

ORDINANCE NO. 2574

AMENDING CHAPTER 3

AN ORDINANCE AMENDING CHAPTER 3, ENTITLED "ANIMALS", OF THE CITY CODE OF THE CITY OF CHARLOTTE.

BE IT ORDAINED by the City Council of the City of Charlotte North Carolina, that:

Section 1. The present Chapter 3, "Animals", of the City Code shall remain in effect until February 28, 1989. The new Chapter 3, "Animals", which is attached and is fully incorporated herein, shall become effective upon March 1, 1989, except:

(a) The definition of "Dangerous animal" in the present City Code § 3-1 shall remain in effect until October 1, 1989, upon which date the new definitions of "Dangerous", "Provocation", and "Trespass" shall become effective.

(b) The present Code § 3-23, "Enforcement", shall remain effective until October 1, 1989, at which time the new Code § 3-9, "Enforcement", shall become effective.

(c) The following new sections shall not become effective until October 1, 1989: §§ 3-11 (Negligence per se), 3-15.1 (Animal bite), 3-15.2 (Aggression-trained dogs), 3-27 (Protective measures for confinement of dogs), § 3-34.1 (Failure to have City dog license: penalty and seizure) and 3-49 (Seizure and disposition of animals).

Approved as to form:


City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 23rd day of January, 1989, the reference having been made in Minute Book 92, and is recorded in full in Ordinance Book 37, at page(s) 319.

Pat Sharkey
City Clerk

CHAPTER 3

ANIMALS

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ARTICLE I. IN GENERAL

Section 3-1. Purpose

Pursuant to authority granted by the North Carolina General Assembly, this Animal Control Ordinance is enacted to regulate, restrict, or prohibit, if necessary, animals; to protect the public from unvaccinated, diseased, stray, roaming, dangerous, wild, or exotic animals; to make unlawful acts of animals that interfere with the enjoyment of property or the peace and safety of the community; to protect animals from abuse or conditions harmful to their well-being; to operate an animal shelter; and to carry out any other lawful duties authorized by State laws and applicable ordinances.

Section 3-2. Jurisdiction

This Ordinance shall be applicable within the corporate limits of the City of Charlotte. No employee of the animal control division shall have authority to enforce provisions of this ordinance within any other corporate limits or jurisdictions unless an interlocal agreement pursuant to G.S. § 160A-460 et seq. is executed by the City of Charlotte and the incorporated township. Such an interlocal agreement may be entered into at any time providing the appropriate resolution is adopted by the governing body of any such municipality or township agreeing that this Ordinance shall be enforced by the animal control officers, as defined below, within the corporate limits or jurisdiction of the municipality.

Section 3-3. Definitions

For the purpose of this chapter, the following words and phrases are defined and shall be construed as set out below unless it is apparent from the context that a different meaning is intended:

Animal: Every vertebrate nonhuman species of animal, wild or domestic, male or female, including, but not limited to dogs, cats, livestock, and other mammals, birds, reptiles, amphibians and fish.

Animal Control Officers: Persons properly appointed by the City of Charlotte to enforce all sections of this chapter and applicable State laws and who are responsible for discharging such other duties and functions as may be prescribed by the Board of Commissioners and the Charlotte City Council as set forward by this or any other applicable ordinance or State law or pursuant to interlocal agreements cited in section 3-2.

Cat: A domestic feline of either sex.

City: City of Charlotte.

Code: City of Charlotte Code.

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

County Dog Warden: The Superintendent of the Charlotte Animal Control Division shall be the County Dog Warden and shall have all powers conferred by State law upon the County Dog Warden or by this Ordinance upon Animal Control Officers.

County Rabies Ordinance: The Mecklenburg County Ordinance for the Control of Rabies and Other Zoonoses.

Division: The Charlotte-Mecklenburg Division of Animal Control.

Dog: A domestic canine of either sex.

Dangerous: Any animal whose behavior constitutes a reasonable risk of injuring a human or animal or damaging personal or real property. That behavior includes, but is not limited to, an animal's biting or attacking or attempting to attack a human or another animal. However, this definition shall not apply to any animal that has been subject to provocation or if the victim has been trespassing, as defined herein, upon the animal owner's premises.

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

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

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

Health Director: The Director of the Mecklenburg County Health Department.

Impounded: Any animal which is received into custody by any employee of the division.

Inoculation: The vaccination of a dog or cat with antirabic vaccine approved by the United States Bureau of Animal Industry, the North Carolina Department of Agriculture, and the North Carolina State Board of Health at such time or times as shall be required by the General Statutes of North Carolina, the North

Carolina Board of Health and/or the local health director, as defined in Section 106-364(2) of the General Statutes of North Carolina or as amended thereafter.

Neutered Male: Any male dog or cat which has been rendered sterile by a surgical procedure (orchietomy).

Owner: Any person, group of persons, firm, organization, association, society, club, lodge, partnership, syndicate, trustee, or corporation owning, keeping, having charge of, sheltering, feeding, harboring, or taking care of any animal for seven (7) or more consecutive days unless the animal is boarded for a fee. If a commercial kennel is involved for breeding, then ownership shall be indicated by the kennel operator by showing the registration of the animal in the name of the actual owner of the animal.

Pasture: An auxiliary fenced area with sufficient grass for grazing.

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

Provocation: Provocation shall not include any actions on the part of an individual that pertain to reasonable efforts of self-defense and provocation must be clearly established.

Shelter: Any facility designated by the City of Charlotte for the purpose of sheltering any animal lawfully impounded by the division.

Spayed Female: A female dog or cat which has been rendered sterile by surgical means (ovariohysterectomy).

Trespass: Trespass means that the victim has wrongfully invaded the property of the owner. The cause of the individual to be on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred. A child under the age of seven shall not be deemed to be a trespasser.

Superintendent: The Superintendent of the Charlotte-Mecklenburg Animal Control Division. Such person shall have all powers conferred by State law upon a County Dog Warden or by this Ordinance upon Animal Control Officers or any other applicable ordinances.

Sections 3-4 -- 3-6. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

Section 3-7. Administration and Duties

The Charlotte-Mecklenburg Animal Control Division ("division") is a consolidated division created by the execution of an interlocal agreement between Mecklenburg County and the City of Charlotte and, pursuant to that agreement, the division is under the authority of the City.

(a) Duties: There shall be a Superintendent of the division. The Superintendent and animal control officers shall be charged with the responsibilities of:

1. Enforcing and carrying out the provisions of this Ordinance and of any other Ordinance assigning animal control duties and of all relevant State laws, except that the Superintendent and Animal Control Officers shall have no duties or responsibilities whatsoever with respect to organizing and carrying out any rabies vaccination clinics.

2. Making canvasses, including homes and any businesses utilizing guard or security dogs, for the purpose of ascertaining that all dogs, cats, and equine animals are properly licensed, if required; that all dogs and cats are currently vaccinated against rabies; organizing and carrying out any such canvases, having sole and exclusive authority, control, and responsibility for such actions; and that provisions of this chapter are being followed.

3. Investigating animal complaints.

4. Enforcing the laws with regard to vaccination of dogs and cats against rabies and enforcement of the County Rabies Ordinance. The Mecklenburg County Ordinance for the Control of Rabies and other Zoonoses declares that the Health Director is responsible for County programs to monitor and control rabies and other zoonotic diseases. Investigating all reported animal bites or other human physical contact of the suspected rabid animal, enforcement of quarantine of any animal involved, and submission of bite reports and reports of human contacts to Health Director.

5. Supervising the Charlotte-Mecklenburg animal shelter and division employees.

6. Protecting animals from neglect and abuse.

(b) Uniform. Every employee of the division while performing these respective duties shall wear any required uniform and badge as determined by the Superintendent.

(c) Weapons. The employees of the division shall not carry on their person any firearms of any kind unless specifically authorized by the Superintendent. However, employees of the division may store at the Animal Shelter or carry in divisional vehicles firearms, including tranquilizer guns, approved for use by the Superintendent. Such firearms may be used when necessary

to enforce sections of this chapter or other applicable law for the control of wild, diseased, or dangerous animals or for public safety, when the Superintendent deems the action necessary. While acting with weapons in their official capacity, employees of the division shall be exempt from any City Code provision otherwise requiring permits or City Council approval.

