and documentation as shall from time to time be prescribed by the animal control division. Any owner moving to the city for the purpose of establishing residence or becoming a resident as a result of annexation shall have until ten calendar days after moving or annexation to obtain a license.

(2) *Proof of rabies vaccination required.* All owners applying for a license must present a current official rabies certificate issued by a licensed veterinarian.

(3) *Proof of sterilization.* Any owner claiming that his or her dog, cat, ferret or other animal has been spayed or neutered must present certification from a licensed veterinarian showing that such operation has been performed.

(4) *Payment of license fee.* A license fee shall be paid at the time of application. The license fee shall be established by resolution of the city council and shall provide for a reduced fee for sterilized animals.

(5) *Exemption from license fee.* License fees shall not be required for dogs utilized to assist the disabled, Seeing Eye dogs, government police dogs or dogs belonging to a nonresident of the city and kept within the boundaries of the city for not longer than 30 calendar days. All dogs of nonresidents shall at the time of entry into the city be properly vaccinated against rabies, and while kept within the city meet all other requirements of this chapter. Any owner claiming a licensing exemption has the burden of proving to the satisfaction of the city that the dog, cat, ferret or other animal in question is entitled to such exemption.

(6) *Administrative fee.* Any licensed veterinarian that dispenses license tags on behalf of the city, shall be allowed to deduct an administrative fee in the amount established by resolution of the city council.

(7) *Breeder permit.* An owner must obtain an annual permit through city's animal control division for:

- a. An adult animal intended for breeding purposes.
- b. Any premises that harbors more than one unaltered dog or cat over six months of age.

Sec. 5-32. - License tag and breeder permit tag.

(a) *License tag.* Each dog, cat, ferret or other animal licensed as provided for in section 5-31 shall be issued a metallic license tag. Such tag shall have a license identification number which corresponds to the number on the license certificate. The color of the metallic license tag shall be different than that of the breeder permit tag.

(b) *Breeder permit tag.* Persons breeding animals shall register and be issued a separate breeder permit tag upon completion and approval of the breeder permit application process through animal control. Each breeder permit tag shall have a license identification number which corresponds to the number on the breeder permit. The color of the metallic breeder permit tag shall be different than that of the license tag. Breeder permit tags shall be valid for one year from the date of issuance and for only one animal.

Breeders will be required to obtain the appropriate business tax receipt from the city to operate business as a breeder.

Sec. 5-33. - License tag and rabies tag to be attached to collar or harness of animal.

The city metallic license tag and rabies tag shall be attached to the collar or harness of the animal which shall be worn at all times that the animal is off of its registered property.

Sec. 5-34. - Issuance of duplicate tag.

In the event of loss or destruction of the metallic license tag, the owner shall obtain a duplicate tag. The duplicate tag shall be issued at a cost established by resolution of the city council.

Sec. 5-35. - Exceptions to vaccination requirements.

No dog or cat shall require vaccination if:

- (1) A licensed veterinarian has examined the animal and certified that at such time vaccination would endanger its health because of its age, infirmity, debility, illness or medical consideration; and
- (2) A certificate evidencing such exception is presented to the city.

An exemption, animal shall be vaccinated against rabies as soon as its health permits.

Sec. 5-36. - Breeding facilities and kennels.

The owner of a breeding facility must be in good standing and have registration privileges intact with the appropriate national animal registry. The owner must have three years' documented experience in show clubs and participation in show trials.

(a) *Residential areas.*

- (1) No person shall establish or maintain animal breeding on their residential premises without first obtaining an annual breeder permit and license tag for each unsterilized adult animal intended for breeding purposes. The license fee shall be established by resolution of the city council.
- (2) Any animal intended for breeding must be a household pet and reside primarily inside the residence.
- (3) At no time will the total number of adult animals exceed three per licensed breeder residence.
- (4) The offspring of the animals bred may be sold by the owner upon compliance with all city, county and state requirements.
- (5) There shall be only one species of dog or cat bred at any licensed breeder residence. There shall be no more than one litter produced per year per animal with a maximum of two litters per breeder residence per year.
- (6) For protection and identification, all breeding animals will be identifiable by either a tattoo or implant device. An implant scanner must be on the premises if an implant device is used.
- (7) Any person who is a breeder shall obtain an annual business tax receipt and certificate of use for their business.

