

Chapter 91A. Animals

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ARTICLE I. GENERAL PROVISIONS**§ 91A-1. PURPOSE**

Pursuant to authority granted by the North Carolina General Assembly, this animal control chapter 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.

The Matthews Board of Commissioners hereby finds that animals kept or allowed to be in violation of any of the provisions of this Chapter are detrimental to the health, safety, and welfare of the citizens of the Town of Matthews and jeopardize the peace and dignity of the Town.

Nothing in this chapter shall be construed to prevent Matthews Police Officers, or any law enforcement officers having proper authority, from enforcing any of the provisions of this chapter or from exercising their authority as law enforcement officers.

§ 91A-2. JURISDICTION

This chapter shall be applicable within the corporate limits of the Town. No employee of the Animal Control Division shall have the authority to enforce provisions of this chapter within any other corporate limits or jurisdictions, unless an Interlocal Agreement pursuant to G.S. Section 160A-460 et. seq. is executed by the Town and the incorporated municipality. 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 agreeing that this chapter shall be enforced by the Animal Control Officers, as defined below, within the corporate limits or jurisdiction of the Town.

§ 91A-3. DEFINITIONS

For the purposes 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:

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

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

Aggression-training facility: 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 toward humans or other domestic animals for any purpose, including, but not limited to, the security of business property or personal security.

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

Animal Control Officers: Persons properly appointed by the Town to enforce all sections of this chapter and applicable state laws and who are responsible for discharging other duties and functions as may be prescribed by the Board of Commissioners and as set forward by this or any other applicable ordinance or state law or pursuant to Interlocal Agreements cited in section §91A-2.

Cat: A domestic feline of either sex.

Chief of Police: The Chief of Police for the Town of Matthews, or his/her designee.

City: The City of Charlotte, North Carolina.

CMPD: Charlotte-Mecklenburg Police Department.

CMAC: Charlotte-Mecklenburg Animal Control or the shelter operated by CMAC.

Code: Matthews Town Code

Computation of time: In computing any period of time, all calendar days shall be counted unless other was designated in any order or other document.

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

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

Dog: A domestic canine of either sex.

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

Equine: Any horse, pony, mule, donkey or hinny.

Exotic or wild animal: An animal that would ordinarily be confined to a zoo, or one that would ordinarily be found in the wilderness of this or any other country or one that is a species of animal not indigenous to the United States or to North America, or one that otherwise is likely to cause a reasonable person to be fearful of significant destruction of property or of bodily harm and the latter includes but is not limited to: monkeys, raccoons, squirrels, ocelots, bobcats, wolves, hybrid wolves, venomous reptiles, and other such animals. Such animals are further defined as those mammals or non-venomous reptiles weighing over fifty (50) pounds at maturity, which are known at law as *ferae naturae*. Exotic or wild animals specifically do not include animals of a species customarily used in North Carolina as ordinary household pets, animals of a species customarily used in North Carolina as domestic farm animals, fish confined in an aquarium other than piranha, birds, or insects.

Exposure: Any contact with a human by an animal, to include biting, scratching, or the transfer of the animal's bodily fluids.

Exposure to Rabies: An Exposure to any animal or human by an animal known or suspected to be infected with rabies.

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

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

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

Impounded: Any animal that is received into custody by any employee of the Matthews Animal Control or CMAC.

Inoculation: The vaccination of a dog or cat with anti-rabic vaccine approved by the United States Division of Animal Industry, the North Carolina Department of Agriculture and the State Board of Health at such time or times as shall be required by the 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.

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

MAC: Matthews Animal Control, A Division of the Matthews Police Department.

MPD: Matthews Police Department

Neutered male: Any male dog or cat that has been rendered sterile by a surgical procedure (orchiectomy).

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

Security Dogs: For the purposes of this chapter, security dogs shall be synonymous with guard dogs.

Shelter: Any facility designated by the Town for the purpose of sheltering any animal lawfully impounded by Matthews Animal Control or CMAC.

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

Town: Town of Matthews.

Trespass: The wrongful or legally unauthorized entrance onto or invasion of the property of an animal owner or lawful possessor. The cause of the individual to be on the property and any other relevant circumstances shall be considered in order to determine whether or not a trespass has occurred. A child under the age of seven (7) shall not be deemed to be a trespasser.

Zoonoses: Diseases caused by infectious agents that can be transmitted between (or are shared by) animals and humans.

§ 91A-4 - 91A-10 RESERVED

ARTICLE II. ADMINISTRATION

§ 91A-11. DUTIES

The Matthews Animal Control Division, a Division of the Matthews Police Department, is created by the Board of Commissioners and operates under the direction of the Chief of Police.

(A) Duties. The Animal Control Division shall be charged with the responsibilities of:

- (1) Enforcing and carrying out the provisions of this chapter, any other Town ordinance assigning animal control duties, and all relevant state laws.
 - (2) Protecting animals from neglect and / or abuse.
 - (3) Making canvasses, including of 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;
 - (4) Investigating general complaints regarding animals controlled by this chapter.
 - (5) Enforcing the laws with regard to the vaccination of dogs and cats against rabies and enforcement of the county rabies ordinance. As 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, MAC shall investigate all reported animal bites or other human physical contact of the suspected rabid animal, ensure enforcement of quarantine of any animal involved, and submit bite reports and reports of human contacts to the Health Director.
 - (6) Supervising any Town facility for the sheltering of animals and coordinating sheltering with CMAC.
- (B) Uniform. Every employee of the Division, while performing their official duties, shall wear a uniform or display sufficient identification such that he/she is clearly recognized as a member of MAC.
- (C) Weapons. While acting with weapons in their official capacity, employees of the Division shall be exempt from any Town Code provision otherwise requiring permits or Town Board approval

§ 91A-12. INSPECTIONS; INTERFERENCE; CONCEALMENT; PRODUCTION OF DOCUMENTATION

- (A) Inspections. Whenever it is necessary to make an inspection to enforce any provisions of this chapter, or other applicable law, or whenever an employee of the Division has probable cause to believe that there exists in any building or upon any premises any violation of this chapter or other applicable law, the employees of the 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, or if legally recognized exigent circumstances exist. Any attempt to enter private property pursuant to this section shall be conducted 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 therefore; or
 - (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, then present proper credentials and request entry, explaining the reasons therefore; or
 - (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, or may act under a legally recognized exigent circumstance if such exists.

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 or other applicable law if a violation of such law is being committed in the presence of the employee and such entrance is otherwise consistent with the Constitution of the United States; such entry upon private property shall not be deemed to be a trespass.

- (B) Interference. It shall be unlawful for any person to interfere with, hinder, molest, resist or obstruct employees of the 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, non-inoculated or non-permitted animals from any employee of the Division.

(D) Production 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.

§ 91A-13. NEGLIGENCE PER SE

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

91A-28 Restraint of animals.

91A-29 Aggression-trained dogs.

