

## CHAPTER V ANIMAL SERVICES

**Editor's Note:** Section 1 of Ordinance 2004-20 amended Chapter V by changing all references to "animal control" to read "animal services."

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### 5-1 SHORT TITLE; PURPOSE.

A. This section may be cited as the "Animal Services Ordinance".

B. It is the intent of the governing body that this chapter will protect animals from cruelty, neglect and abuse; protect residents from annoyance and injury, assist in providing housing for animals in a control center, finance and support the functions of licensing and recovery, and to establish regulations for the neutering of animals. The neutering of animals is necessary to eliminate the excessive number of unwanted animals, thereby reducing the number of animals that must be euthanized each year.

(Ordained as Code 1973, § 4-1 by Ord. #1979-2, § 4-1; SFCC 1981, § 6-2-1; Ord. #2004-20, § 2; Ord. #2014-7, §1)

### 5-2 DEFINITIONS.

As used in this chapter:

*Administrator* means the person responsible for the operations of the animal services division.

*Animal* means any vertebrate member of the animal kingdom excluding human beings.

*Animal services center* means the facility maintained and operated pursuant to the provisions of this chapter.

*Animal services officer* means an employee of the city, designated as such by the administrator, who has the authority of a peace officer to issue citations for violations of this chapter and performs such other duties relating to animal services as prescribed by the city manager.

*Anti-escape provision* means any housing, fencing or device which a guard dog cannot go over, under, through or around.

*Bite* means an actual puncture or tear of the skin inflicted by the teeth of an animal.

*Breeder* means any person involved in controlled breeding of animals except those complying with subsection 5-9.5 SFCC 1987 for litter fees. Breeders are subject to the professional animal care permit requirements set forth in subsection 5-6.2 SFCC 1987.

*Commercial property* means:

A. A portion of land, buildings, or land and buildings in the city, zoned for, or utilized for commercial or business uses, including temporary sites; and

B. Any vehicle utilized for commercial or business purposes in the city.

*Cruelty* means an overt act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's wellbeing, including but not limited to torture, maiming, beating or otherwise committing violence that causes injury or death.

*Dangerous animal* means:

A. An animal which, when unprovoked, engages in behavior that requires a defensive action by a person to prevent great bodily harm to a person or domesticated animal provided that the person or the second animal are not on the premises of the owner or person having custody of the first animal; or

B. An animal which, when unprovoked, injures a person but the injury does not result in great bodily harm; or

C. An animal which, because of its poisonous bite or sting, constitutes a significant hazard to the public.

*Dog park* means an official city designated park or portion thereof where dogs can exercise and run off leash in a safe, secure environment within the established limits and boundaries of an official city designated dog park.

*Establishment* means a place of business together with its grounds and equipment.

*Feces* means excrement and other waste matter discharged from the bowels of an animal.

*Great bodily harm* means an injury to a person or domesticated animal which:

- A. Creates a high probability of death; or
- B. Results in serious disfigurement; or
- C. Results in loss of any member or organ of the body; or
- D. Results in permanent or prolonged impairment of the use of any member or organ of the body.

*Grooming parlor* means any establishment, or part thereof, or premises maintained for the purpose of offering animals cosmetic services for profit.

*Guard dog* means any dog that is utilized to protect commercial property, as defined above.

*Guard dog site* means any premises utilizing a guard dog, and which has a current guard dog permit.

*Handler* means a person who trains dogs for socialization or dog shows or trials or a security person capable of controlling guard dogs.

*Handler breeder or hobby breeder* means any person involved in controlled breeding of animals which are approved by a nationally recognized animal breeding organization, and are eligible to be so registered. Animals under the age of three (3) months are not required to be registered. Handler breeders or hobby breeders are subject to the professional animal permit requirements.

*Heat or season* means a regularly recurring state of estrus during which the female animal is capable of attracting or accepting the male for breeding or is capable of conceiving.

*Hybrid* means an animal created by breeding animals of different species. For purposes of this article, it includes, but is not limited to, the hybrid offspring of domesticated dogs and wolves, or domesticated dogs and coyotes.

*Impound* means to take-up and confine an animal in a humane manner.

*Inspection officer* means an animal services officer and is authorized by ordinance to conduct inspectorial searches.

*Inspection order* means an order issued by a municipal or district court judge.

*Inspectorial search* means an entry into and examination of premises for the purpose of ascertaining the existence or nonexistence of conditions dangerous to health or safety or otherwise relevant to the public interest, in accordance with inspection prescribed by this chapter enacted for the promotion of public well-being.

*Kennel* means any commercial establishment or premises where ten (10) or more dogs or cats, over three (3) months of age, are boarded, kept or maintained for any purpose whatsoever, with the exception of state-inspected veterinary hospitals and shelters.

*Licensed veterinarian* means a person with a doctor of veterinary medicine degree, licensed to practice in the state.

*Livestock* means cattle, horses, mules, donkeys, swine, sheep or goats.

*Neglect* means an overt act involving failure to provide for animal health or safety, including but not limited to failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age and condition.

*Nuisance* means, but is not limited to defecation, urination, disturbing the peace, emitting noxious or offensive odors or otherwise endangering or offending the well-being of the inhabitants of the city.

*Owner of animal* means a person who owns, harbors or keeps, or knowingly permits an animal to be harbored or kept, or has an animal in his care, or who permits an animal to remain on or about his premises.

*Person* means any individual, household, firm, partnership, corporation, company, society, association, and every officer, agent or employee thereof.

*Person in charge* means for the purpose of inspection, the individual present in an establishment who is the apparent supervisor of the establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present shall be considered the person in charge.

*Pet shop* means any commercial establishment or premises or part thereof maintained for the purchase, sale, exchange of animals of any type, except that the term shall not include livestock auctions.

*Playground* means an area where outdoor equipment is placed for children to play on, athletic fields such as baseball, football, soccer fields, handball courts, tennis courts, skateboard parks, etc.

*Police dog* means any dog owned by a public agency and used in law enforcement activities under the direction of a handler.

*Premises* means a parcel of land and the structures thereon.

*Professional animal care business* means a business operated by a person or persons that involves live animals, and includes, but is not limited to, animal rescue, animal shelter, boarding kennel, breeder, grooming parlor, grooming service, commercial kennel, pet day care facility, pet day care service, pet sitting service, pet store, training facility, dog walking service and circus acts.

*Professional animal care permit* means a permit issued by the city of Santa Fe animal services administrator to a person or persons which involves live animals, and includes, but is not limited to animal rescue, animal shelter, boarding kennel, breeder, grooming parlor, grooming service, commercial kennel, pet day care facility, pet day care service, pet sitting service, pet store, training facility, dog walking service and circus acts.

*Quarantine* means to detain or isolate an animal suspected of having a contagious disease.

*Restraint* means:

A. Confinement within the real property limits of an animal owner where the animal is secured by a leash or lead or is otherwise under the control of a responsible person; or

B. Confinement within a vehicle in a manner that prevents an animal from escaping.

*Running at large* means not to be confined within a building, shelter, walled or fenced area or secured by a leash, rope, chain or other restraining device, unless under the direct control of the owner/handler or keeper.

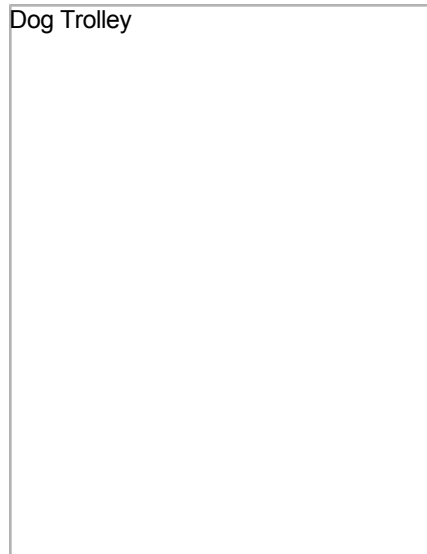
*Service animal* means a dog or miniature horse that is individually trained to do work or perform tasks for a person with a disability.

*Shelter* means any establishment owned and operated by a non-profit humane organization licensed to do business in the state.

*Stray animal* means any animal found running at large beyond the boundaries of the premises of the owner except within the established limits and boundaries of an official city designated dog park.

*Trolley system* means a method to confine a dog by tethering the dog to a cable that is ten feet (10) or longer with a free moving pulley device attached that will allow the lead to roll across it, permitting maximum space for a single dog to move around. See illustration of a trolley system, Exhibit A.

## **EXHIBIT A Trolley System Illustration**



*Unaltered* means not neutered or spayed.

*Vaccination* means protection provided against rabies by inoculation with anti-rabies vaccine recognized and approved by the state.

*Vicious animal* means an animal which kills or causes great bodily harm. It does not include an animal that bites, attacks or injures a person or second animal, which is unlawfully upon the premises of the owner or person having custody of the first animal. Any animal that has previously been found to be a dangerous animal may thereafter be deemed vicious upon a second or subsequent offense.