(b) *Kennels.*

- (1) Kennels shall be located in compliance with the Edgewater Land Development Code and the owner shall be required to obtain an annual business tax receipt and certificate of use for their business.
- (2) Kennel owners must live on the premises.
- (3) No person shall establish or maintain animal breeding in a kennel without first

obtaining an annual breeder permit and license tag for each unsterilized adult animal intended for breeding purposes.

- (4) For protection and identification, all breeding animals will be identifiable by either a tattoo or implant device. An implant scanner must be on the premises if an implant device is used.
 - (5) A boarder shall not reside in a kennel for more than three weeks per visit, nor more than 45 calendar days annually.
- (c) *Breeder responsibilities.* It shall be a violation of this chapter for breeders to fail to:
- (1) Maintain accurate records of all animals produced by breeding and a record of their final disposition.
 - (2) Display an appropriate breeder license tag number in all advertising.
 - (3) Supply the new owner with the breeder license tag number, information on the importance of spaying and neutering, and the requirements of this chapter.
 - (4) Immunize all dogs or cats offered for sale, trade, other consideration or given away as required by F.S. § 828.29.
 - (5) Offer a spay/neuter contract and follow up on the contract.
 - (6) Guarantee to accept return of offspring for any reason.
- (d) *Indoor facilities for breeding and kennels.*
- (1) Facilities must be maintained with temperature, ventilation and lighting suitable for each breed of animal housed.
 - (2) The facilities must provide adequate shelter from the elements and be kept clean, dry and maintained regularly so as to promote proper health for the animals being kept. Food must be fresh, wholesome, palatable, nutritionally adequate and offered to each animal at least once daily. Water must be fresh and available at all times. All animals shall be provided proper and necessary veterinary care.
 - (3) Interior building surfaces of any indoor facility shall be constructed and maintained so that they are impervious to moisture and can be readily sanitized.
 - (4) If drains are used, they shall be properly constructed and kept.
 - (5) Cages, kennels and runs must have enough space for animals to lie down, stand, sit and stretch without touching the sides or top. Dogs shall be exercised a minimum of 30 minutes twice daily.
 - (6) Concrete floors and runs must have a resting board and cages must have bedding. Insulated bedding materials shall be provided during inclement weather extremes.
 - (7) All facilities shall be constructed and maintained in compliance with all applicable building and technical codes.
 - (8) Housing areas shall be illuminated during the daylight hours if sunlight does not

shine into the cages.

- (9) All cages shall be constructed of impervious porous materials and shall have floors of either solid construction or metal grid construction. Cages having metal grid floors may be used provided the grid size is smaller than the pads of the feet of the animals confined therein. No cages shall be enclosed entirely by solid walls. Stack cages must have solid floors and if drains are used, they shall be properly constructed and kept in good repair to avoid foul odors.
- (e) *Outdoor facilities for breeding and kennels.*
- (1) *Shelter.* Sufficient shade shall be provided to afford all animals protection from direct sunlight. Sufficient cover shall be provided to protect all animals from rain. Shelter shall be provided for all animals when the ambient temperature falls below 50 degrees Fahrenheit. Sufficient clean bedding material or other means of protection from the elements shall be provided when the ambient temperature falls below that temperature to which the animals are acclimated.
 - (2) *Cleaning of enclosures.* Excreta shall be removed from enclosures as often as necessary to prevent contamination of the animals contained therein and to reduce disease hazards and odors. When a hosing or flushing method is used for cleaning an enclosure any animal contained therein shall be removed from such enclosure during the cleaning process and adequate measures shall be taken to protect the animals in other such enclosures from being contaminated with water and other waste. A suitable method shall be provided to rapidly eliminate any excess water.
 - (3) *Sanitation of enclosures required.* Prior to the introduction of animals into empty enclosures previously occupied, such enclosures shall be sanitized. Enclosures for animals shall be sanitized often enough to prevent an accumulation of debris or excreta or a disease hazard; provided, however, such enclosure shall be sanitized at least once per week.
 - (4) *Method of sanitation.* Cages, rooms and hard-surfaced pens or runs shall be sanitized by washing them with hot water and soap or detergent or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with live steam. Pens or runs using gravel, sand or dirt shall be sanitized by removing the soiled gravel, sand or dirt and replacing it as necessary.
 - (5) *Pest control.* An effective program for the control of insects, ectoparasites and avian and mammalian pests shall be established and maintained.
- (f) *Inspections and enforcement.* Annual inspections of breeding facilities and kennels shall be conducted by the animal control officer. An animal control officer may, without notice, inspect breeding facilities and kennels in the investigation of a complaint against such facility.

