

**ORDINANCE NO. 2012-\_\_**

**AN ORDINANCE REPEALING AND REPLACING ALL PROVISIONS OF CHAPTER 3 OF THE CODE OF ORDINANCES OF THE CITY OF UNION, SOUTH CAROLINA; AND OTHER MATTERS RELATED THERETO.**

**WHEREAS**, the City of Union, South Carolina (the “City”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through the City Council of the City (“City Council”), is authorized, pursuant to Section 47-3-20, et seq. of the Code of Laws of South Carolina, 1976, as amended, to enact ordinances and promulgate regulations for the care and control of dogs, cats and other animals, and to prescribe penalties for violations of such ordinances and regulations; and,

**WHEREAS**, City Council has previously enacted certain ordinances regarding, among other things, the keeping, health, care and restraint of animals in the City, all of which are codified in Chapter 3 of the Code of Ordinances of the City of Union, South Carolina (the “City Code of Ordinances”); and,

**WHEREAS**, City Council now desires to repeal the content and language of the current Chapter 3 of the City Code of Ordinances (“Chapter 3”) in its entirety and adopt in its place, as the language and content of a new Chapter 3, the language set forth on the attached Exhibit A (“Revised Chapter 3”);

**NOW, THEREFORE**, be it ordained by City Council, in a meeting duly assembled, that:

Section 1. The language and content of the current Chapter 3 shall be and hereby is repealed and replaced in its entirety by the language and content of Revised Chapter 3. All references to Chapter 3 of the City Code of Ordinances contained elsewhere in the City Code of Ordinances or in other Ordinances or Resolutions of the City shall be deemed to refer to Revised Chapter 3 as of the effective date of this Ordinance.

Section 2. All other chapters, sections and provisions of the City Code of Ordinances not expressly repealed, replaced or otherwise modified or amended hereby shall remain in full force and effect.

Section 3. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

Section 4. All Ordinances, Orders, Resolutions and actions of City Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked and rescinded.

Section 5. This Ordinance shall take effect and be in full force and effect as of the date and time of its enactment by City Council.

ORDAINED in a meeting duly assembled this \_\_ day of \_\_\_\_\_ 2012.

[INSERT APPROPRIATE SIGNATURE BLOCK]

Exhibit A

**CHAPTER 3**

**ARTICLE I.**

**Section 3-1. Definitions.**

Whenever used in this Chapter, unless a contrary intention is clearly evident, the following terms shall be interpreted as herein defined:

Abandonment and/or Maltreatment: A situation in which an owner of a pet does not provide for humane disposal of the pet, or transfer ownership to a responsible person, or who does not provide or arrange for adequate food, water, shelter and humane care.

Animal: Any live vertebrate creature, domestic or wild except homo sapiens.

Animal Control Officer: The officer of the City described under section 3-2 of this Chapter.

Animal Shelter: Any facility designated by the City Council to house, impound or quarantine Animals in a humane fashion.

Chapter: This Chapter 3 of the Code of Ordinances of the City of Union, South Carolina.

City: The City of Union, South Carolina.

Dangerous or Vicious Animal. Any Animal (a) with the propensity or inclination to attack unprovoked, to cause injury to, or otherwise to endanger the safety of humans or domesticated pets; (b) which has attacked a human being or domesticated Animal without provocation; or (c) which is trained to fight or attack humans or other Animals.

Impound: The placing of Animals in an Animal Shelter or location otherwise specified by the Animal Control Officer.

Kennel: Any enclosure for the purpose of housing three (3) or more Pets.

Owner or Keeper: Any person(s), partnership or corporation owning, keeping or harboring a pet.

Pet: Any owned domestic Animal.

Pet Shop/Grooming Salon: An establishment where Animals are bought, sold, exchanged, offered for sale or exchange to the public, or any establishment designated for the grooming of Animals.

Public Nuisance: An Animal or Animals which do any of the following: (1) molest passersby or passing vehicles; (2) attack other Animals; (3) trespass on school grounds; (3) are repeatedly at large; (4) damage private or public property; (5) bark, whine or howl in an excessive, continuous, or untimely fashion; (6) or exhibit behavior described under section 3-12 of this Chapter.

Running at Large: Any Animal shall be deemed to be Running at Large when off or away from the premises of the Owner, possessor or Keeper or his/her agent or a member of his/her family, and not on a leash, cord or chain not more than sixteen (16) feet in length in the hands of the person immediately in charge of such Animal.

Shelter: Enclosure or surroundings that reasonably may be expected to protect the Animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

Sustenance: Adequate food provided at suitable intervals, including quantities of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition to allow for proper growth and weight; and adequate quantities of water, with constant access to a supply of clean, fresh, and potable water; and all provided in a suitable manner for the species.