*Wild or exotic animal* means any animal not normally considered domesticated and shall include, but not limited to:

A. Class reptilia; order phidia, such as racers, boas, water snakes and pythons, and order loricata, such as alligators, caymans and crocodiles;

B. The following members of the class aves; order falconiforms, such as hawks, eagles and vultures, and subdivision ratitae, such as ostriches, rheas, cassowaries and emus; and

C. Class mammalia; order carnivora; family felidae, such as ocelots, margays, tigers, jaguars, leopards and cougars, except commonly accepted domesticated cats; the family canidae, such as wolves, dingos, coyotes and jackals, except commonly accepted domesticated dogs, family mustelidae, such as weasels, martins, mink, badgers, except ferrets, family procynnidae, such as raccoons; family ursidae, such as bears; and order marsupialia, such as kangaroos and common opossums; order edentata, such as sloths, anteaters and armadillos; order proboscidea, such as elephants; order primata, such as monkeys, chimpanzees and gorillas; order rodenta, such as porcupines; and order ungulata, such as antelope, deer, bison and camels.

D. Hybrids.

(Ordained as Code 1973, § 4-2 by Ord. #1979-2, § 4-2; Ord. #1980-39, § 1; Ord. #1984-70, § 1; SFCC 1981, § 6-2-2; Ord. #1989-27, § 1; Ord. #1999-26, §1; Ord. #2002-14, § 1; Ord. #2004-20, §§ 1, 3-5; Ord. #2014-7, §2)

## **5-3 ADMINISTRATION.**

### **5-3.1 Administration of Chapter.**

The administrator is responsible for the administration of this chapter. Reasonable rules and regulations shall be prescribed by the administrator to carry out the intent and purpose of the Animal Services Chapter. The administrator may delegate authority to his duly appointed animal services officers as he/she deems expedient to carry out the provisions of this chapter. (Ordained as Code 1973, § 4-3 by Ord. #1979-2, § 4-3; SFCC 1981, § 6-3-1; Ord. #2004-20, § 6; Ord. #2014-7, §3)

### **5-3.2 Animal Services Officers to Issue Citations.**

The city police, the administrator and animal services officers have the authority to issue citations for violations of this chapter and to perform such other duties as are prescribed by the city manager. An animal services officer shall wear a uniform, and a badge, and a name tag identifying him/her as an animal services officer. The badge shall be returned to the administrator upon the termination of his employment. (Ordained as Code 1973, § 4-4 by Ord. #1979-2, § 4-4; SFCC 1981, § 6-3-2; Ord. #2004-20, § 7; Ord. #2014-7, §4)

**5-3.3 Right of Entry of Animal Services Officers for Apprehending Animals at Large or Stray Animals.**

Animal services officers, in the performance of their duties, may enter upon private property, except a private residence, for the purpose of apprehending animals running at large and stray animals. (Ordained as Code 1973, § 4-5 by Ord. #1979-2, § 4-5; SFCC 1981, § 6-3-3; Ord. #2004-20, § 8)

**5-3.4 Resisting or Obstructing an Animal Services Officer.**

A. Whoever commits resisting or obstructing an animal services officer is guilty of a petty misdemeanor.

B. Resisting or obstructing any animal services officer consists of the following:

(1) Knowingly obstructing, resisting or opposing any animal services officer of the city or any other duly authorized person serving or attempting to serve or execute any process or any rule or order of any of the courts of this state or any other judicial writ or process regarding the enforcement of this chapter; or

(2) Resisting or abusing any animal services officer in the lawful discharge of his/her duties.

(Ord. #2004-20, § 9)

**5-4 ANIMAL SERVICES CENTERS.**

**5-4.1 Established.**

There are established one (1) or more animal services centers in such numbers and locations as designated by the city. (Ordained as Code 1973, § 4-6 by Ord. #1979-2, § 4-6; SFCC 1981, § 6-4-1; Ord. #2004-20, § 1)

**5-4.2 Hours of Business.**

The animal services center shall be kept open to the public for the transaction of business during the hours set by the administrator. (Ordained as Code 1973, § 4-8 by Ord. #1979-2, § 4-8; SFCC 1981, § 6-4-3; Ord. #2004-20, § 1; Ord. #2014-7, §5)

**5-4.3 Impoundment.**

It is the duty of the animal services officers to take-up and impound in the animal services center any stray or any animal kept or maintained contrary to this chapter. (Ordained as Code 1973, § 4-9 by Ord. #1979-2, § 4-9; SFCC 1981, § 6-4-4; Ord. #2004-20, § 1)

**5-4.4 Records.**

The animal services center shall maintain records of all animals impounded in the center for a period of time that is deemed reasonable by the city. The records shall contain at least the following:

- (1) A complete description of the animal;
- (2) The manner and date of its acquisition by the center;
- (3) The date and manner of its disposal;
- (4) The name and address of the purchaser of any animal; and
- (5) All fees received.

(Ordained as Code 1973, § 4-10 by Ord. #1979-2, § 4-10; Ord. #1984-64, § 2; SFCC 1981, § 6-4-5; Ord. #2004-20, § 10)

**Editor's Note:** For related state law, see § 77-1-9 NMSA 1978.

**5-5 OWNER'S DUTIES.**

**5-5.1 Rabies Vaccinations.**

A. It is the duty of all persons owning or keeping a dog, cat, ferret or dog hybrid over the age of three (3) months to have such animals vaccinated against rabies unless the pet owner obtains written verification from a licensed veterinarian that the animal should not be vaccinated for health reasons. The rabies vaccination shall be given in an amount sufficient to provide immunity from rabies for three (3) years and shall be administered by a licensed veterinarian. A certificate from a licensed veterinarian shall be evidence of vaccination.

B. The veterinarian administering anti-rabies vaccine to any animal shall issue to the owner or keeper of the animal a numbered vaccination certificate. The certificate shall contain the name and address of the owner or keeper of the animal, a description of the animal vaccinated, the date of vaccination and the expiration date of the period of immunity.

C. It is unlawful for the owner or keeper of any dog, cat or ferret to fail to exhibit its certificate of vaccination upon demand by the administrator or by any animal services officer.

(Ordained as Code 1973, §4-11 by Ord. #1979-2, §4-11; SFCC 1981, §6-5-1; Ord. #2004-20, §11; Ord. No. 2014-7, §6)

**5-5.2 Rabid Animal.**

An animal that has rabies or shows signs of having rabies and every animal bitten by another animal afflicted with rabies or that has been exposed to rabies shall

be confined at once in a secure place by the owner. A person who knows or has reason to know that an animal is infected with rabies or has been exposed to rabies shall, immediately upon learning of the infection, notify the animal services center and the state health and environment department as to the place where the animal is confined and shall surrender the animal to the animal services center upon demand. The animal services center shall then deal with the rabid animal pursuant to state law. (Ordained as Code 1973, §4-12 by Ord. #1979-2, §4-12; Ord. #1980-39, §2; SFCC 1981, §6-5-2; Ord. #2004-20, §1)

**Editor's Note:** For related state law, see §§77-1-6 and 77-1-10 NMSA 1978.

### **5-5.3 Biting Dogs or Other Biting Animals.**

A. The owner of an animal that bites a person, and a person bitten by an animal, shall report that occurrence to the animal services center and to the state health and environment department within twenty-four (24) hours. The owner of an animal that bites a person shall surrender the animal to the animal services center if the administrator deems it necessary to impound the animal for a period of observation.

B. A physician who renders professional treatment to a person bitten by an animal shall report that fact to the animal services center and to the state health and environment department within twenty-four (24) hours of his first professional attendance. The physician shall report the name, sex and address of the person bitten, as well as the type and location of the bite. The physician shall give the name and address of the owner of the animal that inflicted the bite, if known, and any other facts or details that may assist the administrator in ascertaining the immunization status of the animal.

C. An animal that bites a person shall be confined securely at a place for a period of time deemed necessary by the administrator. The owner of the animal shall bear the cost of confinement. The administrator may consent to confinement on the owner's premises but only if the animal had a current rabies vaccination at the time the bite was inflicted. The premises where the home confinement is to occur shall be inspected and approved for such purposes by an animal services officer. The owner of the animal shall be required to enter into an indemnity agreement on a form approved and prescribed by the administrator before consent may be given for such home confinement.

D. A person who has custody of an animal that has bitten a person shall immediately notify the administrator if the animal shows any signs of sickness, abnormal behavior, or if the animal escapes confinement. If the animal dies while it is in confinement, the person having custody of the animal shall notify the administrator or an animal services officer and relinquish any claims to the animal.

(Ordained as Code 1973, §4-13 by Ord. #1979-2, §4-13; Ord. #1980-39, §3; SFCC 1981, §6-5-3; Ord. #2004-20, §1; Ord. #2014-7, §7)

**Editor's Note:** For related state law, see §77-1-6 NMSA 1978.

### **5-5.4 Restraint of Animals.**

A. Voice command is not an acceptable form of restraint.

B. Except for city permitted events that allow for animals to be present, animals which are not service animals shall not be allowed upon playgrounds or upon the grounds of swimming pools, or within a building, any of which are owned, operated or maintained by the city, nor shall they be allowed upon the premises of public schools, preschool through high school unless permission is obtained from the school official. All animals which are not service animals shall be prohibited in Cathedral Park.

C. Animals shall not be allowed upon a public street, alley, easement, city property or other place open to the public or upon any property other than that of the owner of the animal unless properly restrained. Dogs shall be on a secure leash no longer than eight (8) feet in length and under the immediate effective physical control of the person having custody thereof. The person having custody shall be a person of such age and maturity to be reasonably responsible therefor. A person inside an enclosed structure shall not be considered to be in the physical control of a dog not in the enclosed structure. The provisions of this paragraph do not apply when an animal is participating in a bona fide animal show or training program which has been authorized by the animal services division or is in a city park designated by the governing body as an exercise ground for dogs. The provisions also do not apply to police canine units unleashed while on public property while acting in a law enforcement activity.