Sec. 5-37. - Mandatory spay and neuter.

- (a) *Purpose.* The unintended or uncontrolled breeding of dogs and cats within the city leads

to many becoming unwanted strays, suffering privation, constituting a public nuisance and health hazard and can result in death. The unintended or uncontrolled breeding results in numerous animals being impounded and euthanized at great expense to the community. It is, therefore, declared that every feasible means of reducing the number of unwanted dogs, cats, puppies, and kittens be encouraged.

(b) *Spaying, neutering of dogs and cats.*

(1) *Requirement.* No person may harbor a dog or cat six months of age or older within the city that has not been spayed or neutered unless such person holds an unaltered animal permit for each unaltered dog or cat, unless the dog or cat is otherwise exempt under this section.

(2) *Unaltered animal permit.*

a. *Qualifications.* An owner of an unaltered dog or cat shall qualify for an unaltered animal permit if one of the following is satisfied:

1. *Shows and competitions.* The dog or cat is used to show, to compete or to breed, which is of a breed recognized by and registered with the American Kennel Club (AKC), United Kennel Club (UKC), American Dog Breeders Association (ADBA), Cat Fanciers' Association (CFA), or other bona fide registry and meets one of the following requirements:

i. The dog or cat has competed in at least one show or sporting competition sanctioned by a bona fide national registry within the last 365 calendar days;

ii. The dog earned conformation, obedience, agility, carting, herding, hunting, protection, rally, sporting, working or other title from a purebred dog registry, referenced above, or other registry or dog sport association; or

iii. The owner of the dog or cat is a member of, and the dog or cat is registered with, a bona fide purebred dog breed club or cat fancier's association, which maintains and enforces a code of ethics for dog or cat breeding that includes restrictions from breeding dogs or cats with genetic defects and life-threatening health problems that commonly threaten the breed, or the owner signs a statement under oath attesting that the dog or cat is being trained to comply with subsections i. or ii., above.

2. *Medical fitness.* A veterinarian licensed in the state certifies in writing that a dog or cat is medically unfit to undergo the required spay or neuter procedure because of a medical condition, including, but not limited to, age, would be substantially aggravated by the procedure or would likely result in the death of

the dog or cat. The certification must state the date, if any, by which the dog or cat may be spayed or neutered. As soon as the medical condition that prevents a dog or cat from being spayed or neutered ceases to exist, it shall be the duty of the owner to have it spayed or neutered within 30 calendar days.

3. *Law enforcement.* The dog is currently used by a law enforcement agency for law enforcement purposes or is part of a bona fide law enforcement animal breeding program. The owner shall comply with this article relating to breeder permits, facilities, etc.
4. *Service animals.* A dog or cat that is a service animal as defined in this chapter, 28 CFR 36.104 and F.S. § 413.08 or is part of a bonafide service animal breeding program. The owner shall comply with this article relating to breeder permits, facilities, etc.
5. *Breeders.* The owner demonstrates to the animal control division proof of a breeding contract for a particular dog or cat, membership in a bona fide national, state or local organization for the perpetuation of a given breed of dog or cat, or proof of a litter produced by breeding of the dog or cat within the last 365 calendar days.
6. *Hunting and herding dogs.* The dog is currently used as, or trained to be, hunting or herding dog and the dog is registered with a bona fide national, state or local hunting or herding dog association. Alternatively, the owner of the dog signs a statement under oath attesting that the dog is used, trained, or will be trained to be a hunting or herding dog.

None of the aforementioned qualifications shall be construed to authorize the breeding or harboring of dogs or cats in violation of the Zoning Code of the City, or exempt the owner or their dog or cat from any other provisions of this chapter.