91A-32 Exotic or wild animals.

91A-56 Protective measures for containment of animals; (failing to comply with instructions to impose preventive measures).

Such persons having possession of animals subject to these sections 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 the recovery of damages for personal injuries in a civil action by an injured person against the person owning or having possession, charge, custody or control of the animal causing said injuries.

§91A-14 – 91A-20 RESERVED

ARTICLE III. RESTRICTIONS AND PROHIBITED ACTS

§ 91A-21. ABANDONED ANIMALS

(A) Prohibited: It shall be unlawful for any person owning, possessing or harboring an animal to negligently or willfully abandon that animal.

(B) Abandoned Defined: For the purposes of this section, animals shall be considered abandoned when the totality of the circumstances reasonably indicates that the owner, possessor, or harbinger of the animal has negligently or willfully ceased to provide basic necessities for the animal with the intention to no longer care for the animal.

§ 91A-22. ABUSE OF ANIMALS

(A) Prohibited: It shall be unlawful if a person owning, possessing or harboring an animal to negligently or willfully:

(1) Fails to provide adequate food and/or water for any animal they own, possess, or harbor; or

(2) Overworks or over drives 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 they own, possess, or harbor; 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, 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, or attends any game, exhibition, contest, fight or combat between one (1) or more animals or between animals and humans; or
- (9) Fails to provide an adequate shelter for an animal they own, possess, harbor, or enclose, wherein the animal can be protected from extremes of weather (heat, cold, rain, etc.) and allowed to remain dry and comfortable during inclement weather; or
- (10) Fails to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, or fails to allow all animals kept outdoors to protect themselves from the direct rays of the sun; or
- (11) Keeps animals outdoors without access to shelter to allow them to remain dry and comfortable during inclement weather; or
- (12) Transports any type of animal in a motor vehicle, or in a wagon or trailer pulled by a motor vehicle, or in a truck or the back of a truck, without having such animal reasonably secured so as to prevent the animal from leaping or being thrown from the vehicle or in such a way as to cause pain, suffering, unreasonable discomfort or death to the animal; or
- (13) 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, or a law enforcement officers having proper jurisdiction, may use the least intrusive means to break and enter the vehicle if necessary to remove the animal where probable cause exists to believe that the animal is in the vehicle in violation of this subsection. The officer removing the animal shall then impound it, and shall 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.

(B) License / Permit Denied Due to Abuse Conviction. If, at the time of application for an animal license or permit pursuant to this chapter, it is found that the applicant has been criminally convicted of violations of this section, or of N.C.G.S. 14-360, 14-361, 14-361.1, 14-362 or 14-363, and that any two such convictions have both occurred within the last previous (5) years preceding application, the animal license or permit request shall be refused. The person shall be eligible to apply for an animal license permit five years after the date of the last criminal conviction.

(C) Euthanizing exception. Nothing in this section shall be construed to prohibit the 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.

§ 91A-23. ANIMAL BITE

(A) Bite Prohibited: It shall be unlawful for the owner, possessor, or harbinger of an animal to negligently allow the animal to bite a human being unless the animal has been subject to provocation, or unless the victim has been trespassing, as defined in §91A-3 "Definitions."

(B) Non-Control Prohibited: It shall be unlawful for an animal that has bitten, attacked or threatened a human or animal to remain at large.

(C) Reporting Required: It shall be unlawful for the owner, possessor, or harbinger of an animal, or for the victim if the victim is reasonably physically able, to fail to report to the Division or 911 as soon as possible that an animal has bitten a person.

(D) Production Required: It shall be unlawful for any person knowing the location of such an animal to fail to inform the Division of where the animal is located, and if the owner, possessor, or harbinger has given the animal

away, or caused in any way the animal to be taken from their premises, to identify the location of the animal, if known.

(E) Seizure Authorized: Animal Control Officers, or any law enforcement officer having jurisdiction, shall have the authority to enter upon private property, including entry into a dwelling unit or other similar building, when the Animal Control Officer has observed an animal which has committed the biting, attacking or threatening in violation of this section; and such entry upon private property shall not be deemed to be a trespass. Such entry is authorized so long as it is otherwise consistent with the North Carolina and United States Constitutions.

(F) Containment: In accordance with the Mecklenburg County Rabies Control Ordinance, any dog and cat that bites or scratches a person shall be immediately confined for ten (10) days in a place designated by the Animal Control Division or the Mecklenburg County 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 Chief of Police, or the Health Director may order the 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 ten-day confinement, then the MAC may dispose of the animal, unless the MAC or CMAC receives instructions of a different nature from the Health Department.

(G) Protective Measures: If the Division determines that a dog has bitten a human being, the Division shall have the authority to require protective measures pursuant to § 91A-56 if deemed necessary. The Division shall have the authority to require the owner to file with the Division signed, written affidavits, and receipts, where applicable, affirming that any of the above measures have been and will continue to be complied with. Any breach in compliance with such measures subjects the animal to seizure and forfeiture as provided in § 91A-53.

Ord. No. 1397; passed 11-22-04; effective 12-1-04; Ord. No. 1399; passed 12-13-04; (Chapter 91: Animals - repealed in its entirety - Ordinance No. 1400; 12-13-04) Ord. No. 1484, passed 2-27-06)

§ 91A-24. ANIMAL NUISANCES

(A) Prohibited: It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance or a nuisance to neighbors. Such acts or conditions shall include, but are not limited to:

- (1) Having an animal that disturbs the rights of, threatens the safety of, or injures a member of the general public or interferes with the ordinary use and enjoyment of their property; or
- (2) Permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers or vegetables; 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; or
- (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, crow, cackle, or cause noise in an excessive, continuous or untimely fashion so as to interfere with the reasonable use and enjoyment of neighboring premises; 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 creates 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; or

(9) Failing to remove feces deposited by a dog on any public street, sidewalk, gutter, park or other publicly owned property or private property unless the owner of the property has given permission allowing such use of the property. This section shall not apply to visually impaired persons who have charge, control or use of guide dogs or persons using dogs in conjunction with activities of the Matthews Police Department.

§ 91A-25. HARBORING STRAY ANIMALS

(A) Prohibited: 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 stray animal upon his/her property, unless he/she has, within seventy two (72) hours of the time the animal came into his possession, notified the Animal Control Division. Upon receiving such notice, the Division may seize the animal pursuant to section §91A-51.

(B) Failure to Surrender: It shall be unlawful for any person to refuse to surrender such an animal to an employee of the Division upon demand.

(C) Feeding/Baiting Strays: It shall be unlawful for any person, group, club, business entities or their employees to keep, harbor, maintain, or provide easy food access for stray, feral or otherwise wild dangerous animals on residential or business property in the Town which may entice known "rabies carriers" into the area.

§ 91A-26. INJURING ANIMALS

(A) Prohibited: It shall be unlawful for any person to intentionally strike an animal with an automobile or other vehicle.