Section 3-8. Inspection, Interference, or Concealment

(a) Inspections. Whenever it is necessary to make an inspection to enforce any of the provisions of this chapter, or other applicable law, or whenever an employee of the division has reasonable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the employees of the division are empowered to enter and inspect such property at any reasonable time and perform any duty imposed upon them by this chapter or other applicable law, but only if the consent of the occupant or owner of the property is freely given or an administrative search warrant or criminal search warrant is obtained as follows:

1. If such property is occupied, the employee of the division shall first present credentials to the occupant and request entry, explaining the reasons therefor; and

2. If such property is unoccupied, the employee of the division shall first make a reasonable effort to locate the owner or other persons having control of the property, present proper credentials and request entry, explaining the reasons therefor; and

3. If such entry is refused or cannot be obtained because the owner or other person having control or charge of the property cannot be found after due diligence, an employee of the division may obtain an appropriate warrant to conduct a search, or inspection of the property or seizure on the property.

Notwithstanding any other provision of this chapter, an employee of the division shall have the authority to enter upon any land to enforce the provisions of this chapter, including the seizure of dogs running-at-large in violation of section 3-26, or other applicable law if a violation of such law is being committed in the presence of the employee and such entry upon private property shall not be deemed to be a trespass.

(b) Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist, or obstruct employees of the division while they are carrying out any duty created under this chapter or other applicable law.

(c) Concealment of animal. It shall be unlawful for any person to conceal, for the purpose of evading the licensing requirement, permit requirement, or rabies inoculation requirement of this chapter or any applicable chapter, any unlicensed,

uninoculated, or unpermitted animal from any employee of the division.

(d) Concealment of license, etc. It shall be unlawful for any person to refuse to show proof of a license, permit, or a rabies inoculation to any employee of the division upon request.

Section 3-9. Enforcement

(a) The City Council's determination is that it is important to enforce vigorously and effectively this chapter's provisions. The City Council makes the following findings to accomplish the objective of vigorous and effective enforcement of animal control provisions:

1. That a current City license tag and a rabies inoculation tag are vital for public health, for the ability of the Division to carry out its functions, for the protection of the owner, and for the protection of the animal, and, therefore, must be complied with. The owner of an animal, particularly a dog, has a very serious obligation of ownership and a duty to the citizens of Charlotte to comply with City licensing and rabies inoculation requirements.
2. That the presence of a dog when off-premises in violation of Code § 3-26, "Restraint of animals", often creates substantial anxieties and concerns for people for safety and free movement and, therefore, the owner has an obligation to the citizens of Charlotte for the effective confinement of one's dog.
3. That the possibility of a dog bite is a serious anxiety for citizens, neighborhood, and areas, in Charlotte and, therefore, owners have an obligation to prevent the creation of that apprehension and concern.
4. That a dog owner has a particular responsibility for being conscious of and sensitive to any possible dangers for children under the age of seven years who, at that age, are unable to fully appreciate the possible danger presented by a dog and a dog's reaction to a child under the age of seven.
5. That the Superintendent must have ample authority to impose preventive measures, as provided for in § 3-27, must have the authority to seize animals, as provided for in § 3-49, and, if necessary, terminate ownership rights as also provided in § 3-49.
6. That escalating fees and other sanctions are measures that have been adopted to protect the citizens of Charlotte and to declare that the ownership of dogs entails publicly-related responsibilities.

(b) When there is violation of this chapter, the Division at its discretion may take one or more of the following courses of actions:

1. Citation fines

(.1) Violations of §§ 3-34 and 3-34.1 (failure to have City license and rabies tag):

- Citation for cat or equine owner: \$25.00 for failure to have current City license. \$50.00 for failure to have a cat inoculated.

- Citation for dog: \$50.00 for failure to have current City license. \$50.00 for failure to have current inoculation.

(.2) Violation of § 3-26, "Restraint of animals":

That issuance of a citation for a violation of Code § 3-26, "Restraint of animals", is directed toward and against the owner of a dog. The purpose of the issuance of a citation pursuant to Code § 3-26 is to effect the conduct of the owner of a dog by seeking to have an owner responsibly maintain a sufficient restraint and confinement of a dog.

Therefore, an owner of a dog shall be subject to escalating penalties for each violation of Code § 3-26 by the owner, whether the dog is the same dog, a different dog, or various dogs, belonging to the owner. Each violation of Code § 3-26 shall subject the owner to an increased citation penalty:

<u>Owner's</u>	
<u>Offense</u>	<u>Penalty</u>
1st	\$50 fine
2nd	\$75 fine
3rd	\$150 fine and a fence
4th	\$200 fine and secure dog fence
5th	\$500 fine and seizure of dog

- Citation fine of \$100.00.

(.3) Violation of § 3-15.1, "Animal bite":

(.4) Other violations: All other violations shall be subject to a citation fine of \$25.00.

(2) Criminal misdemeanor. The violator may be charged with a misdemeanor and be subject to a fine not to exceed five hundred dollars (\$500.00) or 30 days in jail; or

(3) Injunction. The City may apply to the appropriate

Court for an injunction and order of abatement which would require that a violator correct any unlawful condition relating to this chapter existing on his or her property.

(4) The division shall have the authority to carry out enforcement in the County established by the "Agreement Between the City of Charlotte and Mecklenburg County for the Consolidation of the Building Inspection Departments, Animal Control Departments and the Rideshare Program".

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

Section 3-10. Notice of violation

(a) Members of the division are empowered to issue citations to any person if there is reasonable cause to believe that the person has violated any provision of this chapter. These citations may be delivered in person to the violator or, if the violator cannot be readily found, the citation may be mailed.

The citation shall direct the violator to appear before the violations bureau within fifteen (15) days of the date of the citation, or alternatively pay the citation by mail.

(b) If the violator does not appear before the violations bureau or does not pay the citation by mail within fifteen (15) days of its issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation and a notice thereof will be mailed to the violator. This notice shall inform the violator that a civil complaint or criminal summons will be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of the delinquency notice.

(c) All citation forms shall be serially numbered in triplicate. Records of all citations shall be maintained so that all such forms shall be capable of being accounted for.

The City Accountant, or his representative, shall periodically investigate the records of the division for the purpose of determining the disposition of the citations and shall report the results of such investigation to the City Manager. For the purpose of this investigation, he shall have access to the necessary records of the division.

Section 3-11. Negligence per se

This section is included in this chapter in order to impose a public duty upon persons having possession of animals to prevent those animals from attacking another person with a possible violation of Code § 3-27, failing to comply with instructions to

impose preventive measures for the confinement of dogs, of § 3-26, "Restraint of animals", and of § 3-15.2, "Aggression-trained dogs". Such persons having possession of animals have imposed upon them a public duty designed to promote the safety of other persons and a violation of any of those provisions is negligence per se and could give rise to recovery of damages for personal injuries in a civil action by an injured person against the person owning or having possession, charge, custody or control of the animal causing said injuries.

Sections 3-12 -- 3-13 Reserved.

ARTICLE III. VIOLATIONS

Section 3-14. Abandoned animals

(a) It shall be unlawful for any person owning, possessing, or harboring an animal to abandon that animal.

(b) If the division finds that an animal has been abandoned, the animal may be impounded. If the animal has been abandoned in a house or within a fenced area, the division must make a reasonable effort to locate the owner or manager of the property. If the property owner or manager is not the animal owner, then the division shall secure permission to remove the animal. If the property owner is also the animal owner and this individual cannot be located, the division shall secure a appropriate warrant to seize the animal.

(c) An animal seized pursuant to this section shall be impounded for a period of ten days. If the owner contacts the division to reclaim the animal, an explanation for the animal's abandonment must be provided to the satisfaction of the superintendent, before the dog is reclaimed to the owner. Otherwise, the superintendent may dispose of the animal. If the animal is unclaimed by its owner after being held ten (10) days, the animal shall be disposed of as provided in section 3-48.