D. Animals located upon the property of the owner of the animal shall be restrained in such a manner as to secure the animal, using devices such as a trolley system, kennel, invisible fencing, or inescapable walled or fenced area. Voice command is not an acceptable form of restraint. The animal shall be restrained in such a way as to prevent the animal from reaching outside the perimeter of the property.

E. Animals shall not be carried in or upon any vehicle in a cruel, inhumane or unsafe manner. An animal carried in the bed of a truck shall be crated or restrained upon a non-metal mat so it cannot fall or jump from the truck or be strangled.

F. A trolley system may be used to restrain an animal upon the owner's property, provided the following criteria are met:

(1) The device shall be affixed to the animal by use of a non-abrasive, comfortably fitted collar or harness.

(2) The device shall be at least ten (10) feet long unless such length would allow the animal to reach outside the owner's property, in which case it shall be no less than eight (8) feet long and elevated four (4) to seven (7) feet off the ground. The device shall be fastened so the animal can sit, walk and lie down comfortably and shall be unobstructed by objects that may cause the device or animal to become entangled or strangled.

(3) The animal shall have easy access to adequate shade, shelter, food and potable water.

(4) The area where the animal is confined shall be kept free of garbage and other debris that might endanger the animal's health or safety. Feces shall be cleaned up regularly, but no less frequently than twice weekly.

(5) The area where the animal is confined shall be kept free of insect infestations such as ant hills, wasp nests, or flea, tick and maggot infestations.

(Ordained as Code 1973, §4-14 by Ord. #1979-2, §4-14; SFCC 1981, §6-5-4; Ord. #1999-26, §2; Ord. #2004-20, §12; Ord. #2004-44, §1; Ord. #2014-7, §8)

### **5-5.5 Confinement During Estrus (Heat).**

Any female animal in the stage of estrus (heat) shall be confined to a well-ventilated building, escape-proof kennel or a boarding facility so that contact with a male animal will be prevented except for intentional breeding purpose, with required permits. Owners who do not comply with this section may be required upon direction of an animal services officer to place such animal in a boarding kennel or veterinary hospital at the owner's expense. (Ordained as Code 1973, §4-15 by Ord. #1979-2, §4-15; SFCC 1981, §6-5-5; Ord. #2004-20, §13; Ord. #2014-7, §9)

### **5-5.6 Licenses for Dogs and Cats.**

A. Any person owning, possessing or harboring any dog or cat three (3) months of age or over shall obtain a license for such animal. Licenses valid for one (1) year, two (2) years or three (3) years may be obtained from the animal services center or Santa Fe animal shelter. A current rabies vaccination certificate shall be presented at the time of the license purchase. In the event a tag is lost, replacement tags shall be purchased.

B. A current license tag shall be affixed to the licensed dog or cat at all times in a reasonable manner, unless the licensed dog or cat is being kept in an approved kennel, veterinary hospital, grooming parlor, is appearing in an approved show or is being trained; provided, that the person who is training the dog or cat shall have in his personal possession the valid license tag for each dog or cat and shall immediately display such upon request by an animal services officer, or other law enforcement officers.

C. Dogs or cats belonging to nonresidents who do not keep the animals within the corporate limits of the city for thirty (30) consecutive days shall be exempt from this section; provided, however, that all the other provisions of this chapter must be complied with.

D. The license fees shall not apply to a service animal.  
(Ordained as Code 1973, §4-16 by Ord. #1979-2, §4-16; Ord. #1980-39, §4; SFCC 1981, §6-5-6; Ord. #1981-65, §1; Ord. #2004-20, §14)

## **5-6 PROFESSIONAL ANIMAL CARE.**

### **5-6.1 Purpose.**

The city declares it to be conducive to the promotion of the health and general welfare of the inhabitants of the city to require a professional animal care permit to operate a kennel, grooming parlor, pet shop, animal training, dog walking or animal sitting business or shelter, and to impose certain regulations and inspection fees on those engaged in operating, maintaining or owning such professional animal care entities. (Code 1973, Art. V, Ch. 4; SFCC 1981, § 6-6-1; Ord. #2014-7, § 10)

### **5-6.2 Professional Animal Care Permits Required; General Provisions.**

A. Breeders and persons operating kennels, grooming parlors, pet shops, animal training, dog walking service, pet sitting service, circus acts or shelters shall obtain a professional animal care permit from the administrator. It shall be unlawful to operate such a business without a current valid professional animal care permit. A current city business license shall be presented at the time of application for a professional animal care permit.

B. When a permit is applied for, an inspection of the breeders location or the kennel, grooming parlor, pet shop animal training, dog walking service, pet sitting service, circus acts or shelter shall be conducted by the administrator to determine compliance with this chapter. If inspection reveals that the operation complies with the law and regulations, a professional animal care permit will be issued. The permit is only valid for the approved operation. Permittees who keep animals confined, shall, at the option of the permittee, be exempt from the animal license requirements of this chapter and will not be issued any license tags unless the required animal license fee is paid.

C. A permit is issued to a person for use at a single location. A valid permit shall be posted in a conspicuous place in every kennel, grooming parlor, pet shop, animal training, dog walking service, pet sitting service, shelter, or breeder's business location.

D. A breeder shall not advertise, sell, barter, exchange or give away any dog or cat within the municipal boundaries unless the professional animal care permit fee is paid. Any advertisement for the sale, barter, exchange or give away shall include the permit fee receipt number. A breeder shall furnish the permit fee receipt number to any prospective recipient requesting the number.

E. A permit holder shall notify the administrator of any change in his operations which may affect the status of his permit and shall keep the administrator informed of any change in name or location of his business.

F. Breeders or persons in charge of a kennel, grooming parlor, pet shop, animal training, dog walking service, pet sitting service, circus acts or shelter shall be responsible for complying with this chapter. There shall be kept at each kennel, grooming parlor, pet shop, shelter, or breeder's location a record of all animals received and of their final disposition.

G. The professional animal care permit shall expire December 31 of each calendar year, and shall be renewed by February 1 of the following year. Professional animal care fees shall be established by the administrator and approved by the governing body of the city.

H. Any individual, breeder or business that provides animals for sale or adoption shall purchase and display a professional animal care permit issued by the administrator. Any individual, breeder or business that is discovered representing another entity's animals as their own shall be in violation of this Chapter and shall be cited and may be required to forfeit their current professional care permit, except that individuals may purchase a litter permit in accordance with subsection 5-9.5.  
(Ordained as Code 1973, § 4-17 by Ord. #1979-2, § 4-17; Ord. #1980-39, § 5; SFCC 1981, § 6-6-2; Ord. #2004-20, § 15; Ord. #2014-7, §11)

### **5-6.3 Specifications and Maintenance of Facilities.**

A. Animal housing facilities shall be constructed of nontoxic materials and in a structurally sound design. Interior floors shall be smooth, easily cleanable construction and impervious to water. The facility shall be kept in good repair and kept clean and sanitary at all times, so as to protect the animals from disease and injury.

B. Animals maintained in pens, cages or runs for periods exceeding twenty-four (24) hours, shall be provided with adequate space to prevent overcrowding and to maintain normal exercise, according to species.

C. Indoor housing shall be provided for in all pet shops, grooming parlors, shelters and commercial kennels. These facilities shall be sufficiently temperature-controlled and ventilated to provide for the animal's comfort and health.

D. Sufficient lighting shall be provided by either artificial or natural means.

E. Outside housing shall be sufficient to protect animals from sunlight, rain, snow or cold weather that may be detrimental to the animals' health.

F. Provisions shall be made for the removal and proper disposal of animal and food waste, bedding, dead animals and debris.

G. Adult animals shall be segregated by sex, except where otherwise indicated for health, welfare or breeding purposes and any vicious or quarantined animals shall be removed and caged by themselves.

H. Animals shall be provided with clean, fresh, sufficient and wholesome food and water. Food and water containers shall be kept clean.

I. Each animal shall be observed daily by the animal caretaker in charge or his representative. Sick, diseased, injured, lame or blind animals shall be provided with proper veterinary care. Any person operating or employed at a kennel, grooming parlor, pet shop or shelter who observes an animal which he suspects of being rabid shall at once notify the administrator and the state department of health and environment and segregate such animal for a period of ten (10) days, unless examined and released by written statement of a veterinarian and then only at the discretion of the administrator.

(Ordained as Code 1973, § 4-18 by Ord. #1979-2, § 4-18; Ord. #1980-39, § 6; SFCC 1981, § 6-6-3; Ord. #2014-7, §11)

#### **5-6.4 Inspections; Emergency Inspectoral Searches.**

##### *A. Inspections.*

(1) Animal services officers shall conduct inspections of any facility or parcel of land to which this section applies.

(2) The animal services officer shall notify the occupants, custodians or owners of the premises, seven (7) days prior to the inspection, of the nature and purpose of the inspection.

(3) The notice required by the preceding subsection may be dispensed with because of the nature of the inspection to be undertaken, the conduct of the occupants, custodians or property owners, other circumstances or there is a reasonable basis for belief that such notice would obstruct, or seriously diminish the utility of the inspection in question.

(4) Upon sufficient showing the consent to an inspectoral search has been refused or is otherwise unobtainable within a reasonable period of time, the officer may make application for an inspection order. Such application shall be made to the municipal or district court judge having jurisdiction over the premises to be inspected.