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. Notification may be made through the Matthews Police Department.

§ 91A-27. RECKLESS RIDING AND/OR DRIVING OF ANIMAL

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

§ 91A-28. 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 the physical restraint used is a leash, bridle, or other device requiring a person to control the animal, then the person using such restraint must be of sufficient age and physical size or ability to reasonably restrain the animal.

(B) Restraint by 'Invisible Fence': If the secure enclosure is an effective, working invisible fence, then there must be a visible, permanent signs on the premises stating that there is an invisible fence. If an animal escapes from an invisible fence then the Animal Control Division may order further current methods as specified in § 91A-56.

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

(D) Public Parks. It shall be unlawful for any person owning or having possession, charge, custody, or control of any dog to take the dog into or allow the dog to enter any public park without being at all times under the restraint of a leash. This section shall not apply to:

- (1) Parks that have been designated as a leash free parks by the governmental agency responsible for the park;
- (2) Guide and hearing-aid dogs that are in the company of blind or deaf persons or being trained for such purposes;
- (3) Dogs employed or hired by law enforcement agencies or by the governmental agency responsible for the park to perform a governmental purpose within the park.

This conditions of this section do not supersede the prohibitions of section § 91A-31, ANIMALS PROHIBITED AT TOWN-SPONSORED EVENTS.

§ 91A-29. AGGRESSION-TRAINED DOGS

(A) Identification: 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 requirements of sub-paragraph (B) as hereinafter written.

(B) Requirements: Individuals or business entities engaged in the aggression-training of dogs, or the owner, possessor or harborer of any aggression-trained dog(s) must comply with the following requirements:

- (1) The individual, business entity, owner, possessor or harborer 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 the safety of facilities during the operating hours of the aggression-training facility.
- (4) Aggression-trained dogs must be maintained in adequate confinement by anyone possessing them in any way. The Division shall have the authority to require all aggression-trained dogs to be confined in a strong fence at least six (6) feet high and, at the discretion of the Division, topped by an anti-climb enclosure.
- (5) Zoning – This business shall be allowed only in properties with ‘Business’ zoning classification only.

(D) Imposition of Preventive Measures: If the Division determines that a dog has been aggression-trained, or trained for fighting or aggressive attack, the Division shall have the authority to impose the same requirements stated in § 91A-56.

(E) Appeal: If the Division determines that a dog has been aggression-trained, or trained for fighting or aggressive attack, and the owner wishes to appeal that or the preventive measures imposed, then the appeal shall be the same as that stated in § 91A-55.

§ 91A-30 GUARD DOGS

(A) Requirements: The owner, possessor, or harborer of a guard dog kept within the Town for longer than is necessary to merely pass through the Town shall comply with the following requirements:

- (1) Identification. It shall be unlawful for a guard dog kept in the Town not to have a current license tag.

(2) Signs. The owner, possessor, harbinger or user of any guard dogs or the owner of the premises employing the dogs must have posted on the premises a sign that identifies the name, address and telephone number of the owner of the security dogs.

(B) Escaping Guard Dog: If a guard dog bites someone who is not a trespasser, then the Town shall have the authority to prohibit that dog from serving as a guard dog within the Town.

(C) Enforcement: In addition to using any and all enforcement remedies stated in this chapter, the Division shall also have the following additional authority in respect to Guard Dogs:

(1) If any guard dog is seized while running at large, it shall not be returned to the owner until the owner proves to be in compliance with all the requirements of sub-paragraph (A) above, and the owner had demonstrated the animal can be contained / controlled upon the owner's property.

(2) If any guard dog is found not to be in compliance with the provisions of this chapter, an Animal Control Officer shall have the authority to issue a "notice of prohibition" for the use of that guard dog, to the owner of the animal, until is found to be in compliance with the provisions of this chapter.

(3) If any premise utilizing a guard dog is found to be not in compliance with sub-paragraph (A) above, an Animal Control Officer shall have the authority to issue a "notice of prohibition", to the owner or person in authority for that property, for the use of guard dogs on that premise unless compliance with the provisions of this Chapter are verified within forty-eight (48) hours of notice.

(4) The Division shall have the authority to seize guard dogs if there has not been compliance with the provisions of this subsection, or for the safety of the public, all in accordance with Code § 91A-52.

§ 91A-31. ANIMALS PROHIBITED AT TOWN-SPONSORED EVENTS

(A) Prohibited: It shall be unlawful for any person owning or having possession, charge, custody or control of any animal, as defined in § 91A-3, to take that animal, or allow that animal to enter, whether on a leash or not on a leash, the boundaries of any Town- sponsored public event unless such event is specifically designated as exempt from this section due to the event's nature by the Chief of Police. The boundaries and the interior of a Town-sponsored public event shall consist of any area that is part of the event and shall include any public park, street, sidewalk or other publicly owned area within that area.

It shall be unlawful for any person with an animal within the boundaries of those events to fail to obey the command of a law enforcement officer or of an Animal Control Officer, to remove such animal from the event.

(B) Exception: This section does not apply to trained guided dogs. This section shall not apply to those animals that are part of an authorized event exhibit. The Chief of Police, shall have the authority to specify the conditions, whether for the protection of the public or the well-being of the animals, for allowance of such animals at Town-sponsored events.

§ 91A-32. EXOTIC OR WILD ANIMALS AND REPTILES

(A) Prohibited: It shall be unlawful for any person, firm or corporation to keep, maintain, possesses or have under their control within the Town, any venomous reptile or any other wild or exotic animal.

(B) Exceptions: The provisions of this section shall not apply to lawfully operated and located pet shops, zoological gardens, scientific research laboratories, circuses, veterinarians harboring such animals for purposes of providing professional medical treatment, wildlife rehabilitators with proper permits, or exhibitors licensed by the United States Department of Agriculture displaying such animals for educational purposes, provided that the animals are maintained in a manner so as to prevent escape.

(C) Permits: Permits for the keeping or maintenance of wild or exotic animals are not authorized.

(D) Confinement: The confinement of exotic or wild animals exempted from subsection (a) by subsection (b) above, must meet the regulations promulgated by the North Carolina Wildlife Commission, the minimum standards under the Animal Welfare Act and all applicable rules promulgated by the United States Department of

Agriculture. In addition to meeting the above minimum standards, all such venomous reptiles and all such wild or exotic animals shall be confined, restrained or controlled in such a manner so that the physical safety, or property, of any person lawfully entering the premises shall not be endangered.

(E) Transport: Animals described under sub-paragraph (A) above, but exempt under sub-paragraph (B), shall not be allowed on any public street, sidewalk, or other public way, except in a fully enclosed cage or adequate structural restraint. The use of a leash, with or without a muzzle, shall not be considered adequate restraint. Exempt from this provision are animals that are part of a featured performance at a special event with a Town festival or parade permit where the animal handler is licensed by the United States Department of Agriculture.