Section 3-15. Abuse of animals

(a) Abuse of animals: It shall be unlawful if a person:

1. Fails to provide adequate food and/or water for any animal; or
2. Overworks or overdrives any animal causing physical pain, suffering, or death; or
3. Beats, tortures, injures, torments, poisons, or mutilates any animal causing physical pain, suffering, or death; or
4. Fails to provide adequate medical attention for any sick, diseased, or injured animal; or

5. Keeps any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare or fails to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or

6. Teases, molests, baits or in any way bothers or harasses any animal; or

7. Sets any rabbit, hare, raccoon or other such animal loose for the purpose of chasing, hunting, or having a race thereafter; or

8. Promotes, stages, holds, manages, conducts, carries on, or attends any game, exhibition, contest, fight, or combat between one or more animals or between animals and humans; or

9. Fails to provide an adequate shelter for an animal wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.); or

10. Conveys any type of animal in a motor vehicle or in a wagon or trailer pulled by a motor vehicle or in a truck or the back of a truck in such a way as to cause pain, suffering, discomfort, or death to the animal; or

11. Places or confines an animal or allows an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink or such other conditions as may reasonably be expected to cause suffering, disability or death.

After making a reasonable effort to find the driver of a vehicle in which an animal is confined, an employee of the division, in the presence of a police officer, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where reasonable cause exists to believe that the animal is in the vehicle in violation of this subsection.

The officer removing the animal shall then impound it and leave in a prominent place on the motor vehicle a written notice of the animal's impoundment, a brief description of the animal, and where and when the animal may be reclaimed. The officer may also issue a citation for violation of this subsection.

So long as an animal is within sight of an employee of the division or a police officer, section 3-8 shall not be interpreted to require that any warrant be obtained before removing the animal; or

12. Fails to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to

allow all animals kept outdoors to protect themselves from the direct rays of the sun; or

13. Keeps animals outdoors without access to shelter to allow them to remain dry and comfortable during inclement weather; or

14. Fails to provide a suitable method to rapidly eliminate excess water.

(b) Convictions: If a person has been convicted twice of a violation of this section or of G.S. 14-360 or 14-361 or 14-361.1 or 14-362 or 14-363, or as they are amended, and any two (2) such convictions have both occurred within the last five years preceding the request for an animal license, equine license or permit, then the animal license, equine license, or permit shall be refused. In that situation, the person shall be eligible for applying for an animal license, equine license, or permit, five (5) years after the date of the last violation.

(c) Transporting exception: Nothing in this section shall be deemed to prohibit the humane transportation of horses, cattle, sheep, poultry, or other livestock in trailers or other vehicle designed, constructed, and adequate for the size and number of animals being transported.

(d) Euthanizing exception: Nothing in this section shall be construed to prohibit the division or veterinarians from euthanizing dangerous, unwanted, injured, or diseased animals in a humane manner; nor to prohibit slaughterhouses or medical facilities from the proper, humane, and lawful carrying out of their activities or duties.

(e) Pet shops: Animal control officers shall have the authority to conduct inspections of pet stores, to the extent not preempted by State law, in order to determine if there is any abuse of animals. Pet shops shall also be subject to the Mecklenburg County Ordinance for the Control of Rabies and Other Zoonoses as administered and enforced by the Mecklenburg County Health Department. Abuse of animals shall include any act described in this section or any other act which is detrimental to the well-being of the animal. It shall be unlawful for any pet store employee or pet store owner to violate this section.

Section 3-15.1. Animal bite

It shall be unlawful for an animal to bite a human being, who does not ordinarily reside on the premises, unless the animal has been subject to provocation or unless the victim has been trespassing, as defined in § 3-3, "Definitions".

It shall be unlawful for a person to fail to report as soon as possible that an animal has bitten a person. It shall be unlawful for any person to fail to inform the Division where an

animal is located if the owner has given the animal away, or caused in any way the animal to be taken from the owner's premises.

If the Division determines that a dog has bitten a human being, then the Division shall have the authority to require the owner to procure liability insurance in the amount of at least \$100,000 at the owner's expense, or to have the dog tattooed, or to display a sign on the premises warning of the dog on the premises. The Division shall have the authority to require the owner to show signed written statements about maintaining the liability insurance/the designated enclosure for the dogs/and the duty to notify the animal control division if the dog escapes, and to require the owner to give the Division the authority to seize and impound the dog if the owner fails to comply with the provisions.

The Superintendent shall have the authority to waive any or all of these requirements if the Superintendent determines that the bite is inconsequential.

Section 3-15.2. Aggression-trained dogs

(a) Aggression-training facility. An aggression-training facility means any person, group of persons, firm, organization, association, partnership, syndicate, or corporation that schools, trains, or conditions canines to bite, attack, or exhibit aggressive behavior towards humans or other domestic animals for any purpose, including but not limited to, the security of business property, personal security, or dog fighting. The facility may be operated as a licensed business or as a non-profit hobby or interest.

(b) Registration of aggression-trained dogs. The Division shall have the authority to determine whether any individual or business entity is engaged in the aggression-training of dogs. If the Division makes such a determination, then the individual or business entity must comply with the following requirements:

(1) The individual or business entity has a duty to provide registration information as required by the Division as it pertains to aggression training of any kind of dogs.

(2) The individual or business entity has the duty to maintain a current registration of all dogs, thus trained, including the current location or address of the dog, and that information shall be provided to the Division upon the training of any such dogs.

(3) The Division shall have the authority to inspect the premises engaged in aggression-training and to observe training methods and safety of facilities during the operating hours of the aggression-training facility.

(4) The aggression-trained dogs must be maintained by adequate confinement. The Division shall have the authority to require all aggression-trained dogs to be confined in a strong fence at least six feet high and, at the discretion of the Division, topped by an anti-climb enclosure.

(c) Unlawful acts. It shall be unlawful for any individual or business entity to fail to comply with any of the requirements stated in this section. It shall be unlawful for an individual or business entity to fail to inform the Division of any animal in the City that has been subject to some training or conditioning at an aggression-trained facility and fail to carry out the duty to provide registration information as required by the Division.

(d) Imposition of preventive measures. If the Division determines that a dog has been trained for fighting or aggressive attack, then the Division shall have the authority to impose the same requirements stated in § 3-27.

(e) Appeal. If the Division determines that a dog has been trained for fighting or aggressive attack and the owner wishes to appeal that or the preventive measures imposed, then the appeal shall be the same as that stated in § 3-27(e).

Section 3-16. Baby fowl and rabbits

(a) It shall be unlawful for any person, partnership, or corporation to sell, barter, give away, or transfer in any manner baby fowl or rabbits under eight (8) weeks of age. This section shall not apply to breeders, hatcheries, or stores engaged in the business of selling for purposes of commercial breeding and raising, nor shall it prohibit nature museums or raptor centers from placing such animals and fowl in foster homes.

(b) It shall be unlawful to color, dye, stain, or otherwise change the natural color of baby chicks, all other fowl, rabbits, or any animal.

Section 3-17. Beekeeping restrictions

1. Flight path control of bees. It shall be unlawful for a beekeeper to fail to control the flight path of the bees on the beekeeper's premises so that as a result the flight path of the beekeeper's bees interferes with the use and enjoyment of adjoining property.

2. Availability of water on the premises. It shall be unlawful for any such person to fail to have an adequate supply of water available on the premises for the bees. The water supply shall be in the vicinity of the beehives and shall be closer to the beehives than any water on adjoining property. The water shall be available year-round.

3. Administration and enforcement. The division shall administer this section with all the authority and rights provided for in this chapter and shall be enforced by section 3-9. Further, any violation of this section is hereby declared to be a public nuisance and any person suffering injury or damage therefrom may seek the correction, removal, or abatement of such nuisance by securing injunctive relief.

If an animal control officer determines that there is not an emergency and that time permits, then the animal control officer shall make a reasonable effort to contact one of the four (4) representatives of the Charlotte-Mecklenburg Beekeepers' Association identified by the association to be of assistance to the animal control division. If a member is contacted and visits its premises with a possible violation of this code section, then the animal control officer shall take into consideration the advice and recommendations of the association's representative in arriving at a final decision about whether or not there is a violation of this section and whether enforcement action is appropriate. The final decision about a violation and about enforcement shall be made by the animal control officer.