(5) The application shall be granted and the inspection order issued upon a sufficient showing that inspection of the premises or property, is in accordance with the intent of this chapter, and that the circumstances of the particular inspection for which application is made are otherwise reasonable. The issuing authority shall make and keep a record of the proceeding on the application, and enter thereon his findings in accordance with the requirements of this section.

(6) The officer executing the order shall, if the premises or property in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to gain entry and make the inspection.

(7) The inspection officer conducting the search shall, if authorized by the issuing authority on proper showing, be accompanied by one (1) or more law enforcement officers who are authorized to serve search warrants. The law enforcement officer(s) shall assist the inspection officer in executing the order at his direction.

##### *B. Emergency Inspectoral Searches.*

(1) Whenever it reasonably appears to an inspection officer that there may be a condition, arising under the ordinance he is authorized to enforce, and imminently dangerous to health and safety, the detection or correction of which requires immediate access, without prior notice to the premises or property for purposes of inspectoral search and if consent to such search is refused or cannot be promptly obtained, the inspection officer may make an emergency inspectoral search of the premises without an inspection order.

(2) Upon completion of the emergency inspectoral search, the inspection officer shall make prompt report of the circumstances to the municipal judge to whom application for an inspection order would otherwise have been made.

(Ordained as Code 1973, § 4-19 by Ord. #1979-2, § 4-19; Ord. #1980-39, § 7; SFCC 1981, § 6-6-4; Ord. #2004-20, §§ 16, 17; Ord. #2014-7, §12)

#### **5-6.5 Permit Violations; Suspensions and Revocations; Hearing.**

A. *Permit Violation.* If the animal services officer makes an inspection of a kennel, grooming parlor, pet shop animal training, dog walking service, pet sitting service, circus acts or shelter and discovers a violation of this chapter, he shall notify the permit holder, or operator, of the violation by means of written notice. The notice of violation shall:

(1) Set forth the specific violation found;

(2) Establish a specific and reasonable period of time for the correction of the violation found;

(3) State that failure to comply with any notice may result in a citation and referral to municipal court for prosecution and/or immediate suspension of the permit; and

(4) Be hand delivered to the permit holder or operator or mailed registered mail, return receipt requested to the last known address of the permit holder.

B. *Suspension of Permit in an Emergency.* If the violation described above has not been corrected within the specific time period and the animal services officer determines that an emergency exists that for the welfare, safety of the animal or the general public requires suspension of a permit, the animal services officer shall notify the permit holder, or operator that the permit shall be suspended. The notification of suspension shall:

(1) Set forth the specific violation found or describe the emergency situation which exists requiring suspension of the permit;

(2) State that the permit is suspended until a hearing in compliance with paragraph E. below is held. The hearing shall be held within five (5) days of the receipt of the notice of suspension;

(3) State that the suspension shall be lifted if the violation or emergency situation is corrected in compliance with this chapter and approved by the animal services center before the hearing; and

(4) State that at the hearing a decision will be made regarding whether the permit shall be reinstated or revoked permanently;

(5) Be hand delivered to the permit holder or operator;

C. *Revocation of Permit in an Emergency.* If the animal services officer determines that there are serious or repeated violations of this chapter and the animal services officer determines that an emergency exists that for the welfare, safety of the animal or the general public requires suspension of a permit, the officer shall

notify the permit holder or operator that the permit is revoked. The notification of revocation shall:

- (1) Set forth the specific repeated violations found or describe the emergency situation which exists requiring revocation of the permit;
- (2) State that the permit is revoked;
- (3) Inform the permit holder that he or she may request a hearing as set forth in paragraph E. below. The hearing shall determine whether the revocation should remain or that the permit should be reinstated. A request for a hearing shall be submitted to the animal services center within ten (10) days of receipt of the notification of revocation; and
- (4) Be hand delivered to the permit holder or operator.

D. *Suspension or Revocation of Permit not in an Emergency.* In situations not deemed to be an emergency described in paragraphs B. and C. above, a hearing as set forth in paragraph E. below shall be conducted prior to suspension or revocation of the permit.

E. *Hearing.* A hearing required as set forth in paragraphs B., C. and D. above shall be conducted as follows:

- (1) The hearing shall be conducted by a hearing officer designated by the city;
- (2) Notice of the hearing shall:
  - (a) State the time, place and nature of the hearing;
  - (b) State the legal authority and jurisdiction under which the hearing is to be held;
  - (c) Include a short and plain statement of the matters of fact and law asserted so that all have sufficient notice of the issues involved to afford them reasonable opportunity to prepare; and
  - (d) Be hand delivered to the permit holder or operator. If the party cannot be located a certified letter shall be sent to their last known address.
- (3) All parties shall be allowed to respond and present evidence and argument on all issues involved;
- (4) A record of the hearing shall include the following:
  - (a) All pleadings, motions, and intermediate rulings;
  - (b) Evidence received or considered;
  - (c) A statement of matters officially noticed;
  - (d) Questions and offers of proof, objections and rulings herein;
  - (e) Findings and conclusions; and
  - (f) Any decision, opinion or report by the hearing officer.
- (5) Findings of fact shall be based exclusively on the evidence presented and on matters officially noticed;
- (6) Notice of the final decision shall be in writing and hand delivered to the permit holder or operator or mailed certified mail return receipt requested within five (5) days of the hearing.

F. Decisions made by the hearing officer to revoke a permit shall be final.

(Ordained as Code 1973, § 4-20 by Ord. #1979-2, § 4-20; Ord. #1981-64, § 27; SFCC 1981, § 6-6-5; Ord. #2004-20, §§ 18, 19; Ord. #2014-7, §13)

#### **5-6.6 Reserved.**

**Editor's Note:** Former subsection 5-6.6, Hearing; Review, previously codified herein and containing portions of Code 1973, § 4-21 by Ord. No. 1979-2, § 4-21 and SFCC 1981, § 6-6-6 was repealed in its entirety by Ord. No. 2004-20. See subsection 5-6.5F for provisions pertaining to hearings and review.

#### **5-6.7 Additional Pet Shop Requirements.**

A. Prior to offering a dog or cat for sale and thereafter at intervals of fifteen (15) days until such dog or cat is sold, pet shops shall provide for examination of such dog or cat by a licensed veterinarian. The pet shop shall maintain a record of the veterinary services rendered for each dog or cat offered for sale.

B. If within fifteen (15) days of sale, any such dog or cat becomes ill or dies of any illness which existed in such dog or cat at the time of the sale, the pet shop shall, at the option of the purchaser, replace the dog or cat or refund in full the purchase price of such dog or cat provided that in the case of illness, upon return of the dog or cat to the pet shop and the receipt of a certificate from a licensed veterinarian, stating that the dog or cat is ill from a condition which existed at the time of sale or in the case of death, the receipt of a certificate from a licensed veterinarian stating that the dog or cat died from an illness which existed at the time of sale. The presentation of such certificate shall be sufficient proof to claim reimbursement or replacement and the return of such deceased dog or cat to the pet shop shall not be required. No such refund or replacement shall be made if such illness or death resulted from maltreatment or neglect by a person other than the pet shop owner or his agent or employee.

C. A sign measuring not less than three (3) inches in height and not less than five (5) inches in width shall be posted on the crate of each dog offered for sale in a pet shop. The sign shall contain information printed in black lettering on a white background listing the breed of such dog, the locality and state in which such dog was born, and any individual identification number of such dog as listed on the official certificate of veterinary inspection from the state of origin.

D. A sign shall be posted stating the following "THE FOLLOWING INFORMATION IS ALWAYS AVAILABLE ON ALL OUR PUPPIES: DATE OF BIRTH, THE STATE OF BIRTH, BREED, SEX AND COLOR, THE DATE THE PET SHOP RECEIVED THE PUPPY, THE NAMES AND REGISTRATION NUMBERS OF THE PARENTS (FOR AKC REGISTERABLE PUPPIES), RECORD OF INOCULATIONS AND WORMING



TREATMENTS AND ANY RECORD OF ANY VETERINARY TREATMENT OR MEDICATIONS RECEIVED TO DATE." Such sign shall include a telephone number at the animal services center through which information may be obtained regarding complaints about diseased or disabled animals offered for sale. Such sign shall be posted in a place readily visible to the consumer where dogs are offered for sale and printed in black lettering not less than thirty-eight (38) point size upon a white background.  
(Ord. #2004-20, § 21; Ord. #2014-7, §14)

## **5-7 GENERAL REGULATIONS.**

### **5-7.1 Possession, Confinement and Impoundment of Animals.**

A. No person shall hold or retain possession of any animal of which he is not the owner, without the knowledge or consent of the owner, for more than twenty-four (24) hours without first reporting the possession to the administrator or his designee, giving his name and address, a true and complete statement of the circumstances, a description of the animal and the precise location where such animal is confined.

B. It is unlawful for any person taking up an animal to fail to give the notice required in paragraph A. of this section, and for any person having such animal in his possession to fail or refuse to immediately surrender such animal to the administrator or his designee upon demand.

C. A licensed stray animal shall be confined at the animal services center for a period of at least seven (7) days during which time the owner shall be notified. If identification or notification of the owner is not possible, the animal services center may dispose of the animal, without notice, one (1) day after the required impoundment period and may either place the animal in an adoptive home, or may destroy the animal in a humane fashion, as the administrator may deem proper.

D. An unlicensed stray animal shall be confined at the animal services center for a period of at least five (5) days. One (1) day after the required impoundment period, the administrator may either place the animal in an adoptive home, or may destroy the animal, in a humane fashion, as the administrator may deem proper.