§ 91A-33. PET SHOPS

(A) Inspections: 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 that is detrimental to the well-being of the animal.

(B) Prohibited: It shall be unlawful for any pet store employee or pet store owner to prohibit or otherwise obstruct the town's access to conduct such inspections pursuant to this section.

§ 91A-34 – 91A-40. RESERVED.

ARTICLE IV. LICENSING AND PERMITS

§ 91A-41. LICENSES AND RABIES TAGS REQUIRED

(A) License: It shall be unlawful for any dog, cat, or ferret owner, possessor or harbinger who resides in the Town to fail to provide their dog, cat, or ferret over four (4) months of age with a current Town license tag. The owner, possessor or harbinger of any above-described animal must have their animal vaccinated and must have a current rabies vaccination tag showing that such animals have been vaccinated. No license will be issued unless proof of inoculation is shown. Any dog, cat, or ferret owner, possessor, or harbinger who moves into the Town 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) License Fee: See § 91A-61 for current License Fee schedule

(C) Rabies Inoculation: It shall be unlawful for any person who owns, possesses, or harbors a dog, cat, or ferret not to have the animal inoculated against rabies.

(D) Rabies Tag Required: It shall be unlawful for the owner, possessor, or harbinger of any dog or cat in the Town not to have the dog or cat wear the rabies vaccination tag issued to them by the veterinarian administering the rabies vaccine. It shall be unlawful for the owner, possessor, or harbinger of any ferret in the Town not to have in the owner's possession the rabies vaccination tag issued to that person by the veterinarian administering the rabies vaccination. Dogs and cats not wearing such tags, and for which the owner cannot promptly display a valid rabies tag, may be impounded pursuant to § 91A-51.

(E) Reclaim: If the Division has lawfully acquired custody or control of an animal, and the Division has probable cause to believe that the animal does not have the lawfully required inoculation against rabies, the Division shall have the authority to have the animal inoculated against rabies. The owner, possessor, or harbinger of the animal shall not have the right to reclaim the animal until the owner, possessor, or harbinger has paid the Town for the cost of the rabies inoculation.

§ 91A-42. PERMITS FOR FOWL, EQUINE, CLOVEN-HOOFED ANIMALS, ETC

(A) Permit Required: It shall be unlawful for any person to own, keep, have, or maintain any equine animals, cloven-hoofed animals or other livestock or any rabbits, except for rabbits kept exclusively inside the owner's

residence, chickens, turkeys, ducks, guineas, geese, pheasants, pigeons or other domestic fowl in the Town 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.

- (1) The permit application shall list all such animals and fowl to be maintained on the premises.
- (2) 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 of or otherwise become a public nuisance to nearby residents or occupants or places of business.
- (3) When a permit is denied for any reason, the applicant shall be given a written explanation of the reason for denial.

(B) Permit Fee: Only one permit is required per household, and must be renewed annually. The fee schedule is found in section 91A-61.

(C) Permit Considerations: An owner or possessor of such animals or fowl shall comply with the following applicable provisions before a permit is issued. All shelters described within this section must meet all standards as defined within the applicable Town of Matthews Unified Development Ordinance, as noted. Compliance with the below provisions will create a presumption that a permit shall be issued. That presumption may only be rebutted by specific findings supported by competent evidence that despite compliance with the below provisions, the presence of such animals or fowl are still likely to endanger the health, safety, peace, quiet, comfort, enjoyment of or otherwise become a public nuisance to nearby residents or occupants or places of business.

(1) Maintaining fowl and other specifically identified animals including, but not limited to, chickens, turkeys, ducks, guineas, geese, pheasants, pigeons, or other domestic fowl or rabbits:

- (a) 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.
- (b) The coop or fowl house must be used for fowl only and the hutch for rabbits only, and both must be well ventilated.
- (c) The coop, fowl house or hutch shall have a minimum of four (4) square feet of floor area for each fowl or rabbit.
- (d) The run must be well drained so there is no accumulation of moisture.
- (e) The coop, fowl house or hutch shall be kept clean, sanitary and free from accumulation of animal excrement and objectionable odors. It shall be cleaned daily, and all droppings and body excretion shall be placed in a fly proof container and double-bagged in plastic bags.
- (f) The coop, fowl house or hutch shall be a minimum of twenty-five (25) feet from any adjoining property line.
- (g) 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.

(2) Maintaining equine (horses, etc.):

- (a) Equine must be provided with adequate shelter to protect them from the elements.
- (b) Shelters for equine, located upon single-family zoned sites, except where otherwise described in section (c) below, shall be kept a minimum of one hundred (100) feet from any property line. The shelters must be in compliance with all other provisions of the Town of Matthews Unified Development Ordinance 155.506.12, *Private Stables*.

(c) Shelters for equine within *Equestrian-Oriented Subdivisions*, when designed and utilized as 'community shelters' as defined in the Town of Matthews Unified Development Ordinance 155.506.02, shall be kept at a minimum of one hundred (100) feet from any adjoining property line when that adjoining property does not fall within the special district for *Equestrian-Oriented Subdivisions*. All other shelters within the *Equestrian-Oriented Subdivision* shall be kept a minimum of three feet (3') from any property line, pursuant to the Town of Matthews Unified Development Ordinance 155-601.20, *Accessory Structures*.

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

(3) Maintaining cloven-hoofed animals and other livestock:

(a) Such animals must be provided with adequate shelter to protect them from the elements.

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

(c) The shelters for cows and other large livestock, which are covered by the zoning ordinance, 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.

(d) 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.

(4) The slaughter of any livestock or poultry not regulated by North Carolina state law or otherwise forbidden or regulated, shall be done only in a humane and sanitary manner and shall not be done open to the view of any public area or adjacent property owned by another.

(D) 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. This section shall not apply to, and no permit shall be required for, any agricultural operation within G.S. Section 106-700, "Nuisance Liability of Agricultural Operation." The permit shall be valid for one year from the date of issuance and shall be renewed annually. (*Ord. No. 1512; passed 10-9-06*)

(E) Revocation of Permit: The Division may revoke any permit when the permit has been mistakenly issued without compliance with this section; or when the applicant has submitted false information; or for a violation of any of the provisions of this chapter; or, when it is deemed that 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, and if the violation pertains to a correctable condition on the property, the owner shall have thirty (30) days in which to bring the property or condition into compliance with this chapter.

§ 91A-43. PERMIT FOR FOUR OR MORE DOGS AND/OR CATS

(A) Permit Required: It shall be unlawful for any person to own, to keep custody of, or care for, four (4) or more dogs or cats, or any combination of four (4) dogs and cats or more, all being four (4) months or older, unless a permit is issued by the Animal Control Division.

(B) Permit Fee: Only one permit is required per household. A fee schedule for this permit is found in section 91A-61.

(C) Permit Period: 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 such similar change that might reasonably violate the five (5) 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.