Section 3-18. Biting or attacking animals

It shall be unlawful for an animal which has bitten, attacked, or threatened a human or animal to remain at large. Animals Control Officers shall have the authority to enter upon private property, not including entry into a dwelling unit or other similar building, when the animal control officer has observed an animal which has committed the biting, attacking, or threatening in violation of this section and such entry upon private property shall not be deemed to be a trespass.

It shall be unlawful for any person to interfere, to threaten, or otherwise prevent an animal control officer from carrying out and performing their lawful duties, as described above, under this section.

Section 3-19. Dangerous animals

(a) It shall be unlawful for any person to own or in any way maintain or harbor any animal which is dangerous as defined in § 3-3.

(b) If the Superintendent has determined that an animal is dangerous, then the Superintendent shall notify the owner immediately in writing, if the owner is known and after reasonable efforts to [otherwise] notify the owner [have failed]. The owner shall turn the animal over to the Division immediately after such notification. The Superintendent shall have the authority to seize immediately an animal deemed dangerous. The superintendent shall have the discretion to dispose of an animal in one (1) of only two (2) specific ways:

- (1) By the humane destruction of the animal; or
- (2) By giving the animal to an individual or an organization, subject to the protective and inspection conditions required by the superintendent for the well-being of the animal and for the protection of the public, for the purpose of preserving and taking care of the animal.

An animal declared to be a dangerous animal by the superintendent shall not be disposed of for research or experimental purposes.

(c) Any person who owns an animal that has been declared dangerous by the superintendent shall have the right to appeal this decision to the city manager. The owner of an animal declared dangerous shall have the right to request a hearing about that decision by submitting a written request to the office of the city manager within five (5) days after the superintendent's determination that the animal is dangerous.

(d) The city manager or his designee shall conduct a hearing to determine if the superintendent's determination that the animal is dangerous is correct or incorrect. If funds are available and if adequate time is available, the City Manager or designee may involve a veterinarian appointed by the City Manager or designee to give a consulting opinion about the animal. If the animal is judged not to be dangerous, it shall be returned to the owner. If the city manager or his designee determines the animal to be dangerous, then the superintendent shall dispose of the animal only in the manner described above in subsection (b). In the event of an appeal to the courts from the city manager's or his representative's decision, the animal shall be confined at the animal shelter and a cash bond shall be requested for all costs whatsoever attendant upon City's retention of the animal.

Section 3-20. Dead animals

(a) It shall be unlawful for any person to leave or place the carcass of any animal which he owns upon any street, alley, or lot or to allow the animal to remain unburied on his property. This shall not be construed to prohibit the placing of a carcass of a small animal on the right of way or within six (6) feet, thereof, for pickup by the special services division in the City of Charlotte or for pickup on State roads by the N.C. Department of Transportation.

(b) The owner of any small animal which dies may, within twenty-four (24) hours after he has learned of its death, have it buried in a pet cemetery, bury it at least three (3) feet beneath the surface of the ground and not closer than three hundred (300) feet to any flowing stream or public body of water, or otherwise have it removed as outlined in section 3-20(a).

(c) The owner of any large animal which dies shall, within twenty-four (24) hours after he has learned of its death, have it buried in a pet cemetery, bury it at least four (4) feet beneath the surface of the ground and not closer than three hundred (300) feet to any flowing stream or public body of water, or otherwise have it removed from his property.

Section 3-21. Reserved.

Section 3-22. Guard dogs

(a) Purposes: Guard dogs are guard, security or watch dogs ("security dogs") on premises specifically for the purpose of protecting the premises from any intruder and for attacking a person coming in the vicinity of the security dog. Security dogs are expected to attack human beings and are especially dangerous if they succeed in getting off the premises thereby endangering any member of the public. The purpose of this section is to provide regulatory requirements that will enable the division to have knowledge about any security dogs in the City. It also applies to such security dogs brought into the City from outside of the City.

(b) Regulations: The owner of a security dog shall comply with the following requirements ---

1. Identification: It shall be unlawful for a security dog in the City not to have a current license tag or a tag as described hereafter. A dog brought into the City that does not have a current City license tag must obtain a current security dog identification tag from the division which would include the same kind of information on a City license tag. Before such a tag can be issued, there must be proof of rabies inoculation of the dog.

2. Registration: The owner of any security dogs not licensed in the City but brought into the City to be used as security dogs in the City must register all of those dogs with the division.

3. Signs: The owner of any security dogs or the owner of the premises employing the dogs must have posted on the premises a sign that identifies the name, address, and telephone number of the owner of the security dogs.

(c) Escaping dog: If a guard dog escapes and bites someone who is not a trespasser, then the Superintendent shall have the authority to prohibit that dog from serving as a guard dog within the City of Charlotte. It shall be unlawful to use such a dog, as a guard dog, after the Superintendent has ordered that the dog not be used within the City as a guard dog.

(d) Enforcement: In addition to using any and all enforcement remedies stated in section 3-9, the division shall also have the additional authority in respect to security dogs:

1. If any security dog is seized running-at-large, then the dog shall not be returned to the owner until the owner has registered that dog and any other security dogs used or to be used in the City in accordance with section (b), above, secured identification tags if necessary, and had complete compliance with all requirements of the section.

2. If a security dog is found on the premises without complying with section (b), then the division shall have the authority to issue a notice of prohibition letter that will prohibit the use of that dog as a security dog within the City, unless there is compliance with all of section (b) within 48 hours.

Such a notice of prohibition shall at the same time be given to the owner of the premises upon which the security dog is utilized. The owner of the premises shall be informed that the continued use of such a security dog on the premises is an unlawful act on the part of the owner in violation of this section.

After the 48 hours, if such a dog remains on the premises it shall be an unlawful act on the part of the owner of the dog and on the part of the owner of the premises and a citation shall be issued to either or both of those individuals and the amount of the citation shall be \$50.

The Division shall have the authority to seize guard dogs if there has not been compliance with the provisions of this section or for the safety of the public, all in accordance with Code § 3-49.

Section 3-23. Injuring animals

(a) It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle causing injury or death.

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

Section 3-24. Nuisance

(a) It shall be unlawful for any person to own, keep, possess, or maintain an animal in such a manner so as to constitute a public nuisance or a nuisance to neighbors. By way of example, and not of limitation, the following acts or actions of

an owner, harborer, or possessor of an animal are hereby declared to be a public nuisance and are therefore unlawful:

1. Having an animal that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property; or
2. Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables, or desecrating upon the property of another; or
3. Maintaining animals in an environment of unsanitary conditions or lack of cleanliness which results in offensive odor or is dangerous to the public health, welfare, or safety or a failure to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease.
4. Maintaining property that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property; or
5. Allowing or permitting an animal to bark, whine, howl, grow or cackle in an excessive, continuous, or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; or
6. Maintaining an animal that is diseased and dangerous to the public health; or
7. Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, joggers, dogs walked on a leash by owners, bicycles or vehicles; or
8. Failing to confine a female dog or cat while in season in a building or secure enclosure in such a manner that she cannot come into contact with another dog, or create a nuisance by attracting other animals; provided this section shall not be construed to prohibit the intentional breeding of animals within an enclosed, concealed area on the premises of the owner of an animal which is being bred.

In addition to any other enforcement remedies available under this chapter, if the Superintendent shall declare an animal a nuisance under this section, then the Superintendent has the authority to order the owner to confine the animal in accordance with the Superintendent's instructions. It shall be unlawful for the owner to fail to comply with such an order or with the instructions in the order.

Section 3-25. Reckless riding and driving of animal

(a) It shall be unlawful for any person to run, drive or ride any animal in a reckless, disorderly or careless manner through any street, alley, or highway.

(b) It shall be unlawful for any person to drive or cause to be driven through any street or highway any loose or unhaltered horses, mule, cow or other livestock; nor shall the keeper of any such animal knowingly permit any loose horse, mule, or cow to be driven from his property onto streets, alleys, or highways.