- b. *Deadline.* A dog or cat governed by this section shall be spayed or neutered by its owner or, if eligible, the owner shall obtain an unaltered animal permit within 30 calendar days of the dog or cat becoming six months of age, or by September 1, 2011, whichever is later in time, or, in the case of an owner whom acquired a dog or cat after it becoming six months of age, 30 [days] of acquisition.
- c. *Microchipping.* As a condition to obtaining an unaltered animal permit, an eligible dog or cat must be implanted with an identifying microchip and the owner must provide the microchip number to the animal control division. This requirement shall not apply to hunting or herding dogs.
- d. *Place of residence.* The address of the owner shall be presumed to be the residence of the dog or cat. All changes of address must be reported to the

animal control division within 30 calendar days following such change.

- e. *Change in ownership.* A permit holder shall notify the animal control division and the national registry applicable to the implanted microchip in writing of any change in ownership of a dog or cat within 30 calendar days.
- f. *Term of permit.* An unaltered animal permit shall be valid for the life of the dog or cat.

- g. *Revocation.* Upon receipt of information of violation of this section, the animal control division may issue a notice of revocation to a permit holder. The notice of revocation shall provide a summary of the information of the violation and shall be sent by certified mail, return receipt requested, hand delivery by a police officer, or animal control officer, or upon posting of the property at the address listed in the permit application. Any request for hearing shall be filed by the permit holder with the animal control division within ten calendar days after the permit holder's receipt of said notice. The permit holder shall set forth the reasons

why the permit holder believes the revocation would be an error. Failure to timely request a hearing shall render the revocation final. All hearings shall be conducted by the Special Magistrate within

30 calendar days after the receipt of a request for hearing and in accordance with section 5-6. The original of the board's written decision shall be filed with the animal control division and copies shall be mailed to the city attorney and permit holder. The original of the board's written decision shall be filed with the animal control division and copies shall be mailed to the city attorney and permit holder.

- h. *Penalty.* Any person who violates any provision of this section is subject to the enforcement procedures and penalties of this chapter. These penalties shall not preclude the issuance of a notice of revocation to a holder of an unaltered animal permit for violations of this section.

- (3) *Exemptions.* A dog or cat that meets the following criteria shall be exempt from this section and not be required to obtain an unaltered animal permit:

- a. A dog or cat temporarily harbored within the city for less than 30 calendar days within any calendar year.

- (4) *Fee.* A permit fee shall be paid at the time of application. The unaltered/unsterilized animal permit fee shall be established by resolution of the city council.

Secs. 5-38, 5-39. - Reserved.

ARTICLE III. - IMPOUNDMENT

Sec. 5-40. - Impoundment.

(a) *Animals subject to impoundment.* An animal control officer shall have the authority to pick up, capture, catch, procure and impound in a holding facility any animal found on public or private property under the following conditions:

- (1) Any animal suspected or believed to be infected with rabies or any infectious disease. An animal suspected of having or exhibiting symptoms of rabies or an infectious or contagious disease shall be segregated from other animals.
- (2) Any animal not licensed or permitted as provided for in this chapter.
- (3) Any animal running at large.
- (4) Any animal constituting a public nuisance.
- (5) Any animal that has been or is being mistreated.
- (6) Any lost, abandoned or unattended animal.
- (7) Any dog that appears to be running in a pack. For the purposes of this section a pack shall mean three or more dogs.
- (8) Any dangerous animal not in compliance with the written notification of their classification.
- (9) Any animal being considered for dangerous animal classification.
- (10) Any female animal in heat which is not properly confined by its owner pursuant to section 5-20.
- (11) Any wildlife hybrid for which the owner does not have a proper permit.
- (12) Any animal that is in violation of any quarantine or confinement order of an animal control officer.
- (13) Any unattended animal that is ill, injured or otherwise in need of care.
- (14) Any animal that a court of competent jurisdiction has ordered impounded or destroyed.

(b) *Incapacity of owner.* If the owner of an impounded animal is incarcerated or otherwise rendered temporarily unable to care for the animal, the impounding facility or shelter having custody of the animal will hold the animal up to three days. During this three-day period, all reasonable means will be utilized in an attempt to contact the owner to make arrangements for care of the animal impounded. If no arrangements are made, custody will then revert to the city's animal shelter for adoption or euthanasia if necessary.

(c) *Sterilization.* Any animal impounded two times within a 12-month period must be sterilized prior to return to its owner. Sterilization will be at the owner's expense. Any animal

determined by a licensed veterinarian and the city's animal services division to be at risk of unintended adverse effects from the sterilization procedure is exempt from this section.