(D) Permit Considerations: If a person has four (4) or more dogs or cats on the premises, then the Chief of Police, must make the following findings before a permit is issued:

- (1) That noise from the dogs or cats will not interfere with an abutting occupant's use and peaceful enjoyment of the property.
- (2) That odor or unsanitary conditions caused by the dogs or cats will not interfere with an abutting property occupant's use and peaceful enjoyment of their property.
- (3) That four (4) or more dog runs or other dog-related structures, or any combination thereof, cannot be seen from an abutting occupant's property if within a residentially zoned district.
- (4) That there is no evidence that the dogs or cats pose any health problem or disease exposure for abutting occupants.
- (5) That the dogs or cats do not interfere in some other similar manner with the peaceful use and enjoyment of abutting property.

(E) Permit Denied: If an application for a permit relative to this section is denied, the applicant will receive the reasons for the denial in writing. The written statement may include any recommendations or conditions that would enable the person to be in compliance with the standards. The Town reserves the right to assign specific conditions to any permit when it is deemed to be in the best interest of the Town.

(F) Permit Revoked: The Division may revoke any permit when the permit has been mistakenly issued without compliance with this section; or when the applicant has submitted false information; or for a violation of any of the provisions of this chapter; or, when it is deemed that 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, and if the violation pertains to a correctable condition on the property, the owner shall have thirty (30) days in which to bring the property or condition into compliance with this chapter.

§ 91A-44. APPEAL OF DENIAL OR REVOCATION OF PERMIT

(A) Right to Appeal: Any person who is denied a permit or has a permit revoked under §91A-42 and 91A-43 shall have the right to appeal the denial or revocation to the office of the Town Manager.

(B) Appeal Process: Any appeal shall be in writing, shall state the basis of the appeal, and must be filed with the Town Clerk within ten (10) calendar days after the notice of denial or revocation of the permit is delivered to the appellant by the Division. Such notice shall be considered "delivered" when the notice letter, with adequate postage and having been properly addressed to the last mailing address provided to the Division by the person, is placed in the United States mail; or when personal notice is given to the person. The appellant, in addition to filing the appeal with the Town Clerk, shall also file a copy of the appeal letter with the Chief of Police.

(C) Response to Appeal: Upon receipt of a proper appeal, the Town Manager, or his representative, shall conduct a hearing within ten (10) calendar days to determine if the permit should be denied or revoked. A permit application denied shall remain so unless and until such time as the Town Manager or his representative overturns the denial. A permit revocation order shall be suspended, upon a properly filed appeal, until a decision is entered on the appeal by the Town Manager or his representative.

§91A-45. 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 nonresidents of this Town who are traveling through or temporarily sojourning in the Town for a period not exceeding thirty (30) days. Nor shall the licensing provisions apply to animals temporarily brought into this Town for the exclusive purpose of entering animals in a show or other exhibition.

§ 91A-46 – 91A-50. RESERVED

ARTICLE V. IMPOUNDMENT, SEIZURE/FORFEITURE, CONTAINMENT & DISPOSITION OF ANIMALS

§ 91A-51. IMPOUNDMENT

(A) Impoundment: Any animal that is found to be abandoned, neglected, stray, or to be in violation of any provision of this chapter is subject to immediate impoundment if the animal's owner is nonexistent, unknown, or found to be unavailable after a reasonable attempt to identify, locate, and/or notify the animal's owner has been made.

(B) Impoundment Period: Except as otherwise directed by any provision of this chapter, any animal that is so impounded may be held by the MAC for up to three (3) working days, excluding the day of impoundment, before disposition of the animal pursuant to this chapter

(C) Reclaim of Animal: If the owner of the animal appears during the holding period, the owner may redeem the animal upon successful completion of any required hearing, upon paying all applicable fees and any outstanding civil fines that may have been issued pursuant to a violation of this chapter, and by bringing the animal into full compliance with all provisions of this chapter and any applicable state law. Unless otherwise defined in this section, the owner shall have ten (10) calendar days from when they first appear and reclaim the animal, during which time the animal shall remain impounded at MAC. The owner shall be responsible for a boarding fee for the entire time the animal is held by the Division. Failure to do so shall result in the forfeiture of the animal to the Division. The MAC may grant a time extension to any owner actively attempting to redeem their animal.

(D) Transfer to CMAC: Matthews Animal Control may transport the animal to the CMAC at any time, and any release from CMAC shall be in accordance to their regulations and requirements, and shall require proof of satisfaction of any/all fees and fines assessed by MAC for the impoundment and transport of the animal.

§ 91A-52. SEIZURE, FORFEITURE, AND DISPOSITION OF ANIMALS

(A) Authority to seize and forfeit animals: In addition to any other authority or procedure authorized by this chapter or by any other law to seize an animal, the MAC shall have the authority to summarily seize and forfeit to the MAC any animal when the MAC determines that:

(1) There is probable cause to believe that the animal, under the totality of the circumstances, is dangerous or prejudicial to the public safety or public health and the MAC has issued a probable cause notice on the animal; or

(2) There is probable cause to believe the animal is the subject of a violation of the following sections of this chapter:

- 91A-21 Abandoned Animals.
- 91A-22 Abuse of Animals.
- 91A-23 Animal Bite.
- 91A-24 Animal Nuisances.
- 91A-25 Stray Animals.
- 91A-28 Restraint of Animals.
- 91A-32 Exotic or Wild Animals or Reptiles
- 91A-41 License and Rabies Tags and Fees.
- 91A-43 Permit for Four or More Dogs and/or Cats; or

(3) There is probable cause to believe the animal is the subject of a violation of this chapter that is punishable by escalating civil penalties under § 91A-62 and the escalated penalty appropriate to the specific violation includes seizure of the animal (Civil); or

(4) The lawful owner of the animal willingly forfeits it to MAC due to an inability or desire to care for or keep the animal. The owner shall sign a release vesting all rights and title to the animal to the town.

(B) Procedure. The procedures by which such seizures and forfeitures shall be accomplished shall be in accordance with subsequent sections as follows:

(1) Sub-paragraph (A)(1) “Dangerous Animal Seizures” shall be conducted in accordance with the procedures set out in §91A-55.

(2) Sub-paragraph (A)(2) through (A)(4) seizures shall be conducted in accordance with the procedures set out in § 91A-53.

§ 91A-53. GENERAL SEIZURE/FORFEITURE PROCEDURE

(A) Procedures: When an animal has been or shall be seized pursuant to § 91A-52(A)(2), (A)(3), or (A)(4), the procedures of this section shall be followed. The act of seizing the animal shall be done in any manner consistent with North Carolina law and the United States Constitution.

(B) Notice and Holding Period: MAC may/shall conduct reasonable efforts to identify, locate, and notify the animal’s owner. The animal shall be held three (3) working days, excluding the day of seizure, from the date notice is sent to the owner or from the date of seizure if the owner cannot be identified or located after reasonable efforts to do so.