Section 3-26. Restraint of animals

(a) Physical restraint of animal. It shall be unlawful for any person owning or having possession, charge, custody, or control of any animal, excluding cats, to keep such on his own premises or off the premises unless such animal is under sufficient physical restraint such as a leash, cage, bridle, or similar effective device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure. If it is an effective, working invisible fence, then there must be a visible, permanent sign on the premises stating that there is an invisible fence.

(b) Adult with animal on premises. If a responsible adult is physically outside on the land immediately adjacent to the animal, on the land where the owner of the animal resides, and the animal is under the person's direct control and is obedient to that person's commands, then this section shall not apply during the duration of time the animal is in the company and under the control of that adult and the animal is on the premises. "Adult" is defined as eighteen (18) years of age or older.

(c) Public parks. It shall be unlawful for any person owning or having possession, charge, custody, or control of any dog to take the dog into or allow the dog to enter any public park without being at all times under restraint of a leash.

(d) Park areas. It shall be unlawful for any person owning or having possession, charge, custody, or control of a dog to take the dog into picnic areas, pond areas, and children's play areas of any public park. This shall not apply to guide dogs or hearing aid dogs in the company of blind or deaf persons.

Section 3-27. Protective measures for confinement of dogs.

(a) Circumstances requiring special preventive measures. The Division shall have the authority to require the owner or custodian of a dog to comply with specific preventive measures, as described below in subsection (b), after taking into consideration the following three circumstances:

1. Nature of the particular dog: The behavior, size, temperament, breed, capacity for inflicting serious injury, the number of dogs, or other such similar factors which would be relevant to a determination of whether or not additional preventive measures need to be imposed for a particular situation; and
2. Adequacy of confinement: The adequacy of the enclosure or confinement, if any; and
3. Immediate surrounding area: The likelihood that the conditions pertaining to the particular dog and the dog's confinement are detrimental to the safety or welfare of citizens, or peace and tranquility of citizens, in the immediate surrounding area.

In considering whether to order a special preventive measure, the Division is authorized to consider additional factors as aggravating circumstances that might warrant the ordering of special preventivemeasures:

1. Child under the age of seven: There is a child under the age of seven who lives in such close proximity, or children walk by or are otherwise in close proximity, to the property occupied by the dog; or
2. Bite: The dog has bitten a human being or domestic animal, without provocation or without a trespass, and the person bitten doesnot ordinarily reside on the premises; or
3. Dog trained for fighting or aggressive attack: The dog is kept primarily or in part for the purpose of dog fighting or the dog has been trained for aggressive attacks; or
4. Attitude of attack incident: A dog, without provocation or a trespass, has approached a person in an apparent attitude of attack; or
5. Reputation of dog: The individual dog has a known propensity, reputation, or tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(b) Preventive measures. If the Division determines that the circumstances require special preventive measures, then the Division shall have the authority to require appropriate, specific preventive measures which might include, but are not limited to, the following: necessary repairs for any fence or enclosure, measures to ensure that a gate will remain closed, a 'fence' or 'secure dog fence' as described below, or any other similar device that would provide greater assurance for the

confinement of the dog, all of which are subject to being specifically approved for their adequacy by the Division.

A fence shall be at least a minimum of four feet high and constitute a secure enough enclosure sufficient to contain the dog at all times. The minimum size of the enclosure may be at least 150 square feet. If the dog is over 15 inches at the shoulder or is deemed capable of climbing a standard four foot fence, then the animal control supervisor may require a six-foot fence.

A secure dog fence means a fence, as immediately described above, that may also be enclosed on all six sides including the top. The bottom may be concrete unless the sides of the fence are buried one-foot deep in a hard-packed soil.

Any reference to 'fence' or 'secure dog fence' shall be defined as stated immediately above.

The Division shall also have the authority to require the owner to tattoo the dog at the owner's expense if that is necessary for identification, investigative, or enforcement purposes.

The Division shall have the authority to require the owner to procure liability insurance in the amount of at least \$100,000 at the owner's expense, or to have the dog tattooed, or to display a sign on the premises warning of the dog on the premises. The Division shall have the authority to require the owner to show signed written statements about maintaining the liability insurance/ the designated enclosure for the dogs/and the duty to notify the animal control division if the dog escapes, and to require the owner to give the Division the authority to seize and impound the dog if the owner fails to comply with the provisions.

The Superintendent shall have the authority to waive any or all of these requirements if the Superintendent determines that the bite is inconsequential.

(c) Written order. If the Division determines that specific preventive measures must be complied with by the owner of a dog, the Division shall make reasonable efforts to notify the owner of the written order, state the reasons that preventive measures are required, identify the specific preventive measures that must be implemented, and state the designated time period within which to comply with the written order. The Division shall have the authority to exercise discretion for extensions of time if that is reasonable in view of the good faith progress of the owner in implementing the preventive measures.

(d) Failure to comply with written order. It shall be unlawful for an owner to fail to comply with a written order within the designated time for compliance stated in the written order or any extension thereof. In addition to the remedies of

§ 3-9, the penalty for failure to comply with the written order shall be one hundred (\$100.00) dollars. The Division shall have the authority to issue additional \$100.00 citations for a continuing failure to comply with a written order.

(e) Owner's challenge to the written order. The owner may submit in writing a challenge to the Division's determination that section (a) is applicable to the owner's premises or submit in writing a challenge to the specific preventive measures required by the Division. The owner's written challenge must be received in the office of the Director of the City's Operations Department by the end of five days of the date of the written order, not counting the day of issuance of the written order. The challenge to the written order shall be reviewed by the Superintendent unless the Superintendent has had some involvement in the issuance of the written order. In that situation, the City Manager or designee shall review the written challenge. The review of the challenge may be done solely on the basis of written material.

(f) Seizure and disposition of animal. The Division is authorized to seize an animal as provided for in Code § 3-49, when the owner has not complied with the written order.

Section 3-28. Stray animals

(a) It shall be unlawful for any person, without the actual consent of the owner, to harbor, feed, keep in possession by confinement or otherwise have any animal which does not belong to him unless he has, within twenty-four hours of the time the animal came into his possession, notified the division. Upon receiving such notice, the division may take the animal and deal with it as provided in section 3-48.

(b) It shall be unlawful for any person to refuse to surrender such an animal to an employee of the division upon demand.

Section 3-29. Uncared for animals

(a) Whenever the division finds that any animal is or will be without proper care because of injury, illness, incarceration or other excusable, involuntary absence of the person responsible for the care of such animal, the division may impound such animal until reclaimed by its owner. The owner must pay the applicable fees in section 3-45 in the same manner as any other owner would reclaim an impounded animal prior to the release of such animal by the division.

(b) Any animal which has been impounded under subsection (a) and is not reclaimed can be kept, in the discretion of the superintendent, up to ten (10) days and may be disposed of by the division pursuant to section 3-48.

(c) If the owner of the animal notifies the superintendent of the owner's intent to claim the animal but will not be able to until after the ten (10) day impoundment period, the superintendent shall have the authority to grant up to five (5) days, or any lesser amount, when the superintendent has concluded, after investigating the request, that the owner or an agent for the owner is not able to reclaim the animal within the time period specified in (b) above. The owner shall be charged double the redemption fee stated in section 3-45, if the animal is claimed after the ten-day period when permission has been granted to claim the animal after the ten-day period. If the superintendent has concluded that the owner or an agent is in a position to reclaim the animal, then the superintendent can inform the owner or agent that the request is denied and proceed to dispose of the animal in accordance with section 3-48.

Sections 3-30 -- 3-33. Reserved.

ARTICLE IV. LICENSING AND PERMITS

Section 3-34. License and rabies tags and fees

(a) It shall be unlawful for any dog, cat, or equine animal owner, possessor, or harbinger, who resides in the City or who brings an animal into the City to function as a guard or watch dog, to fail to provide any dog or cat over four (4) months of age or equine animal over six (6) months of age with a current license tag. The owner, possessor or harbinger of any above described dog or cat over four (4) months of age must be vaccinated and must have a current rabies vaccination tag showing that such animals have been vaccinated. No license will be issued unless proof of inoculation is shown. Any dog, cat, or equine animal owner who moves into the City for the purpose of establishing residency or who becomes a resident as a result of annexation shall have thirty (30) days in which to obtain a license.