Sec. 5-41. - Disposition of impounded animals.

(a) When an animal bears an indicia of ownership or whenever the owner of an impounded animal can be determined, the animal control officer shall notify the owner of the animal's impoundment by the most expedient means, i.e., telephone message, posted written notice, or certified mail, return receipt requested.

(b) If an animal is not claimed within three days after impoundment, the animal shall be deemed unowned or abandoned and shall be disposed of pursuant to the requirements of this chapter and the rules and regulations of the impounding facility.

(c) The final day of the impoundment period shall only occur on a day in which the impounding facility is open for normal operating activities. Upon proof of ownership, payment of any impoundment fees, and the procurement of any required vaccinations and tags, the owner of an impounded animal is entitled to resume possession. However, in the event that an animal has been impounded due to cruelty, mistreatment or public nuisance, the owner shall only be entitled to redemption of the animal after the animal control officer authorizes such redemption. Proof of ownership may include a license receipt, affidavits of neighbors, photographs or other reliable documentary evidence.

(d) Upon determination of cruelty, abuse, neglect or abandonment, the animal control officer may impound an animal for a period in excess of three days. In that case, the impounding facility shall not dispose of the animal until so directed by the animal control officer.

(e) Any unclaimed animal shall become the property of the impounding facility after the three-day hold period, and may be humanely destroyed, maintained or disposed of by gift, sale or adoption pursuant to the requirements of this chapter and the rules and regulations of the impounding facility.

(f) The impoundment period may be waived for any animal (including feral cats) that appear to be injured, ill or a danger to themselves or others.

(g) The impoundment period may also be waived for all avians, reptiles, venomous snakes and any other exotic animal unable to be safely impounded by the city, as determined by the animal control officers.

Secs. 5-42—5-49. - Reserved.

ARTICLE IV. RABIES

Sec. 5-50. - Animals infected with rabies; reporting requirements.

(a) It shall be the duty of the owner and any person knowing of any animal infected with or showing symptoms of rabies or any unusual behavior to report the same immediately to an animal control officer.

(b) It shall be the duty of any person bitten or scratched or having knowledge of or treating any person bitten or scratched by any animal to immediately report the fact of such bite or scratch to the animal control officer. It shall be the duty of any person knowing of or treating any animal bitten by another animal having or suspected of having rabies to report those facts immediately to an animal control officer.

Sec. 5-51. - Duties of animal control officer.

(a) When an animal control officer is informed that an animal has bitten or scratched a person or that an animal is suspected of having or showing symptoms of rabies, any other infectious or contagious disease or any unusual behavior, the animal control officer shall:

- (1) Capture such animal. In the capture of such animal the animal control officer shall not kill such animal unless in its capture a clear and present danger of harm or injury to the animal control officer or other persons exists. Such animal shall be placed in quarantine for observation for a period of at least ten days from the date of the bite or scratch. The owner of such animal shall relinquish possession of the animal for the purpose of quarantine.
- (2) Detach without mutilation and send to a state board of health laboratory for pathological examination the head of any wild animal or any animal tamed from a wild environment, which has bitten or scratched any person, if in the opinion of the animal control officer such injury was the result of an aggressive and overt act or such animal is suspected of having or exhibits symptoms of having rabies, or if such is the request of the person bitten or scratched, his or her parent or legal guardian, or his or her physician and the animal control officer.

(b) Quarantine shall be maintained in the impoundment facility or at the owner's request in a licensed veterinary hospital of his choice. Any animal under quarantine shall not be released or moved from the place of the initial quarantine confinement unless permission is obtained from the animal control officer. The owner, if any, shall bear the cost of the care, feeding and maintenance of a quarantined animal.

(c) The owner of any dog vaccinated with an approved rabies vaccine within the past 12 months, after receiving approval of the animal control officer may have such dog quarantined in an alternate location. At any time during the quarantine it is determined by the animal control officer that the quarantine is not properly maintained, the animal control officer, at the

(d) Any animal subject to quarantine shall not be vaccinated before the quarantine period has expired.

Sec. 5-52. - Surrender of animal for quarantine or destruction.

It shall be a violation of this chapter for any person to fail to surrender any animal for quarantine or destruction as required by the animal control officer.