The Notice shall include the following:

- (1) An order to the animal’s owner to contact the Division immediately.
- (2) A brief statement of the date, location, and reason for the seizure of the animal.
- (3) A statement that the animal is subject to forfeiture and humane destruction within three (3) working days from the date the notice was sent.
- (4) A statement that a hearing will be held, at the owner’s request, to determine if the animal shall be forfeited.
- (5) A statement of the method(s) by which the owner may contact the Division.

(C) Hearing: If the animal owner contacts the Division within the three days and requests a hearing, a hearing shall be held. The hearing shall be conducted in the same manner and with the same remedies and consequences as those set out in § 91A-55.

(D) Findings: If the violation that is the basis of the seizure is found by the preponderance of the evidence to have occurred, then the Hearing Officer shall have the authority to order the same remedies available in § 91A-55(K) and 91A-56. However, if forfeiture is ordered, the animal may be placed for general adoption to the public if it is healthy, non-aggressive, and has not bitten. If the animal’s owner fails to contact MAC and request a hearing within the three days after the notice is sent, then the animal shall be forfeited to MAC or CMAC.

(E) Appeal: Appeal from a determination under this section shall be conducted in compliance with § 91A-55(L).

(F) Reclaim Fee: The owner may reclaim the impounded animal subsequent to payment of the Impound Fee and Boarding Fees as found in section 91A-61, and after having provided proof of current licensing required by the owner’s current jurisdiction.

§ 91A-54. DISPOSITION OF IMPOUNDED AND FORFEITED ANIMALS

(A) Disposition of Impounded Animals: Animals impounded by MAC and not reclaimed by their owners may be sold or offered for public adoption, if the animal is found to be healthy, or humanely euthanized. Such animals may be transported to CMAC and disposed of in accordance with policies as established by the Charlotte City Council.

(B) Disposition of Forfeited Animals: Animals forfeited to MAC and not reclaimed by their owners may be sold or offered for public adoption, if found to be healthy, or euthanized. Such animals may be transported to CMAC and disposed of in accordance with the policies as established by the Charlotte City Council.

(C) Disposition of Injured or Suffering Animals: MAC 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 crippled or suffering incurably after reasonable effort has been made to notify the owner.

§91A-55. DANGEROUS ANIMAL SEIZURE/ FORFEITURE PROCEDURE

(A) Notice Required: No animal shall be seized on the basis that it is dangerous or prejudicial to the public safety or public health without the prior issuance of a Probable Cause Notice. The notice shall be issued by the Chief of Police. This limitation shall not prohibit seizure based on other lawful authority, nor the subsequent issuance of a probable cause notice for an animal otherwise seized or impounded.

(B) Probable Cause Notices: The probable cause notice shall include:

- (1) The specific facts constituting probable cause for declaring the animal dangerous,
- (2) That a prompt hearing to determine whether or not the animal is dangerous shall be held as soon as possible, and
- (3) That anyone in possession of the animal shall immediately turn the animal over to the MAC.
- (4) That if the animal's owner is known, the owner is to immediately contact the MAC.

(C) Notice Delivery: If the animal owner, if known, shall be notified as soon as reasonably possible of the probable cause notice. If the owner is unknown, the MAC shall make reasonable efforts to determine who the owner is and try to notify the owner.

(D) Response to Notice: The owner shall turn the animal over to MAC immediately upon receiving a probable cause notice. The MAC shall have the authority to seize immediately any animal for which a probable cause notice has been issued.

(E) Prohibited: It shall be unlawful for the owner or occupant of a premises to fail to give an animal to the department immediately upon the presentment of a probable cause notice. Such animal may be held at MAC or CMAC.

(F) Containment Option: The official that issued the probable cause notice shall have the authority to authorize that an animal may remain on the premises or elsewhere prior to the seizure/forfeiture hearing if the MAC is satisfied that the animal's confinement shall be adequate for protecting the public and for the well-being of the animal. The official that allows the animal to remain without seizure shall order the animal to be kept adequately confined and shall issue a containment order in compliance with § 91A-56. A failure of the animal to be kept so confined shall result in the immediate seizure of the animal. The department shall always have the authority to summarily seize an animal after the probable cause notice has been delivered and before the seizure hearing.

(G) Request for Hearing. The owner of an animal subject to a probable cause notice shall have the right to a hearing to determine whether or not the animal shall be declared dangerous as defined in this chapter. The owner of the animal shall request a hearing by submitting a written request during normal working hours to MAC within ten (10) working days after the delivery of, or all reasonable efforts to deliver the probable cause notice to the owner.

(H) Failure to Request a Hearing. If the owner fails to properly file a timely request for a hearing with the MAC, the Chief of Police shall determine whether the animal is dangerous. The Chief of Police shall make findings of fact to support the determination, and the determination shall be conclusive. MAC may dispose of the animal as provided for in subsection (I) below. In the event that the Chief of Police, due to a conflict of interest or any other circumstance, is unable to make the above determination, then the Chief of Police shall make the determination.

(I) Hearing. Upon a proper and timely request, a hearing shall be held. The supervisor that issued the probable cause notice or his designee shall present whatever relevant evidence the supervisor has that the animal should be declared dangerous. The owner shall be entitled to present whatever relevant evidence the owner wishes and to have legal representation. All testimony before the Hearing Officer shall be sworn testimony. The entirety of the

hearing shall be recorded. If physical evidence is presented by either side, the Hearing Officer shall have such evidence photographed as part of the record and shall describe the item fully for the record.

(J) Hearing Officer. The Chief of Police shall be the Hearing Officer and shall conduct the hearing to determine whether the animal shall be declared dangerous or not. The Chief of Police shall not function as the Hearing Officer if there is any conflict of interest or appearance of such. In such cases the Police Chief shall serve as Hearing Officer. The Chief of Police shall disclose any facts, knowledge or any information known by the Chief of Police regarding the particular situation for the record at the very beginning of the hearing. The Chief of Police shall respond to any questions about any past knowledge about the particular situation. The appellant shall have the right to state for the record any specific findings of fact about the particular situation that the appellant believes precludes the Chief of Police from conducting an impartial hearing of the case.

(K) Decision and Written Orders. The Hearing Officer's decision shall be supported by specific findings of fact and specific conclusions based upon the findings of fact. The Chief of Police, if the Chief of Police acts as Hearing Officer over the objections of the appellant, shall make specific findings of fact and conclusions regarding such objections for that particular case. All findings of fact must be supported by competent and material evidence in the record and must be included in the record.