(b) The license fee for fertile dogs and cats shall be twenty dollars (\$20.00). The license fee for sterilized dogs and cats shall be five dollars (\$5.00).

If a person purchases a license tag after January 1 for the remainder of that current license year, then the cost of that license tag shall be one-half (50%) of the cost for a license tag and shall apply whether the dog/puppy or cat/kitten is fertile or sterilized.

The City's Director of Operations shall have the authority to refund a license fee or a portion thereof in only four circumstances when the license has been purchased before July 1, of each fiscal year: (1) death of the animal before July 1, (2) spay/neuter services before July 1, (3) permanent residency of the animal and owner outside of Mecklenburg County before July 1, and (4) duplication of payment for the same animal. If an

individual remains dissatisfied with the decision of the City's Director of Operations, then the individual can file a notice of claim with the office of the City Manager for any further review of such a request.

(c) It shall be unlawful for the owner of any dogs and cats in the City not to have the dogs and cats wear the rabies vaccination tag issued to them by the veterinarian administering the rabies vaccine. Dogs and cats not wearing such tags and for which the owner cannot promptly display a valid rabies tag shall be impounded and shall be subject to a \$15.00 citation penalty pursuant to Code § 3-10.

(d) It shall be unlawful for any person who owns or keeps a dog or cat not to have the dog or cat innoculated against rabies.

Section 3-34.1. Failure to have City dog license: penalty and seizure.

(a) Penalty. If an owner has failed to secure a valid and current license for a dog, then the citation penalty shall be \$50.00. The citation shall state on its face that the Division has the authority to summarily seize the dog, if the citation is not paid within 10 days of the date of the issuance of the citation and if the owner has not obtained a current City dog license within 10 days of the issuance of the citation, and that seizure of the dog could lead to the humane destruction of the dog.

(b) Seizure of the dog. If the owner fails to pay the \$50.00 citation and fails to obtain the current City dog license within 10 days of the issuance of the citation, the Division shall have the authority to summarily seize the dog. The Division shall hold the dog for a minimum of five days. The owner shall have the option to reclaim the dog by paying the citation fine, a delinquency charge of \$15.00, the impoundment fees, the City dog license, rabies fees, and any other lawfully authorized costs. If the owner wishes to request a review of the seizure of the dog, then the owner shall request the review in writing within the five days of the dog's impoundment and, at the same time, shall pay an amount in cash covering the \$50.00 citation, the delinquency charge, impoundment fees, the City license, rabies fees, and any other costs, which amount of money shall be returned to the owner if there is an administrative or judicial decision ultimately in favor of the owner.

If there is no hearing requested within the five days of the seizure of the dog and the dog is not reclaimed, then the ownership rights of the owner shall be terminated upon the expiration of five days and the Division shall have the authority to dispose of the dog pursuant to § 3-72. Section 3-35.

Exemptions from differential licensing

(a) The following classification of owners of dogs and cats shall be exempt from paying the higher license fee for fertile dogs and cats. These exempt persons shall be required to purchase a license for their dog or cat but will pay only a fee of five (\$5.00) dollars for such license and will not be required to have the animal spayed/neutered:

1. Any owner of a dog or cat who can furnish a statement from a licensed veterinarian that the animal, due to health reasons, could not withstand spay/neuter surgery.

2. Any owner of one or more pure-bred dogs or cats who can furnish proof of participation in at least three (3) nationally recognized conformation or obedience shows within the past twelve (12) months. The exemption only applies to the dogs or cats in the owner's household of the same breed that were shown. Proof of participation must go beyond records showing a filing fee was paid and owner must validate actual showing of the animal.

3. Any handicapped owner of a dog which is used for seeing or hearing purposes and is spayed or neutered, shall obtain a license free of charge.

(b) Any dog or cat owner sixty-two (62) years of age or older who owns a sterilized animal may receive their license free of charge. If their animal has not been spayed or neutered, they will be subject to the higher license fee set out in section 3-34.

Section 3-36. Adoption of animals-license and rabies inoculations

(a) Upon the adoption of an animal at the animal control shelter, the person shall deposit the amount of money for a city license tag. The City license tag shall not become effective until proof of the inoculation of the animal. The superintendent shall not have the authority to give a license to the animal owner before presentation of such proof of inoculation.

(b) The person must provide proof of inoculation of the animal within three (3) business days of the purchase of the animal from the shelter. During that same period of time, the animal shall not be held to be in violation of section 3-34 requiring an animal to have a city license tag. After the expiration of that period of time, a person who has not presented proof of the inoculation of the animal shall be in violation of section 3-34 which requires a current rabies vaccination tag and requires a current city license tag.

(c) Upon the purchase of the animal, the person shall sign a form stating that the person has been informed that a failure to present proof of the inoculation within three (3) business days shall subject that person to both violations, not having a

rabies vaccination tag and not having a current city license tag. Further, the form shall state that the city license tag deposit to be used for the purchase of the city license tag shall enter the general fund of the city. Upon failure to present proof of rabies inoculation, § 3-34.1 will apply.

Section 3-37. City permits

It shall be unlawful for any person to own, keep, have or maintain any cloven-hoofed animals or other livestock or any chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl in the City of Charlotte without first receiving from the division a permit to do so, or to continue to have any of the same, stated above, after a permit has been denied. This section shall not apply to, and no permit shall be required for, any agricultural operation within G.S. §106-700, "Nuisance Liability of Agricultural Operations". Application for a permit shall be made on July 1st of each year and the annual fee shall be five dollars (\$5.00) per household. The application shall list all such animals and fowl on the premises.

Before a permit is issued, an employee of the division shall inspect the premises to determine if the keeping of the animals or fowl on the premises will endanger or is likely to endanger the health, safety, peace, quiet, comfort, enjoyment or otherwise become a public nuisance to nearby residents or occupants or places of business.

When a permit is denied for any reason, the applicant shall be given a written explanation of the reason for denial.

An owner or possessor of such animals or fowl shall comply with the following applicable provisions before a permit is issued:

(a) Fowl and other specifically identified animals:
Chickens, turkeys, ducks, guineas, geese, pheasants, or other domestic fowl or rabbits:

1. Such animals must be confined in a coop, fowl house, or rabbit hutch not less than eighteen (18) inches in height. The fowl must be kept within the coop or fowl house and the rabbits in the hutch at all times.
2. The coop or fowl house must be used for fowl only, and the hutch for rabbits only, and both must be well ventilated.
3. The coop, fowl house or hutch shall have a minimum of four (4) square feet of floor area for each fowl or rabbit.
4. The run must be well drained so there is no accumulation of moisture.

5. The coop, fowl house or hutch shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors. It shall be cleaned daily and all droppings and body excretion shall be placed in a flyproof container and double-bagged in plastic bags.

6. The coop, fowl house or hutch shall be a minimum of twenty-five (25) feet from any property line.

7. No more than twenty (20) such fowl or rabbits shall be kept or maintained per acre. The number of fowl or rabbits should be proportionate to the acreage.

(b) Pigeons: Pigeons, while allowed to fly to and from the premises, must be provided with adequate space on the premises and sanitary conditions must be maintained.

(c) Cloven-hoofed animals: Cloven-hoofed animals, equines and other livestock:

1. Such animals must be provided with adequate shelter to protect them from the elements.

2. The shelter shall be kept clean, sanitary, and free from accumulations of animal excrement and objectionable odors.

3. The shelters for cows and other large livestock, which are covered by the Zoning Ordinance, shall be kept at a minimum of seventy-five (75) feet from any property line. The shelters for goats and other small livestock shall be kept at a minimum of twenty-five (25) feet from any property line.

4. Cow: Each cow or other large livestock, excluding equines, shall have a minimum pasture area of two (2) acres. Each goat, sheep or other small livestock shall have a minimum pasture area of one-fourth (1/4) acre.

(d) Wild or exotic: The division shall inspect the premises where any wild animals, as permitted by section 3-30, are kept to determine if the animal may be kept or maintained without presenting a concern about the health, safety, noise, odor, or enjoyment of any persons or property. The division may require that any wild animal be caged or secured or make any additional rules regulating the keeping of wild animals.