E. The animal services officers have the right to impound animals that are destroying public or private property or endangering the welfare of any person or animal that is lawfully on public or private rights-of-way. Any animal in violation of this subsection is declared to be a nuisance, a menace to the public health and safety and shall be impounded.

F. A notice of impoundment shall be left when an animal is impounded from private property. An attempt shall be made by the animal services officers to contact the owner.

G. No animal that has been impounded by the animal services center shall be adopted-out for the purpose of breeding or sale. Every dog and cat adopted from the center shall be neutered by a licensed veterinarian. A fee for the operation shall be paid to the animal services center or its designee by the person purchasing the dog or cat, prior to the release of the animal.

H. In the event of a stray avian, bovine, equine, ovine, porcine or caprine animal services shall turn the animal over to the state livestock board.

I. In the event of sickness or injury of the animal upon the advice of a licensed veterinarian, the administrator may take such action as called for to prevent undue pain and suffering including immediate humane euthanasia of the animal.

J. It is the responsibility of an owner of an animal legally impounded to pay for boarding and other costs. The city shall establish appropriate fees and procedures for their collection. In addition, the owner shall pay any license fees due, cost of vaccinations, fines imposed or other costs incurred in the care and maintenance of the animal. The animal services center shall not release any animal impounded at the center until all such fees, fines and costs are paid.

K. Dogs or cats shall not be released unless properly vaccinated and licensed as set forth in subsections 5-5.1 and 5-5.6 SFCC 1987. Dogs and cats shall be spayed or neutered before the animal is released unless the animal is licensed as an unaltered animal; however, upon the third impoundment the animal shall be neutered before it is released. The owner shall be responsible for all costs incurred and shall pay in full before the animal is released.

L. If the administrator determines that an animal is a threat to public safety or that an animal's safety is in jeopardy, the administrator may impound the animal, at the owner's expense, for the time necessary to seek a court order to hold the animal until the case against the owner or caretaker of the animal is heard in municipal court. Any attempt to obtain such a court order shall be made expeditiously. The owner or caretaker of the animal shall be responsible for any and all boarding and medical costs that accrue as a result of such impoundment.  
(Ordained as Code 1973, § 4-22 by Ord. #1979-2, § 4-22; Ord. #1980-39, § 8; Ord. #1984-71, § 1; SFCC 1981, § 6-7-1; Ord. #1999-26, § 3; Ord. #2004-20, § 22; Ord. #2014-7, §15)

### **5-7.2 Enclosure for Breeding Animals.**

It is unlawful for any person to let any female animal to any male animal, except within an enclosure so arranged as to obstruct the animals completely from the view of all who have no proprietary interest in the breeding of the animals. (Ordained as Code 1973, § 4-23 by Ord. #1979-2, § 4-23; SFCC 1981 § 6-7-2)

### **5-7.3 Animals on Unenclosed Premises.**

It is unlawful for any person to chain, stake-out, graze or herd any animal on any unenclosed premises in such a manner that the animal may go beyond the property line. (Ordained as Code 1973, § 4-24 by Ord. #1979-2, § 4-24; SFCC 1981 § 6-7-3)

### **5-7.4 Vicious Animals; Dangerous Animals.**

A. *Vicious Animals.* No person shall keep or harbor a vicious animal. An animal whose bite or attack results in or causes great bodily harm to a person or an animal may be deemed vicious by a court of law. Any person attacked by a vicious animal while on public property may use reasonable force to repel the attack. An animal deemed vicious by a court of law shall be surrendered to the animal services center for humane euthanasia, at the owner's expense, or the owner shall provide acceptable proof to the animal services center that the animal has been destroyed.

B. *Dangerous Animals.* No person shall keep or harbor a dangerous animal in a manner that constitutes a threat to a person or other domesticated animal. An animal deemed dangerous by a court of law shall be muzzled, on a leash no longer than three (3) feet, and under the immediate physical control of the owner or person having custody whenever the animal is not on the premises of the owner or person having custody. If an animal is found to be dangerous and the owner or person having custody of the animal has been found to not be in compliance with this section, then the animal may be deemed vicious by a court of law.  
(Ordained as Code 1973, § 4-25 by Ord. #1979-2, § 4-25; SFCC 1981, § 6-7-4; Ord. #2002-14, § 2; Ord. #2004-20, § 1; Ord. #2014-7, §16)

### **5-7.5 Animals Disturbing the Peace.**

A. It is unlawful for anyone to own, keep, or harbor any animal which habitually howls, yelps, whines, barks or makes other noises in a manner which tends to disturb the public peace unreasonably.

B. Any person who violates the provisions of this section shall be punished in accordance with the terms of the city code.

C. All complaints filed pursuant to this section shall be made at the animal services office, Monday through Friday, 8:00 a.m. to 5:00 p.m. or to an animal services officer in the field. Complaints shall be in writing on forms provided by animal services, including the complainant's name, address, phone number and signature as well as the animal owner's name and address. All complainants shall be willing to testify and provide documentation regarding the complaint in municipal court.

D. Upon receipt of the complaint, animal services shall notify the pet owner in person and/or in writing of the complaint filed. The complainant may contact animal services a second time and animal services shall notify the pet owner again. If no progress is made in resolving the complaint and the complainant contacts animal services a third time, animal services shall submit the written complaint to municipal court.

(Ordained as Code 1973, § 4-26 by Ord. #1979-2, § 4-26; Ord. 1980-39, § 9; SFCC 1981, § 6-7-5; Ord. #2004-20, § 23)

### **5-7.6 Animal Nuisances.**

A. It is unlawful for the owner of any animal to permit, either willfully or through failure to exercise due care or control, any such animal to create any nuisance upon a sidewalk, public park, alley or other place open to the public or upon any property other than that of the owner of the animal. The term nuisance shall include any defecation, destruction of property or disturbing the property of another, including the rubbish or trash of a resident. When an animal defecates in such place, the owner shall remove the feces and dispose of it in a sanitary manner. Anyone walking an animal in a public area shall have in his or her possession a sanitary and disposable means of removing the animal's feces which must be placed in a refuse container for sanitary removal. The person shall be able to present such means upon request of an animal services officer. The provisions of this paragraph shall not apply to a service animal accompanying any person with a disability.

B. Any person keeping animals shall provide adequate and sanitary housing facilities for such animals, and no stagnant water shall be permitted to accumulate. All structures used for the housing of such animals and all yards, cages and runs provided for them shall be cleaned in a timely manner so as not to cause noxious or offensive odors and to prevent the breeding of insects. Such areas shall be cleaned often enough so as not to cause a health hazard for the animal or interfere with the animal's well-being. Failure to so keep any such animal is hereby declared to be a nuisance and unlawful.

C. Violations of this section shall constitute a nuisance and shall subject the owner or person having care or control of the animal to the penalties set forth in Section 5-12 SFCC 1987.

(Ordained as Code 1973, § 4-27 by Ord. #1979-2, § 4-27; SFCC 1981, § 6-7-7; Ord. #2004-20, § 24; Ord. #2014-7, § 17)

### **5-7.7 Unlawful Use of License Tags.**

It is unlawful for any person to remove any license tag from one animal to another or to remove a license tag from a stray without lawful permission. It is unlawful for any person to manufacture or cause to be manufactured or to have in his possession or under his control, a stolen, counterfeit or forged animal license tag, rabies vaccination certificate or other form of animal or premises license. (Ordained as Code 1973, § 4-28 by Ord. #1979-2, § 4-28; SFCC 1981, § 6-7-7)

### **5-7.8 Reserved.**

**Editor's Note:** Former subsection 5-7.8, Breaking into Center, Shelter or Vehicles, previously codified herein and containing portions of Code 1973, § 4-29 by Ord. No. 1979-2 and SFCC 1981, § 6-7-8 was repealed in its entirety by Ordinance No. 2004-20.

### **5-7.9 Service Animals in Public Places.**

It is unlawful for any person owning, operating or maintaining any public place of business or conveyance into which the general public is invited for any purpose to debar or exclude therefrom any dog or miniature horse designated as a service animal that has been individually trained to work or perform tasks for an individual with a disability whom it was trained to assist in conformance with the law. (Ordained as Code 1973, § 4-30 by Ord. #1979-2, § 4-30; SFCC 1981, § 6-7-9; Ord. #1989-27, § 2; Ord. #2014-7, § 18)

### **5-7.10 Slaughterhouses and Slaughtering.**

It is unlawful for any person to keep a slaughterhouse or to slaughter any cattle, sheep or swine. (Ordained as Code 1973, § 4-31 by Ord. #1979-2, § 4-31; SFCC 1981, § 6-7-10)

### **5-7.11 Confining Animals in or upon Motor Vehicles.**

No person shall confine any animal in or upon a motor vehicle that would place the animal in a life or health threatening situation because of exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from the heat or cold. In order to protect the health and safety of an animal, an animal services officer or law enforcement officer who has probable cause to believe that this section is being violated shall have the authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner of the motor vehicle. (Ord. #1984-66, §§ 1-2; SFCC 1981, §§ 6-7-11 and 6-7-12; Ord. #2004-20, § 26; Ord. #2014-7, § 19)

### **5-7.12 Transportation of Animals.**

Nothing in this chapter shall be deemed to prohibit the transportation of horses, cattle, sheep, poultry or other agricultural livestock in trailers or other vehicles designed and constructed for such purpose. (Ord. #1984-66, § 3; SFCC 1981, § 6-7-13)