Sec. 5-53. - Killing or removal of rabid animal.

It shall be a violation of this chapter for any person except an animal control officer pursuant to section 5-51 to kill or cause to be killed, or to remove from the city without consent of an animal control officer any rabid animal, any animal suspected of having or showing symptoms of rabies or any other infectious or contagious disease or unusual behavior, or any animal biting a human.

Sec. 5-54. - Surrender of carcass of rabid animal.

It shall be a violation of this chapter for any person to refuse to surrender to an animal control officer the carcass of any dead animal exposed to or suspected of having been exposed to rabies.

Secs. 5-55—5-59. - Reserved.

ARTICLE V. - DANGEROUS DOGS

Sec. 5-60. - Dangerous dogs.

(a) F.S. §§ 767.01 through 767.16 and all subsequent amendments regulating dangerous dogs are adopted by reference and incorporated herein.

(b) An animal control officer shall investigate reported incidents involving any dog that may be dangerous and shall, if possible, interview the owner and require a sworn affidavit from any person desiring to have a dog classified as dangerous. Any animal that is the subject of a dangerous dog investigation and is not impounded shall be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation and resolution of any hearings related to the dangerous dog classification. The address of the location where the animal is confined shall be provided to the animal control officer. No dog that is the subject of a dangerous dog investigation may be relocated or ownership transferred pending the outcome of an investigation or any hearings related to the determination of a dangerous dog classification. In the event that a dog is to be destroyed, the dog shall not be relocated or ownership transferred. A dog shall not be declared dangerous if the threat, injury or damage was sustained by a person who at the time was unlawfully on the property or while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member. No dog may be declared dangerous if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(c) After the investigation, the animal control officer shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and shall afford the owner an opportunity for a hearing prior to making a final determination. The animal control officer shall provide written notification of the sufficient cause finding, to the owner, by registered mail, certified hand delivery, or service in conformance with the provisions of F.S. chapter 48 relating

to service of process. The owner may file a written request for a hearing before the Special Magistrate within seven calendar days from the date of receipt of the notification of the sufficient cause finding and, if requested, the hearing shall be held as soon as possible, but not more than 21 calendar days and no sooner than five days after receipt of the request from the owner.

(d) Once a dog is classified as a dangerous dog, the animal control officer shall provide written notification to the owner by registered mail, certified hand delivery or service in conformance with the provisions of F.S. chapter 48. The owner may file a written request for a hearing in county court to appeal the classification within ten business days after receipt of a written determination of dangerous dog classification. The owner must confine the dog in a securely fenced or enclosed area pending a resolution of the appeal.

(e) Within 14 days after a dog has been classified as dangerous by the Special Magistrate or a dangerous dog classification is upheld by the county court, the owner of the dog must obtain a certificate of registration for the dog from the city. The certificate shall be renewed annually. Certificates of registration, and renewals thereof, shall only be issued to persons who are at least 18 years of age and who present to the city sufficient evidence of:

- (1) A current certificate of rabies vaccination for the dog.
- (2) A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property.
- (3) Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.

The registration fee shall be established by resolution of the city council and shall provide for a reduced fee for sterilized animals.

(f) The owner of a dangerous dog shall immediately notify the animal control officer when a dog that has been classified as dangerous:

- (1) Is loose or unconfined.
- (2) Has bitten a human being or attacked another animal.
- (3) Is sold, given away, or dies.
- (4) Is moved to another address.

Prior to a dangerous dog being sold or given away, the owner shall provide the name, address, and telephone number of the new owner to an animal control officer. The new owner must comply with all of the requirements of this section even if the animal is moved elsewhere in the state. An animal control officer must be notified by the owner of a dog classified as dangerous that the dog is in her jurisdiction.

(g) It is unlawful for the owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under the

control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person or animal. The owner may exercise the dog in a securely fenced or enclosed area that does not have a top without a muzzle or leash if the dog remains within his or her sight and only members of his or her immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

(h) Hunting dogs are exempt from the provisions of this section when engaged in any legal hunt. However, such dogs at all other times and in all other respects shall be subject to the provisions of this chapter. Dogs that have been classified as dangerous shall not be used for hunting purposes.

(i) This section does not apply to dogs used by law enforcement officials for law enforcement work.