The Hearing Officer shall issue a written order based on his or her decision. The written order shall declare whether the animal is found to be dangerous or prejudicial to the public safety or public health or non-dangerous. If the animal is found to be dangerous or prejudicial to the public safety or public health, then the Hearing Officer shall have the authority to terminate the owner's ownership rights in the animal and to dispose of the animal in accordance with sub-section (I), or the Hearing Officer may suspend the termination of ownership rights conditioned upon the owners compliance with such terms as the Hearing Officer deems necessary to ensure that the animal may be kept by the owner in safety. If such terms are part of a written order suspending seizure/forfeiture, then the terms and the written order shall comply with the requirements of section 91A-56. The Chief of Police shall have the authority to modify the terms when it is necessary to ensure the safety of the public. The termination of ownership rights may be invoked upon the failure to comply with any of the terms. Written orders shall include the following statements:

- (1) Whether the animal is dangerous and prejudicial to the public safety or health or non-dangerous. (If non-dangerous, nothing further is required.)
- (2) That MAC has the authority to terminate ownership rights of the animal, and to order the humane destruction of the animal.
- (3) Whether the ownership rights are being presently terminated or if such termination is suspended.
- (4) If the termination is suspended, the terms and condition on which the termination is suspended in compliance with section 91A-56.
- (5) That failure to comply with the written order could result in termination of ownership rights and humane destruction of the animal.
- (6) That any appeal to the Superior Court of the Hearing Officer's decision must be filed within 30 days.

(L) Disposition of the Animal. The Chief of Police shall have the discretion to dispose of any animal forfeited to the Division under § 91A-53 in one of only two specific ways:

- (1) By humane destruction of the animal; or
- (2) By giving the animal to an individual or an organization subject to the protective and inspection conditions required by the Animal Control Officer for the well-being of the animal, for the protection of the public and for the purpose of preserving and taking care of the animal. Such conditions shall reserve MAC's right to seize and humanely destroy the animal upon any failure to comply with the conditions. An animal declared to be dangerous by the Chief of Police shall not be disposed of for research or experimental purposes.

(M) Appeal to Superior Court. The decision of the Chief of Police or of the Town Manager or his designee shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for writ of certiorari for review by the Superior Court shall be filed with the Clerk of Superior Court within thirty (30) days after delivery of or reasonable efforts to deliver the decision to the owner or the owner's representative.

The Town shall reimburse the petitioner for the cost of the petitioner's transcript and the court's transcript if the court reverses the decision and determines that the animal is not dangerous.

In the event of the filing of a petition for writ of certiorari in Superior Court, the animal shall be confined at the animal shelter or at a location solely acceptable to MAC or CMAC.

§91A-56. PREVENTIVE MEASURES FOR CONTAINMENT OF ANIMALS

(A) Authority: MAC shall have the authority to require the owner or custodian of an animal to comply with specific preventive measures, as described below in sub-paragraph (B), whenever MAC has the authority to seize the animal for possible forfeiture or when otherwise authorized by this chapter. Preventive measures shall only be ordered after taking into consideration the totality of the circumstances, including but not limited, to the following:

- (1) The behavior, size, temperament, breed, capacity for inflicting serious injury, the number of animals or other such similar factors that would be relevant to a determination of whether or not preventive measures need to be imposed for a particular situation; and
- (2) The adequacy of the current enclosure or confinement, if any; and
- (3) The likelihood that the conditions pertaining to the particular animal and the animal's confinement are detrimental to the safety or welfare of citizens or the peace and tranquility of citizens in the immediate surrounding area.
- (4) The history of the animal and the animal's owner in compliance or noncompliance with this chapter's provisions as well as the owner's ability to adequately restrain the animal when viewed in light of all relevant factors.

(B) Preventive Measures: If MAC determines that the circumstances require special preventive measures, then the MAC shall have the authority to require appropriate, specific preventive measures which might include, but are not limited to, the following:

- (1) Necessary repairs for any fence or enclosure, measures to ensure that a gate will remain closed, a "fence" or "secure fence" as described below or any other similar device that would provide greater assurance for the confinement of the animal, all of which are subject to being specifically approved for their adequacy by the Division; and/or
- (2) A fence of at least a minimum of four (4) feet high and constitute a secure-enough enclosure sufficient to contain the animal at all times. The minimum size of the enclosure may be at least one hundred fifty (150) square feet. If the animal is over fifteen (15) inches at the shoulder or is deemed capable of climbing a standard four-foot fence, then the MAC may require a six-foot fence. A secured lock shall be required and secured at all times the animals are present; and/or
- (3) A 'secure fence' that, in addition to the description found above in sub-section B(2), may be enclosed on all six (6) 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; and/or
- (4) Requiring the owner to microchip the animal at the owner's expense if that is necessary for identification, investigative or enforcement purposes; and/or
- (5) Requiring the owner to procure liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) at the owner's expense; and/or
- (6) Requiring the owner to post or display, in a conspicuous manner, a sign on the premises warning of the animal on the premises.

(C) Containment Order: If MAC determines that specific preventive measures must be complied with by the owner of an animal, the MAC shall make reasonable efforts to notify the owner of the containment order. All containment orders shall be in writing and shall state the reasons that preventive measures are required, identify the specific preventive measures that must be implemented, and the designated time period within which to comply with the

containment order. MAC shall have the authority to exercise discretion for extensions of time if that is reasonable in view of the good-faith progress of the owner in implementing the preventive measures.

(D) Failure to Comply with Containment Order: It shall be unlawful for an owner to fail to comply with a containment order within the designated time for compliance stated in the written order or any extension thereof. The penalty for a willful failure to comply with a containment order shall be a civil penalty in accordance with § 91A-62 or seizure/forfeiture of the animal in accordance with § 91A-53 or § 91A-55.

(E) Appeal to Containment Order: The owner may submit in writing a challenge to the MAC determination that sub-paragraph (A) is applicable to the owner's premises or submit in writing a challenge to the specific preventive measures required by the MAC. The challenge must comply with all of the requirements as for a request for hearing as set out in § 91A-55. A challenge that meets those requirements shall be heard in the same manner and with the same appeal to superior court as set out in § 91A-55. The Hearing Officer shall review the containment order under the standards of this section but shall follow the process for hearing as set out in § 91A-55. If the animal has been seized and the owner wishes to appeal the seizure and potential forfeiture as well as challenge the containment order, both matters may be addressed in the same hearing.

(F) Change of Conditions or Residency: Any subject of a Containment Order is required to notify MAC immediately upon the permanent removal of the subject animal or upon any impending relocation of the occupants of the property.

§ 91A-57. RABIES IMPOUNDMENT

(A) Power to Impound: The Mecklenburg County Ordinance for the Control of Rabies and other Zoonoses shall apply.

(B) Impoundment Order: Consistent with that ordinance, the Chief of Police, or any MAC Officer having reason to believe an animal shows symptoms of rabies or which has bitten a person, shall have the authority to order the confinement of such animal and to take whatever other action is necessary for confinement, observation and disposition of the animal.