### **5-7.13 Removal of Animals from Motor Vehicles by Animal Services Officer or Peace Officer.**

An animal services or peace officer who finds an animal in a motor vehicle in violation of this chapter may enter the motor vehicle if necessary to remove the animal. The officer removing the animal shall take the animal to an animal services center or other place of safe keeping. If a vehicle is entered, left unsecured and cannot be resecured, an animal services or peace officer shall stay with the vehicle until the owner arrives. In the event the person having custody cannot be contacted, the officer shall leave in a prominent place in the motor vehicle a written notice bearing his name and office and the address where the animal may be claimed by the owner. The animal will be surrendered to the owner if the owner claims the animal within five (5) days from the time the animal was impounded. The owner shall pay all charges that have accrued for the maintenance of the animal. If the owner fails to claim the animal within five (5) days after its removal from the motor vehicle, the animal services center will make reasonable effort to contact the owner and give notice that the animal is in their custody. In the event the owner cannot be contacted or expresses no interest in reclaiming the animal within five (5) days after contact or efforts to contact, the animal services center may dispose of the animal in any reasonably humane

#### **5-7.14 Reserved.**

**Editor's Note:** Former subsection 5-7.14, Removal of Canine Waste, previously codified herein and containing portions of Ordinance No. 1991-32 was repealed in its entirety by Ordinance No. 2004-20.

#### **5-7.15 Spaying and Neutering.**

A. No person shall own or harbor within the city municipal boundaries any dog or cat over the age of six (6) months that has not been spayed or neutered unless that person obtains an annual permit from the animal services division to keep an unaltered dog or cat or obtains written verification from a licensed veterinarian that the dog or cat should not be neutered for health reasons.

B. Proof of neutering, if not apparent upon visual inspection, may be made by certificate or receipt from a licensed veterinarian.

C. Proof of unaltered dog or cat permit shall be available upon reasonable demand of an animal services officer or the owner of said animal will be cited for violation of the ordinance and the animal may be impounded.

D. A vasectomy is not an acceptable form of neutering.  
(Ord. #2004-20, § 28)

#### **5-7.16 Special Events on the Plaza.**

The city of Santa Fe declared it to be conducive to the protection, health, and general welfare of the people to ban all animals from the Plaza during the Challenge New Mexico Arts and Crafts Show; Fourth of July Pancake Breakfast; Spanish Market; the Contemporary Hispanic Market; Santa Fe Girls' Inc. Arts and Crafts Show; Indian Market; Santa Fe Fiesta Labor Day Arts and Crafts Market; and Santa Fe Fiesta described in subsection 23-5.2 SFCC 1987, except as set forth in this subsection. Service animals and animals in city-approved parades or other animal events shall be exempt from this ban. For the purposes of this restriction, the Plaza shall include the center park and those areas surrounding the center park designated for those events as described in subsection 23-5.2 SFCC 1987. (Ord. #2004-20, § 29; Ord. #2014-17, §21)

### **5-8 CRUELTY TO ANIMALS PROHIBITED.**

#### **5-8.1 Generally.**

It is unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, kick, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance any animal, except that reasonable force may be employed to drive off vicious or trespassing animals. (Ordained as Code 1973, § 4-32 by Ord. #1979-2, § 4-32; SFCC 1981, § 6-8-1)

**Editor's Note:** For related state law, see §§ 3-18-3 and 30-18-1 through 30-18-8 NMSA 1978.

#### **5-8.2 Work Cruelty.**

It is unlawful for any person to drive or work any animal cruelly. (Ordained as Code 1973, § 4-33 by Ord. #1979-2, § 4-33; SFCC 1981, § 6-8-2)

#### **5-8.3 Neglect.**

No person shall fail, refuse or neglect to provide an animal in his or her charge or custody with proper food, clean water, shade, ventilation, necessary medical care, basic grooming which is necessary for the health of the animal, or shelter which shall be a weatherproof and structurally sound enclosure large enough to accommodate the animal. (Ordained as Code 1973, § 4-34 by Ord. #1979-2, § 4-34; SFCC 1981, § 6-8-4; Ord. #2004-20, § 30)

#### **5-8.4 Abandonment.**

It is unlawful for any person having charge, custody or ownership to abandon any animal. All animals which are to be abandoned may be turned over to the animal services center or the animal shelter for adoption. (Ordained as Code 1973, § 4-35 by Ord. #1979-2, § 4-35; SFCC 1981, § 6-8-4; Ord. #2004-20, § 1)

#### **5-8.5 Poisoning.**

It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. It is not the intent of this subsection to prohibit the use of poisonous substances for the control of vermin of significance to the public health. (Ordained as Code 1973, § 4-36 by Ord. #1979-2, § 4-36; SFCC 1981, § 6-8-5)

#### **5-8.6 Protective Care.**

When the administrator finds that any animal is or will be without proper care because of injury, illness, incarceration or absence of the owner or person responsible for the care of the animal, the administrator may take up the animal for protective care. In the event of sickness or injury of the animal, upon the advice of a licensed veterinarian, the administrator may take such action as called for to prevent undue pain and suffering including immediate humane euthanasia of the animal. The animal will be held free of charge for seventy-two (72) hours. If the animal is not claimed during that period, daily boarding fees shall be charged. (Ordained as Code 1973, § 4-37 by Ord. #1979-2, § 4-37; SFCC 1981, § 6-8-6; Ord. #2004-20, § 31; Ord. #2014-7, §22)

#### **5-8.7 Injury by Motorists.**

A. Every operator of a motor or other self-propelled vehicle upon the streets and ways shall immediately, upon injuring, striking, maiming or running down any animal, give aid as is reasonably able to be rendered. In the absence of the owner, he shall immediately notify the administrator, furnishing sufficient facts relative to the injury.

B. Every such operator shall remain at or near the scene until the appropriate authorities arrive, and upon the arrival of the appropriate authorities, the operator shall immediately identify himself to them. Alternatively, in the absence of the owner, a person may give aid by taking the animal to a veterinary hospital or the animal services center and notifying the administrator. The animal shall be deemed an abandoned animal within the meaning of subsection 5-8.4 of this chapter. This provision does not apply to operators of emergency vehicles.

### **5-8.8 Hobbling Livestock.**

It is unlawful to hobble livestock or other animals by any means which may cause injury or damage to any animal. (Ordained as Code 1973, § 4-39 by Ord. #1979-2, § 4-39; SFCC 1981, § 6-8-8)

### **5-8.9 Keeping of Diseased or Painfully Crippled Animals.**

It is unlawful to have, keep or harbor any animal which is infected with any dangerous or incurable or painfully crippling condition except as provided in this chapter. The administrator may impound the diseased or painfully crippled animal in accordance with the provisions of this chapter. All such animals impounded, following examination and approval by a veterinarian may be destroyed humanely as soon thereafter as is conveniently possible. In the case of humane euthanasia of an animal, the administrator shall not be required to give any of the notices provided in this chapter. This subsection shall not be construed to include veterinary hospitals or animals under active veterinary care. (Ordained as Code 1973, § 4-40 by Ord. #1979-2, § 4-40; SFCC 1981, § 6-8-9; Ord. #2014-7, §23)

### **5-8.10 Animal Fights.**

It is unlawful for any person to promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest or fight in which one (1) or more animals are engaged for the purpose of injuring, killing, maiming or destroying themselves or any other animal. (Ordained as Code 1973, § 4-41 by Ord. #1979-2, § 4-41; SFCC 1981, § 6-8-10)

### **5-8.11 Confining or Crating of Fowl.**

It is unlawful for any person to confine any wild or domestic fowl or bird unless provisions are made for the proper feeding and the furnishing of water to the fowl or bird at intervals not longer than twelve (12) hours; and unless provisions are made that the crate, box or other enclosure in which the fowl or bird is confined or impounded permits the fowl or bird to stand in a naturally erect position. (Ordained as Code 1973, § 4-42 by Ord. #1979-2, § 4-42; SFCC 1981, § 6-8-11; Ord. #2014-7, §24)

### **5-8.12 Birds.**

It is unlawful to willfully kill any bird, or to molest or rob the nest of a bird. (Ordained as Code 1973, § 4-43 by Ord. #1979-2, § 4-43; Ord. #1980-39, § 10; SFCC 1981, § 6-8-12)

## **5-9 SALE OF ANIMALS.**

### **5-9.1 Use of Public Property.**

It is unlawful to display, sell or offer for sale, barter, give away or otherwise dispose of any animal upon any street, sidewalk or public park. (Ordained as Code 1973, § 4-44 by Ord. #1979-2, § 4-44; SFCC 1981, § 6-9-1)

### **5-9.2 Rabbits or Fowl.**

It is unlawful to sell, offer for sale, barter or give away any unweaned baby rabbits or fowl under four (4) weeks of age. Raising of such rabbits and fowl by an individual for his personal use and consumption is not prohibited provided that he shall maintain proper brooders and other facilities for the care and containment of the animals and fowl while they are in his possession. The sale of young fowl by commercial breeders is not prohibited. (Ordained as Code 1973, § 4-45 by Ord. #1979-2, § 4-45; SFCC 1981, § 6-9-2)

### **5-9.3 Use of Animals as Premiums or Novelties.**

No person shall offer as a premium, prize, award, novelty or incentive to purchase merchandise, any live animal. (Ordained as Code 1973, § 4-46 by Ord. #1979-2, § 4-46; SFCC 1981, § 6-9-3)