(j) The fee for issuance of a dangerous dog certificate of registration shall be established by resolution of the city council.

(k) Any person who violates any provision of this section guilty of a noncriminal infraction punishable by a fine not exceeding \$500.00.

(l) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 or 775.083. In addition, the dangerous dog shall be immediately confiscated by an animal control officer, placed in quarantine, if necessary, for the proper length of time, or impounded and held for ten business days after the owner is given written notification and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing before the Special Magistrate. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(m) If a dog that has not been declared dangerous attacks and causes severe injury to or death of any human, the dog shall be immediately confiscated by an animal control officer, placed in quarantine, if necessary, for the proper length of time or held for ten business days after the owner is given written notification, and thereafter destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing before the Special Magistrate. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure. In addition, if the owner of the dog had prior knowledge of the dog's dangerous propensities, yet demonstrated a reckless disregard for such propensities under the circumstances, the owner of the dog is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 or 775.083.

(n) If a dog that has previously been declared dangerous attacks and causes severe unaware [injury] to or death of any human, the owner is guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082, 775.083 or 775.084. In addition, the dog shall be immediately confiscated by an animal control officer, placed in quarantine, if necessary, for the proper length of time or held for ten business days after the owner is given written notification and thereafter

destroyed in an expeditious and humane manner. This ten-day time period shall allow the owner to request a hearing before the Special Magistrate. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(o) If the owner files a written appeal, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for any and all fees while the animal is being held pending appeal.

(p) If a dog attacks or bites a person who is engaged in or attempting to engage in a criminal activity at the time of attack, the owner is not guilty of any crime specified under this section.

Secs. 5-61—5-69. - Reserved.

ARTICLE VII. - ENFORCEMENT AND PENALTIES

Sec. 5-70. - Enforcement.

(a) An animal control officer who has probable cause to believe that a violation of this chapter has occurred shall do one or more of the following:

- (1) Issue a warning to the person who has committed the violation.
- (2) Issue a citation to the person who has committed the violation.
- (3) Impound the animal involved.

The determination that a violation has occurred may be the result of the animal control officer's own investigation or as the result of a complaint by an aggrieved person.

(b) A violation of this chapter, except as otherwise provided, constitutes a civil infraction punishable by a civil penalty not to exceed \$500.00. Penalties for violation of specific sections of this chapter shall be established by resolution of the city council. If a person who has committed the violation does not contest the citation, a civil penalty of less than the maximum allowed will be assessed. Any citation may be contested in county court.

(c) Each day or fraction thereof during which a violation of this chapter continues shall be considered as a separate offense.

(d) It shall be mandatory for an owner of an animal to appear in court under the following circumstances:

- (1) When any violation of this chapter results in the unprovoked biting, attacking or wounding of another animal.
- (2) When any violation of this chapter results in the destruction or loss of personal property and such destruction or loss exceeds \$100.00 in value.
- (3) When a person is cited with a second or subsequent violation of section 5-19 involving animal cruelty.
- (4) When a person is cited with a third or subsequent violation of any section of this chapter.

- (e) If a person fails to pay the civil penalty, fails to appear in court to contest the citation, or fails to appear in court as required, the court may issue an order to show cause upon the request of the city. This order shall require the person to appear before the court to explain why action on the citation has not been taken. If any person who is issued such an order fails to appear in response to the court's directive, that person may be held in contempt of court.
- (f) The commission of a charged infraction at a hearing authorized pursuant to this chapter must be proven by a preponderance of the evidence.
- (g) Any person who willfully refuses to sign and accept a citation issued by an animal control officer is guilty of a misdemeanor of the second degree, punishable as provided in F.S.
§§ 775.082 or 775.083.
- (h) The city council may by resolution impose a surcharge in an amount as authorized pursuant to F.S. § 828.27(4)(b) upon each civil penalty imposed for violation of this chapter. The proceeds from such surcharge shall be used to pay the costs of training for animal control officers.
- (i) Once the city prevails in any action related to a violation or determination under this chapter, the city shall be entitled to recover from the person committing the violation all administrative costs associated with the proceeding and all costs incurred by the city in harboring the animal during the course of the proceeding.
- (j) In addition to the civil penalty, the city shall include on the citation any costs assessed against the owner of an animal by operation of this chapter which remain unpaid as of the time a citation is issued.