§ 91A-58. RESERVED

ARTICLE VI. SERVICES & PROGRAMS

§91A-59. RABIES CLINIC; SPAY & NEUTER SERVICES

(A) Rabies Clinics or Spay/Neuter Services: MAC is authorized to establish, equip, operate and maintain and provide Rabies and/or spay neuter services ("services" hereinafter) for dogs, cats, rabbits and ferrets, and 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 MAC is further authorized to contract with any individual, corporation, nonprofit corporation, governmental body or any other group for the purpose of operating or providing services for dogs, cats, rabbits and ferrets within the Town. The Division may appropriate and expend tax and non tax funds, including property tax, for those purposes.

(B) Consent and Waiver Form. Persons submitting dogs, cats, rabbits and ferrets 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 rabies inoculation or spaying or neutering operation or any services provided incidental thereto. The person presenting the animal for such operation shall indemnify the Town against any person's claim that the Town did not have the authority or right to destroy the animal.

(C) Reclaim of Animal: MAC 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, established in accordance with § 91A-

61, such 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 MAC may dispose of the animal by any disposition method authorized by this chapter.

§ 91A-60. RESERVED

ARTICLE VII. FEES, ENFORCEMENT & FINES

§91A-61. FEES / FEE SCHEDULES

(A) Animal Licenses: Licenses shall be renewed by the last day of the month in which the license expires one (1) year from the date of issue, except for sterile dogs or cats, which may have a three (3) year renewal term. (Ord. No. 1512, passed 10-9-06). The license fee for all dogs, guard dogs, cats, and ferrets shall be as follows:

Dogs:	Fertile	\$30.00/year	
	Sterile	\$10.00/year	(3 year \$30)
Cats:	Fertile	\$30.00/year	
	Sterile	\$10.00/year	(3 year \$30)
Ferrets:	Fertile	\$30.00/year	
	Sterile	\$10.00/year	(3 year \$30)

(1) Any owner of an animal who can furnish a statement from a licensed veterinarian that the animal, due to health reasons, could not withstand a spay/neuter procedure shall be charged at the sterile rate.

(2) Any animal owner sixty-two (62) years of age or older who owns a sterilized animal may receive their license free of charge.

(3) Any disabled owner of a dog that is used for seeing or hearing purposes and is spayed or neutered shall obtain a license free of charge.

(4) Any governmental agency that owns for a governmental purpose, an animal subject to licensing, shall obtain their license free of charge.

(B) Services Provided: Matthews Animal Control shall assess such fees as established by the Town Board of Commissioners for the following services or permits provided:

(1) Boarding. The housing and care of animals in the possession of MAC. Fees may be established pursuant to the type or size of animals. Fees shall be determined based upon successive 24-hour periods, beginning the day following impoundment.

(2) Electronic Tagging. The Division is hereby authorized to, and may without the consent of the animal's owner or possessor, humanely implant any animal lawfully impounded with an electronic tagging device similar to a microchip that will allow the animal to be positively identified. The cost shall be the responsibility of the owner or possessor prior to the animal being reclaimed.

(3) Impounding. Any animal that is taken into custody by MAC pursuant to this Code or state statute and maintained for a period of two hours or more.

(4) Permits for equine, cloven-hoofed animals or other livestock, chickens, turkeys, ducks, geese, guineas, pheasants, pigeons, or other domestic fowl pursuant to 91A42.

(5) Permits for four or more dogs and/or cats. Pursuant to 91A-43

(6) Rabies Inoculation. Inoculations administered by a member of Town staff or a contracted employee for the Town.

(7) Transportation. For the transportation of animals from Matthews to CMAC.

(C) Fee Schedule: The following fees are hereby established under this chapter: 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 Town Clerk's office.

Boarding Fee/day	
Dogs	\$10
Cats, ferrets	\$ 6
Electronic Tagging	\$ 8
Impound Fee	
Dogs	\$40
Cats, ferrets	\$25
Permits for equine, cloven-hoofed, livestock, chickens, fowl, etc.	\$40
Permits for 4 or more animals	\$25
Rabies Vaccination	\$15
Transportation Fee	\$10
Other Permits	\$25

(D) Other Fees: 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, permitted, or inoculated as required by law, the owner must have the dog or cat inoculated, and obtain a proper license or permit before release of the animal.

(E) Animals Transported to CMAC: Any animal transported by MAC to CMAC shall be subject to any and all fees and policies required by CMAC, as established by the City of Charlotte. Additionally, all fees and fines owed to the Town pursuant to this chapter must be satisfied with the Town before CMAC will release the animal.

(F) Exception: No fees shall be charged or collected on any animal that 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. This does not relieve the owner, however, from the proper requirements for licensing pursuant to this chapter.

§91A-62. ENFORCEMENT, FINES & FINE SCHEDULE

Violations of the provisions of this chapter may be enforced by one, or more, of the following methods unless otherwise limited to a specific manner of enforcement by this section or chapter:

(A) Civil Citation

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

91A-25	Harboring stray animals.
91A-27	Reckless riding and driving of animal.
91A-31	Animals at Town-sponsored events.
91A-41	Failure to have Town animal license.
91A-42	Failure to obtain Town permits.
91A-43	Failure to obtain Town permits

(2) The penalties assessed by civil citations shall be in accordance with the escalating civil penalty graph that follows. The civil penalty graph applies to all violations that are enforced civilly, regardless of any other method of enforcement that may be additionally used. Each prior offense must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed.

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

(4) The following civil fine schedule shall be applied to violations of this section:

1st Offense - \$50 fine.

2nd Offense - \$75 fine.

3rd Offense - \$150 fine and/or restraint measures in accordance with Section 91A-55.

4th Offense - \$250 fine and/or restraint measures in accordance with Section 91A-55, which shall include a secure enclosure for violations of Sections 91A-23, 91A-26, or 91A-31.

5th Offense - \$500 fine and seizure / forfeiture of the animal.

(B) 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 thirty (30) days in jail; or

(C) Injunction. The Town may apply to the appropriate court for an injunction and order of abatement that would require that a violator correct any unlawful condition relating to this chapter existing on his or her property.

(D) Seizure/Forfeiture. The following sections of this chapter may be enforced by the seizure and forfeiture to the Division of the animal that is the basis for a violation of the Section:

91A-21 Abandoned animals.

91A-22 Abuse of animals.

91A-23 Animal bite.

91A-24 Animal Nuisance.

91A-28 Restraint of animals.

91A-41 License and rabies tags and fees.

91A-42 Permit for equine, cloven-hoofed, livestock, chickens, fowl, etc.

91A-43 Permit for four or more dogs or cats kept outside .

91A-52 Seizure, forfeiture, and disposition of animals.

(E) Procedures: The manner of the seizure and the procedure by which the animal may be forfeited to the Division is that set out in § 91A-54 unless otherwise stated by the particular section authorizing the seizure and forfeiture. This subsection shall not be read to limit in any way any seizure or forfeitures authorized by the civil escalating penalties graph as described in 91-62(A).