### **5-9.4 Turtles.**

No person shall offer for sale, sell, barter or give away turtles except in conformance with appropriate federal regulations. (Ordained as Code 1973, § 4-47 by Ord. #1979-2, § 4-47; SFCC 1981, § 6-9-4)

### **5-9.5 Litter Permit Required.**

The owner who unintentionally breeds dogs or cats and does not have a current professional animal care permit for breeding, as required in subsection 5-6.2 SFCC 1987, shall pay a litter fee for each litter. An owner shall not advertise, sell, barter, exchange or give away any dog or cat within the municipal boundaries unless the litter fee is paid. Any advertisement for the sale, barter, exchange or give away shall include the litter fee receipt number. An owner shall furnish the litter fee receipt number to any prospective recipient requesting the number. If the owner purchases a breeder permit or provides proof of sterilization of the female animal within thirty (30) days of being cited for violation of this section, such charge shall be dropped. If the owner takes all or part of the litter to the Santa Fe animal shelter to surrender, a litter permit shall not be required provided that the animal that produced the litter is neutered. (Ord. #2004-20, § 32; Ord. #2014-7, §25)

## **5-10 EXOTIC ANIMALS AND GUARD DOGS.**

### **5-10.1 Wild or Exotic Animals.**

A. It is unlawful to be in charge of, possess or own:

- (1) Any wild or exotic animal or species prohibited by federal or state law;
- (2) Any wild or exotic animal or species when kept in such numbers or in such a way as to constitute likelihood of harm to the animals themselves, to human beings or to the property of human beings, or which constitutes a public or private nuisance;
- (3) Bats; or

(4) Skunks, except those owned by individuals on the effective date of this chapter and provided that any wild or exotic animal permit is obtained for the skunks within sixty (60) days of the effective date.

B. It is unlawful to receive, purchase, own or keep any wild or exotic animal without first applying to and receiving from the administrator a permit to do so. Notwithstanding, those persons in possession of a wild or exotic animal when they become residents of the city in the future or who possess the animal on the effective date of this chapter have a sixty (60) day period in which to apply for the permit before the penalty provisions of this chapter become enforceable.

C. No person shall apply for a wild or exotic animal permit without first obtaining any required state or federal permits.

D. The application for a permit shall contain the name of the applicant; his address, the address of the proposed location of the wild or exotic animal if different from the applicant's; a brief description of the applicant's plan for keeping the wild or exotic animal which shall include the species of animal, the number of individuals of each species, and a description of the housing facilities; a list of individuals qualified to care for the animal desired or that have agreed to advise or assist the applicant in the proper care and treatment of the animal and who would be willing to recommend the person applying for the permit; and the list of publications which the applicant has studied in order to qualify for a permit for the animal.

E. Upon receipt of the application, the administrator shall inspect the facilities where the animal is to be housed and shall make whatever other investigations he deems necessary. The administrator may deny a permit if the inspection or investigation determines that the provisions of this section are not met.

F. Whenever, in any given permit year, there are new wild or exotic animals in a collection due to the reproduction of members of the collection or to replacement in the same number and zoological species as the members replaced, the new animals do not require an additional permit during the year, provided the administrator is notified in writing of the new exotic animals within thirty (30) days of acquisition. When a new or wild exotic animal or collection is added, a new permit must be secured and a new fee shall be due and payable at the time of issuance of the permit and shall be a prerequisite of the issuance.

G. The wild or exotic animal permit shall be valid for one (1) year, and shall be reviewed within sixty (60) days after expiration and an inspection is required prior to the renewal of the permit. If, during the preceding year, more than one (1) renewal permit has been issued an applicant, the former permits may be consolidated so that only one (1) renewal permit is required; provided, however, that the renewal date for the consolidated permit shall be the date of the issuance of the earliest permit. The animal services center may deny the application for renewal for cause.

H. Individuals authorized to acquire a wild or exotic animal shall, within fourteen (14) days of acquisition, submit to the animal services center, a health certificate from a qualified veterinarian stating that the animal is in good health and has been vaccinated in accordance with applicable time schedules.

I. It is unlawful to receive, purchase, own or keep any wild or exotic animal unless:

(1) Housing is sufficiently spacious, ventilated and temperature-controlled, clean and sanitary at all times;

(2) The wild or exotic animal is provided with proper food, water and attention;

(3) The wild or exotic animal is kept and cared for in such a way as not to endanger the safety of any person or property; and

(4) The wild or exotic animal permittee notifies the administrator when changing his residence or location of the wild or exotic animal, or selling or otherwise disposing of the wild or exotic animal for which the permit was issued.

J. Permits issued pursuant to the provisions of this subsection shall be surrendered for inspection upon the request of the administrator. The premises on which a wild or exotic animal is maintained shall be open at any reasonable hour and in a reasonable manner for inspection by the administrator.

K. For failure to have a permit in advance of obtaining a wild or exotic animal or to renew the permit within sixty (60) days of the expiration date, or upon suspension of a wild or exotic animal permit, the administrator shall have the authority to enter the premises where the wild or exotic animal is kept, at any reasonable hour, and to impound the animal. The animal shall be surrendered upon the demand of the administrator. Procedures for the reclamation and humane euthanasia of impounded wild or exotic animals shall be followed pursuant to subsection 5-4.4 of this chapter, and for penalties, pursuant to Section 5-12. The wild or exotic animal may be returned to its owner if the problem for which it was impounded is corrected within the time period allotted by the administrator and all penalties are paid.

L. Notwithstanding the above, the valid zoological park, veterinary hospital, humane society, shelter, public laboratory, circus, sideshow, educational or scientific facility, provided protective devices adequate to prevent the animal from escaping or injuring the public are provided, are excluded from the above portions of this subsection.

M. Upon application to the administrator, the keeping of these prohibited animals may be permitted for educational or scientific purposes; provided there is no conflict with state or federal regulations. In lieu of licensing each animal, a wild or exotic animal permit may be issued in accordance with this subsection.

N. No person shall keep, conduct or operate any traveling animal show, petting zoos, circus, pony rides, animal acts or miscellaneous animal or reptile exhibits without first obtaining a special animal permit from the administrator as follows:

(1) Each application for a special animal permit shall be in writing upon a form to be furnished by the administrator and shall contain such information as the administrator shall require;

(2) All special permits issued by the administrator shall be for a specified period of time but not to exceed one (1) year unless revoked or suspended, or unless the holder of the permit changes the location of his place of business, or sells, assigns, transfers or otherwise disposes of his business or his interests therein; and

(3) Upon the filing of each application, either for an original permit or renewal, the administrator shall make an investigation as he deems proper. The administrator shall then issue a permit to the applicant if it is found that:

(a) The animals, or the conduct or operation of the business for which the permit is requested will not constitute a menace to the health, peace or safety of the citizens; and

(b) The premises and establishment where the animals are to be kept are maintained in a clean and sanitary condition and that the animals will not be subject to needless suffering, unnecessary cruelty or abuse and that the applicant has not had a permit revoked within one (1) year prior to the date of application.

(Ordained as Code 1973, § 4-48 by Ord. #1979-2, § 4-48; SFCC 1981, § 6-10-1; Ord. #2004-20, § 33; Ord. No. 2014-7, §26)

## **5-10.2 Permits and Housing of Guard Dogs.**

A. It is conducive to the promotion of the health and general welfare of the inhabitants of this city to require permits for guard dogs, used on commercial property, and to establish regulations for the proper and safe use of guard dogs used for protecting commercial property.

B. Permits:

(1) Unless a guard dog permit is in effect for each commercial property where guard dogs are to be used, they shall not be used. Procedures for permit application, inspection of guard dog facilities, and issuance of dog identification tags will be established by the administrator. Permits for both permanent and temporary locations may be transferred to a new location operated by the same business firm during the license year. However, such transfers shall not be effective until the administrator or his designee has inspected and approved required facilities at the new location and the information required below for permit applications has been recorded. Applicants must provide five (5) working days advance notice to the animal services center for permit transfers.

(2) Permit applications shall include the following information:

(a) The business name, address and telephone number of the commercial property where guard dogs are to be used;

(b) The name, address and telephone number of the handler who can be reached at any time during the day or night;

(c) The number of dogs to be used and a general description of their use;

(d) The location where dogs are to be housed; and

(e) Any other information that the administrator deems necessary by rule and regulation. Permit holders shall notify the animal services center if any information recorded as part of the permit application is changed during the course of the period for which the permit is issued.

(3) The administrator or his designee shall inspect the facilities where the guard dog is to be used and housed when the guard dog permit is applied for and when it is renewed.

(4) If the inspection reveals that all the requirements of law and regulation are met, a guard dog permit for the approved commercial property shall be issued by the animal services center. The permit shall be displayed at the approved commercial property and an identification tag shall be affixed to the collar of each dog used. Holders of the guard dog permits shall be exempt for the guard dogs from the license fee requirements of subsection 5-5.6 of this chapter.

(5) The guard dog permit shall be valid for one (1) year and shall be renewed annually within thirty (30) days after the renewal date.

(6) The guard dog permit must be obtained prior to housing or utilizing guard dogs at the commercial property; provided that for those commercial properties where guard dogs were in use when this regulation became effective, there shall be a ninety-day period in which to obtain the permit without penalty.