(e) Annexation: New annexees have ninety (90) days from the date of annexation to bring their property into compliance and to have obtained permits required by this section.

(f) Exceptions: A permit shall not be required for animals of any kind if the animals are kept by a governmental authority or other appropriately certified and recognized academic institution, museum, raptor center, etc.

Section 3-38. Revocation of permit

1. The division may revoke any permit when the permit has been mistakenly issued without compliance with section 3-37, or when the applicant has submitted false information, or for a violation of any of the provisions of this chapter, or, when, in the opinion of the superintendent, the health, safety or welfare of any person or property is menaced by the keeping of such animals, or when the animals become a nuisance. If a permit is revoked, the applicant shall be given a written explanation of the reasons for the revocation. Upon the determination of a violation of this section, the owner shall have thirty (30) days in which to bring the property or condition into compliance with this chapter, if the violation pertains to a correctable condition on the property, or to remove the animals from the premises.

2. Any person who has a permit revoked shall have the right to request in writing to the office of the city manager within ten (10) days after the expiration of the thirty day period, cited above, the revocation of the permit. The city manager, or his representative, shall conduct a hearing to determine if the permit should be revoked.

Section 3-39. Permit for four or more dogs or cats kept outside.

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

(b) If a person has four or more dogs or cats frequently outside on the premises, then the superintendent must make the following five findings in order to issue a special permit:

1. Noise from the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.

2. Any odor or unsanitary conditions caused by the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.

3. Four or more dog runs or other dog-related structures or any combination thereof shall not be permitted if the structures can be seen from an abutting occupant's property in a residentially zoned district.

4. There is no evidence that the dogs or cats pose any health or disease exposure for abutting occupants.

5. The dogs or cats do not interfere in some other similar manner with the peaceful use and enjoyment of abutting property.

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

(c) A permit shall remain valid as long as the person is in compliance with the terms and conditions, if any, of the permit. If any of the circumstances change, such as, but not limited to, more animals, different breed for a particular dog, new structures or other similar change that might reasonably violate the five standards set forth above, then the permit shall automatically terminate and be null and void. The person must secure a new permit or the person shall be in violation of this section. The superintendent shall have the authority to revoke the permit at any time if there is a violation of the standards stated in (b), for a violation of any term or condition of the permit, if there has been any misrepresentation, or for any other similar reason. The superintendent shall state in writing the basis of the revocation. Any person who wishes to appeal such a revocation, shall have 10 days from the date of receipt of revocation to appeal the revocation to the Director of the Operations Department.

Section 3-40. Nonresident exceptions

The provisions of this chapter requiring certain animals to be licensed or permitted shall not apply to those animals owned by, in the charge of, or under the care of non-residents of this City who are traveling through or temporarily sojourning in the City for a period not exceeding thirty (30) days. Nor shall the licensing provisions apply to animals temporarily brought into this City for the exclusive purpose of entering animals in a show or other exhibition.

These exemptions do not apply to non-residents of the City who bring dogs into the City for security/guard dog purposes or bring animals in for any other purpose.

Sections 3-41 -- 3-43. Reserved.

ARTICLE V. IMPOUNDMENT, CLINIC,
AND DISPOSITION OF ANIMALS

Section 3-44. Impoundment

It shall be the duty of the employees of the division to impound animals in the animal shelter. It shall be the duty of any police officer who observes a violation to deliver to the division or to notify the division of the presence of those animals which are found or kept contrary to the provisions of this chapter.

Section 3-45. Fees

(a) Fees: The Division shall charge and collect fees from owners who redeem their animals. The City Manager or his designee shall have the authority to establish a fee schedule, entitled "Fee Schedule for Animal Control Division", for the following categories:

(.1) Impounding: Equine, cow other large animal; Sheep, lamb, hog or goat; Cat; Dog; Other animal.

(.2) Boarding: Dog, per day; Cat, per day; Large animals (e.g. horse, mare, colt, mule, bovine animal, jack, jenny, calf, sheep, lamb, goat, hog and other large animals) per day; Small animals (e.g. rabbits, birds, poultry or other small animals) per day. Any animal not deemed to be similar to rabbits, birds, poultry, or other similar such animals shall be deemed to be a large animal.

(.3) Adoption: Large animals, Dog; Puppy; Cat or other small animal; Pick up a special service fees; Replacement fee for metal tags.

The fees shall be reviewed annually and the City Manager or his designee is authorized to make such adjustments in such fees as deemed appropriate. The City Manager or his designee shall have the authority to establish animal categories and to set escalating impoundment fees for animals for reoccurring violations by the same owner. An accurate copy of the fee schedule shall be posted in a conspicuous place in the Office of the Animal Control Division and a copy shall also be filed with the City Clerk's Office.

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

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

If the owner of a dog or cat pays for spay/neuter services for that person's animal impounded by the division, before the release of the animal to the owner, then the owner shall not be charged any redemption fees, which include impounding as stated in this section.

(b) Adoption requires animal spay/neuter surgery: The adoption of an animal shall be a conditional purchase. In addition to the adoption fees stated above, the purchaser of a dog/puppy, cat/kitten, or rabbit at the animal control shelter shall pay the cost of spay/neuter services as provided in section 3-47 for the adopted animal. The payment for the spay/neuter services shall be made at the time that the person selects such an animal for adoption and shall be nonrefundable. An animal shall not be given to the owner until the surgery has been completed and medical authorization to release the animal has been given. If a person fails to adopt the animal in accordance with the provisions of this chapter, then the person shall forfeit the money paid for the surgery.

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

Section 3-46. Rabies impoundment

The Mecklenburg County Ordinance for the Control of Rabies and Other Zoonoses shall apply. Consistent with that Ordinance, the superintendent shall have the authority to order confinement of an animal which shows symptoms of rabies or which has bitten a person and to take whatever other action is necessary for confinement, observation and disposition of the animal.

Section 3-47. Spay and neuter services

(a) Establishment or provision of spay/neuter services.

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

The charge for services for a dog/puppy shall be twenty-six dollars and fifty cents (\$26.50) and for a male cat/kitten/rabbit, thirteen dollars and fifty cents (\$13.50), and for a female cat/kitten/rabbit nineteen dollars and fifty cents (\$19.50). The city manager or his designee shall have the authority to establish the cost of services for dogs/puppies and cats/kittens/rabbits based on estimated costs in providing the services. The City Manager or his designee shall maintain documented records justifying any such increases or decreases. A change in service charges shall occur no more than once in each six-month period.

(b) Consent waiver and form. Persons submitting dogs and cats for the services of the clinic shall first be required to sign a consent form certifying under penalty of perjury that they are the owners of said animals or are otherwise authorized to present the animal for the operation. Such persons may be required to furnish proof of such ownership or authority.

By signing the consent form, the owner shall waive any and all liability for any injury or death to an animal arising out of the spaying or neutering operation or any services provided incidental thereto. The person presenting the animal for such operation shall indemnify the division against any person's claim that the division did not have the authority or right to destroy the animal.

(c) Boarding charge. The division shall establish a return date by which persons submitting animals for the above operation shall pick up the animal or be subject to a reasonable boarding fee to commence the date after such return date. If the animal is not picked up by the seventh day after the return date, then the division may dispose of the animal by any disposition method authorized by this chapter.

Section 3-48. Sale or euthanasia

(a) Large animals. The division shall hold any stray horse, burro, cattle, goat, sheep and other livestock or large animal for eight (8) days. The superintendent shall make reason-

able efforts to notify the owner, who can redeem the animal upon payment of any applicable fees.

(b) Other animals. The division shall hold any stray dog, cat, rabbit, bird, poultry, wild animal (deemed to be owned) and other animals for seventy-two hours. The superintendent shall make reasonable efforts to notify the owner, who can redeem the animal upon payment of any applicable fees and compliance with all animal-related laws. An owner reclaiming animals must be able to provide proof of ownership to the satisfaction of the superintendent.