C. Whenever there is a guard dog on the premises, the standards of this subsection, in addition to the other requirements of law and regulations, shall be complied with, as follows:

(1) Housing shall have anti-escape fences completely surrounding it or be an anti-escape building sufficient to house guard dogs.

(2) All gates and entrances to the area where the guard dog is housed, used or trained shall be locked when not in use.

(3) Additional measures found necessary by the administrator shall be taken to protect the public from accidental contact with any guard dog.

(4) Where guard dogs are used outside buildings, the area must be enclosed by at least a six-foot chain link fence or other fence of equal security, wall or adequate wood fence, to which anti-escape devices have been added. The adequacy of the fencing shall be subject to the approval of the administrator.

(5) In order to control noise, the administrator may require a sight barrier which breaks the dog's line-of-sight.

(6) In buildings where guard dogs are housed, exterior glass shall be adequate, or additional protective measures shall be taken by the owner, as required by the administrator, to prevent the dog from jumping through it.

(7) The building and yard in which a guard dog is housed shall be posted with bilingual, English and Spanish, or visual guard dog signs, approved by the administrator that shall not be more than two hundred (200) feet apart, and shall be at all property corners and at every entrance into the area.

(8) For guard dogs either transported or used in vehicles, measures prescribed by rule and regulation of the administrator must be taken to protect the public from accidental contact with a guard dog.

(9) A handler is required to be physically present while guard dogs are being used at temporary sites which do not comply with this subsection.

D. Dogs which are used as private guard dogs on the property of their owner's private residence, shall be excluded from the provisions of this subsection unless the residence is located on premises used for commercial purposes. Guard dogs kept in a kennel with a valid professional animal permit are also excluded. (Ordained as Code 1973, § 4-49 by Ord. #1979-2, § 4-49; Ord. #1980-39, § 11; SFCC 1981, § 6-10-2; Ord. #2004-20, § 34; Ord. #2014-7, §27)

### **5-10.3 Violations, Suspensions and Revocations under Professional Animal Care Permit, the Exotic Animal Permit and the Guard Dog Permit; Appeal Procedure.**

A. If the administrator makes an inspection of a kennel, grooming parlor, pet shop, shelter, facility for exotic animals or commercial property where guard dogs are used, and discovers a violation of law or regulations, he shall notify the permit holder, or operator, of such violations by means of an inspection report form or other written notice. The notice shall:

(1) Set forth the specific violation found;

(2) Establish a specific and reasonable period of time for correction of the violation found;

(3) State that failure to comply with any notice issued in accordance with the provisions of this chapter may result in immediate suspension of the permit; and

(4) State that an opportunity for appeal from any decision or inspection findings will be provided if a written request for a hearing is filed with the administrator within five (5) days of the receipt of the notification.

B. Notices provided for under this subsection shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally or mailed by registered or certified mail, return receipt requested, to the permit holder, person in charge, or alleged violator. A copy of such notice shall be filed with the records of the administrator.

C. Hearings provided for in this subsection shall be conducted by the administrator at a time and place designated by him. Based upon the record of such hearing, the administrator shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the permit holder by the administrator. This paragraph shall not be intended to preclude the institution of court action as provided elsewhere in this chapter.

D. Permits may be suspended by the administrator for failure of the holder to comply with the requirements of law or regulations. The administrator may notify a permit holder in writing that the permit or license is, upon receipt of the notice, immediately suspended, and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the administrator within five (5) days of receipt.

E. Notwithstanding the notice requirements herein, when the administrator finds unsanitary or other conditions in the operation of a kennel, grooming parlor, pet shop, shelter, exotic animal facility, or site where guard dogs are used, which, in his judgment, constitute a substantial hazard to public health, he may, without notice or opportunity to be heard, issue a written notice to the permit holder or operator citing such condition and stating the corrective action to be taken. If deemed necessary, the permit shall be immediately suspended and all operations immediately discontinued. Any person to whom such an order is issued shall comply forthwith.

F. For repeated violations of any of the requirements of law or regulations or for interference with the administrator in the performance of his duties, the violator's permits may be permanently revoked after an opportunity for a hearing has been provided by the administrator. The individual whose professional animal, exotic animal or guard dog permit is revoked shall not apply for another permit or license for the period of one (1) year. Prior to such action, the administrator shall notify the permit holder in writing, stating the reasons for which the permit is proposed to be revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the administrator by the permit holder or licensee, within such five (5) day period.

G. If the exotic animal permit is revoked, the owner of the exotic animal shall surrender the animal to the animal services center within five (5) days of the effective date of revocation.

H. Any person whose professional animal or guard dog permit has been suspended, shall cease the previously permitted activity. The person may, at any time, make application for an inspection for the purpose of reinstatement of the permit. Within five (5) days of a request for reinstatement, the administrator shall make an inspection. If the applicant is complying with the requirements of law and regulations, the permit may be reinstated.

I. Any person aggrieved by any decision of the administrator may, within five (5) days of receipt of his decision, file written notice of appeal to the governing body. The hearing of the governing body shall be conducted within thirty (30) days of receipt of the notice of appeal.  
(Ordained as Code 1973, § 4-50 by Ord. #1979-2, § 4-50; Ord. #1980-39, § 12; SFCC 1981, § 6-10-3; Ord. #2004-20, § 1; Ord. #2014-7, §28)

## **5-11 NONPROFIT ORGANIZATION SHELTER CONTRACT.**

### **5-11.1 Shelter Run by Nonprofit Organization.**

A. In lieu of or until the establishment and maintenance of a city-owned animal services center facility, the city may contract for operation and maintenance of such facility with any responsible nonprofit organization, incorporated under the laws of the state, having for its object, the care of animals and the prevention of cruelty to animals.

B. In the event that the city shall enter into any such contract, all the provisions of law and regulations shall apply to and be part of the contract.  
(Ordained as Code 1973, § 4-52 by Ord. #1979-2, § 4-52; SFCC 1981, 6-11-1; Ord. #2004-20, § 1)

## **5-12 LICENSES AND PERMIT FEES; FINES AND PENALTIES; AND OTHER CHARGES.**

A. The governing body shall adopt by passage of a resolution a schedule of licensing and permit fees, mandatory fines and penalties for violation of this chapter and other charges. The animal services center may establish alternatives to the mandatory fines and penalties for first offenses in order to encourage responsible pet ownership. The fines and penalties may not be deferred or suspended on second or subsequent offenses.

B. Any violation of this chapter other than those listed in paragraph A. of this Section shall be punished as provided in Section 1-3 of this Code. Each day this chapter is violated shall be considered a separate offense. If any person is convicted of cruelty or mistreatment of an animal, that animal shall be removed from his custody and placed with the administrator.  
(Ordained as Code 1973, § 4-53 by Ord. #1979-2, § 4-53; SFCC 1981, § 6-12-1; Ord. #1984-71, § 2; Ord. #2004-20, § 35; Ord. #2014-7, §29)

## **5-13 DOG PARKS.**

### **5-13.1 Short Title.**

This section may be cited as the "Dog Park Ordinance." (Ord. #1999-26, § 4)

### **5-13.2 Purpose.**

Except as provided in subsections 5-5.4 and 5-7.1 SFCC 1987, dog parks within the city shall be defined and dedicated for the running of dogs at large or off-leash. (Ord. #1999-26, § 5)

### **5-13.3 Applicability.**

A. All persons wishing to run their dogs off-leash (except on their own premises) must do so within the established limits and boundaries of an official city designated dog park. It is the intent of this section for the city to designate enough dog parks that dog owners may walk to them and to not unduly impact any one (1) dog park.

B. Protocol for the users of dog parks or areas shall include, but not be limited to the following:

- (1) People must clean up after their pets and dispose of all feces left by their dog in accordance with Section 5-7.14 SFCC 1987.
- (2) No aggressive dogs shall be allowed. Dogs showing aggression towards people or other dogs must be immediately leashed and removed from the dog park. If a person continues to bring an aggressive dog to a dog park, such individual shall be cited in accordance with subsection 5-5.3 SFCC 1987.
- (3) Dogs must be wearing up-to-date rabies vaccination and city license tags at all times.
- (4) Dog owners or those having charge or custody of a dog are legally responsible for their dogs and any injuries caused by their dogs. Under no circumstances shall the city assume any liability for the actions of dogs or their owners.
- (5) People must remain with their dogs in the dog park, and must keep their dog in sight and must carry a leash at all times.
- (6) Leaving dogs unattended is absolutely prohibited. Dogs must be leashed before entering and leaving the dog park.
- (7) With the exception of puppies under five (5) months of age, all dogs using the dog park should be spayed or neutered. No dogs in heat are allowed in the dog park.
- (8) A limit of three (3) dogs per person per visit.
- (9) Young children must be closely supervised.
- (10) People must not permit their dogs to dig or to unduly disturb the terrain or vegetation. Any holes created by an individual's dog must be filled by that person.
- (11) Professional dog trainers may not use this facility for the conduct of their business.

C. The governing body is authorized to designate a dog park or to rescind such designation.

(Ord. #1999-26, § 6)

#### **5-13.4 Dog Park Maintenance and Volunteer Organizations.**

A. The success of a dog park is based in part on having volunteers assist with maintenance and clean-up.

B. Any persons or organizations wishing to aid in the maintenance and operations of a dog park or portions thereof are required to sign a waiver of liability form, record it with the city clerk's office and file it with the parks division.

(Ord. #1999-26, § 7; Ord. #2007-45, §24)

#### **CHAPTER V ANIMAL SERVICES**

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