(c) Unclaimed animals. If an animal is not redeemed by the owner during the applicable period of redemption or has been donated to the shelter, then, the animal shall be disposed of as follows:

1. After the required period of time for holding an animal has expired, unclaimed animals may be offered to the first member of the public paying the applicable fee. The superintendent shall be authorized not to offer for sale any animals when it is reasonable to believe that continued medical observation of the animal is necessary or for any other exceptional reason. Puppies four months of age or younger shall be kept for 7 days. Kittens four months of age or younger may be kept an appropriate length of time to insure their health. Donated or unclaimed animals also may be humanely euthanized at the discretion of the division or may be sold by public auction. Sale may be refused to anyone who, in the opinion of the the superintendent, is unqualified to own the animal due to drunkenness, a record of cruelty to animals, under eighteen years of age, acts of harassment to animals residing at the shelter, ownership of other animals which are in violation of requirements of this Ordinance, refusal to comply with adoption requirements of this Ordinance, donation of two or more animals to the division in the past six months, lack of adequate housing and/or fencing to contain the animal, or any other incapacity.

2. The division may accept any animal which the owner wishes to release to the division. The owner shall sign a release card vesting all rights and title to the animal in the division. All released animals shall immediately be available for public sale, or public auction, humane euthanasia as the superintendent deems appropriate.

3. An employee of the division shall execute a bill of sale to the purchaser of any animal sold and thereupon the title to such animal shall be vested in the purchaser.

4. The Division shall have the authority to carry out the humane euthanasia of any animal lawfully taken into custody by the division which is affected with any dangerous, painful, incurable or communicable disease, or which is incurably crip-

pled or suffering incurably, after reasonable effort has been made to notify the owner.

(d) Employee prohibition. No employee of the division shall directly or indirectly purchase any animal impounded by the division.

(e) Bite. All dogs and cats that bite a person shall be immediately confined for ten (10) days in a place designated by the Superintendent of the Animal Control Division or the Health Director. If the owner or the person who controls or possesses the dog or cat that has bitten a person refuses to confine the animal as required by this section, the Superintendent of the Animal Control Division or the Health Director may order seizure of the animal and its confinement for ten (10) days at the expense of the owner. The disposition of an animal other than a dog or cat that bites a person shall be at the discretion of the Health Director in consultation with the consulting veterinarian. If any animal is unclaimed after the (10) day confinement then the Superintendent may dispose of the animal unless the Superintendent receives instructions of a different nature from the Health Department.

(f) Disease. Any animal which appears to be suffering from any disease shall not be sold, but may be reclaimed by its owner at the discretion of the Superintendent, on a conditional basis only, provided that the owner provides proper veterinary medical treatment for the animal in accordance with the superintendent's instruction. If the person fails to comply with the instructions, then the superintendent shall have the right to seize the animal, since the release of the animal has been conditioned upon compliance with those instructions.

(g) Other authorized dispositions. Animals that are available for sale to the general public and that qualify for use by the Charlotte Police Department, for use by the U.S. Customs Department or other affiliated organization, or for use by a local veterinarian as a blood donor may at the Superintendent's discretion be released to these organizations at no charge.

Section 3-49. Seizure and disposition of animals

(a) Authority to seize animals. In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the Division shall have the authority to summarily seize any animal from premises when the Division determines that the animal in the surrounding circumstances is dangerous or prejudicial to the public safety or public health, or to seize an animal at any other time, when so authorized in this Chapter.

The written order shall explicitly state that the Division has the authority to terminate ownership rights of the animal,

including the possible humane destruction of the animal, if there is a failure to comply with the written order, or unless otherwise directed by Court order.

(b) Obligation of owner to comply with seizure order.

When the Superintendent or a Supervisor presents an owner with a written seizure order to seize an animal, it shall be unlawful for the owner to fail to comply with the order or to interfere with the animal control officer. A police officer, if requested by the Superintendent or Supervisor, shall accompany the animal control officer to seize the animal.

(c) A challenge to the seizure order. If the owner wishes to challenge the basis of the seizure order, then the owner must submit in writing the basis of the challenge within five days of the seizure of the animal, not counting the day of seizure of the animal. The challenge must be submitted to the Director of the Operations Department. The Director can handle the challenge in the same manner as provided for in Code § 3-10.1(e). The Division has the obligation to make reasonable efforts to notify the owner.

(d) Owner's redemption of animal. The owner is entitled to redeem the animal, unless the Superintendent retains the animal upon some other basis of legal authority, by paying all applicable fees, citation fees, boarding fees, any other costs that are attributable to the dog and complying with any outstanding Division order.

(e) Owner's posting of a bond. If the Superintendent has seized an animal under Code §§ 3-10, 3-10.1, or this section, or for any other lawfully authorized seizure and confinement of an animal and the Superintendent determines that the City's retention of any animal, seized or held by the Division, might extend beyond five days, then the Superintendent shall be authorized to require the owner to post a bond or to deposit cash within a reasonable time based upon the boarding costs for the animal and any forseen, reasonable veterinarian fees required by law or deemed necessary for the animal, for the continued holding by the Division of the animal.

(f) Termination of owner's rights. If an owner fails to comply with the requirements that constituted the basis for seizing the animal or fails to reclaim the animal within the applicable time period, then the Superintendent shall have the authority to humanely destroy the animal or place the animal for sale to the public, all in accordance with § 3-49, or to place the animal with a local humane society for future placement through the humane society.

Approved as to form:


City Attorney

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360

ORDINANCE NO. 2575-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2428-X, THE 1988-89 BUDGET ORDINANCE, AMENDING THE TABLE OF ORGANIZATION AND PROVIDING AN APPROPRIATION FOR THE STAFFING OF THE INDUSTRIAL WASTE PROGRAM.

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina;

Section 1. That the sum of \$115,322 is hereby estimated to be available from the unappropriated Water and Sewer Fund fund balance.

Section 2. That the sum of \$115,322 is hereby appropriated to the following Water and Sewer Fund accounts:

<u>FUND/ACCOUNT</u>	<u>TITLE</u>	<u>AMOUNT</u>
7101;626.00	Industrial Waste Division	\$111,816
7101;630.01	FICA and Retirement	2,305
7101;630.02	Employee Insurance	1,201

Section 3. That the table of organization be amended to add the following positions to the Water and Sewer Fund account 7101;626.00 - Industrial Waste Division:

<u>CLASS TITLE</u>	<u>PAY RANGE</u>	<u>NO. OF POSITIONS</u>
Industrial Waste Coord.	322	1
Office Assistant IV	109	1

Section 4. All ordinances or parts of ordinances in conflict are hereby repealed.

Section 5. This ordinance shall become effective upon its adoption.

Approved as to form:


City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 23rd day of January, 1989, the reference having been made in Minute Book 92, and is recorded in full in Ordinance Book 37, at page(s) 360.

Pat Sharkey
City Clerk

January 23, 1989
Ordinance Book 37 - Page 361

ORDINANCE NO. 2576-X

AN ORDINANCE TO AMEND ORDINANCE NO. 2428-X, THE 1988-89 BUDGET ORDINANCE, PROVIDING A SUPPLEMENTAL APPROPRIATION TO THE CHARLOTTE COLISEUM FOR TURNER CONSTRUCTION CO. FEES.

BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina;

Section 1. That the sum of \$22,850 is hereby estimated to be available from a 1989 revenue financing.

Section 2. That the sum of \$22,850 is hereby appropriated to the General Capital Improvement Fund 2010; 255.00 - Charlotte Coliseum Construction.

Section 3. That the Finance Director or his designee is hereby authorized to advance the sum of \$22,850 to General Capital Improvement Fund 2010; 255.00 - Charlotte Coliseum Construction from the unappropriated fund balance of the Municipal Debt Service Fund. Funds advanced shall revert to their original source once the permanent revenue financing has been arranged.

Section 4. All ordinances or parts of ordinances in conflict are hereby repealed.

Section 5. This ordinance shall become effective upon its adoption.

Approved as to form:


City Attorney

Read, approved and adopted by the City Council of the City of Charlotte, North Carolina, in regular session convened on the 23rd day of January, 1989, the reference having been made in Minute Book 92, and is recorded in full in Ordinance Book 37, at page(s) 361.

Pat Sharkey
City Clerk