Wild or Feral Animal: Any Animal which is untamed, feral, or not naturally tame or gentle; or which is of a wild nature or disposition; or which is capable of killing, inflicting serious injury on, or causing disease among humans or domesticated Animals; or has known tendencies as a species to do so. Wild or Feral Animals shall include, but not be limited to: (1) any non-domesticated member of the Order Carnivore; (2) all non-domesticated members of the Family Felidae; (3) wolves, wolf-dog hybrids containing any percentage of wolf, coyotes and foxes; (4) badgers, wolverines, weasels, skunks and mink; raccoons; (5) bears; (6) non-human primates, to include apes, monkeys, baboons, macaques, lemurs, marmosets, tamarins and other species of the Order Primates; (7) bats; (8) alligators, crocodiles, caimans, and turtles; (9) scorpions; (10) any venomous snakes or venomous reptiles; and (11) lizards over two (2) feet in length which are members of the Family Varanidae.

### **Section 3-2. Animal Control Officer; Authority; Powers and Duties.**

There shall be one or more officers of the City known and designated as the Animal Control Officer(s) who shall be empowered with the authority to enforce, carry out and implement the regulations and control of animal ordinances with the specific authority to issue citations, swear out warrants and properly handle and process violators and violations of the provisions of this Chapter. Public safety officers of the City are also authorized to enforce any and all provisions of this Chapter.

### **Section 3-3. Interference with Animal Control Officer.**

(a) It shall be unlawful for any person to interfere with, hinder, or molest an Animal Control Officer or any Public Safety Officer, in the performance of his/her duties or to seek to release any Animal in his/her custody without his/her consent or to attempt to assist an Animal Control Officer without his/her consent, or to not provide an Animal Control Officer with proper

identification, to provide false identification or false information, or to fail to comply with an Animal Control Officer's directions or orders given in the course of carrying out his/her duties.

(b) It shall be unlawful for any person to interfere with, damage, molest, move or remove any traps or restraining devices used by an Animal Control Officer or any other authorized agent of the City that may be used from time to time; or to release any Animals from such traps or restraining devices.

**Section 3-4. Disposition of dead Animals or fowl.**

(a) Any person who has possession, ownership, custody or care of any Animal which dies within the City shall not permit such dead Animal to remain within the City for a longer period than may be reasonably necessary to remove it, and under no circumstances longer than twenty-four (24) hours. Any such dead Animal that has not been properly disposed of within twenty four (24) hours shall be disposed of by the City of Union Public Service Department at the expense of the Owner or Keeper of the Animal.

(b) Rules and regulations relating to the subject of disposal of bodies of dead Animals shall be promulgated by the Public Service Director of the City and a copy of same filed in the office of the Municipal Clerk of the City.

(c) Deceased Animals disposed of by Animal Control shall not be sold or given to a rendering facility, laboratory or research facility.

**Section 3-5. Keeping of Wild Animals.**

(a) No person shall keep or permit to be kept any Wild Animal unless authorized to maintain Wild Animals by the South Carolina Department of Natural Resources.

(b) It shall be unlawful for any person to buy, sell, trade, capture, feed or transport any Wild Animal for purposes of domestication.

(c) This section does not apply to a person licensed to possess and breed an Animal under the classifications specified and regulated by the United States Department of Agriculture as codified in Title 7 of the United States Code.

**Section 3-6. Removal of Feces from Public and Private Property.**

(a) Any Owner, Keeper or other person having control or supervision of an Animal must remove promptly all feces left by the Animal on any street, sidewalk, parking lot, public park, school ground, or on private property other than the premises of the Owner or person having custody of the Animal.

(b) Feces may not be deposited in sewers or drains, whether storm or sanitary, but must be bagged and placed in a proper garbage receptacle established for public use or belonging to the Owner or Keeper of the Animal.

(c) The provisions of this section 3-6 shall not apply to equines or other livestock participating in a special event, parade, or other event; provided such event has been approved by permit of the City of Union.

**Section 3-7. Keeping Animals Near Residences.**

No person or place shall keep, have or maintain any horse, mule, donkey, cow, cattle, goat or other livestock such as (but without limitation) chickens, ducks, geese or turkeys within a distance of three hundred (300) feet from any residence or business within the City. All such Animals which are kept or maintained at or beyond the three hundred (300) foot minimum shall be kept and maintained in a proper enclosure, pen or house, meeting and being, in every particular, at all times, in compliance with all regulations of the South Carolina Department of Health and Environmental Control.

**Section 3-8. Keeping or slaughtering swine, pigs, etc.**

No person shall keep, have or maintain any hog, pig, shoat or swine within the City or shall slaughter the same, except for those Animals kept solely for the purpose of slaughter for a period not exceeding seven (7) days by a licensed abattoir approved and regularly inspected by the South Carolina Department of Health and Environmental Control.

**Section 3-9. Shooting, Molesting Birds Prohibited; Exceptions.**

(a) The territory within the Corporate Limits of the City of Union is hereby designated a Bird Sanctuary and it shall be unlawful for any person to kill, trap, hunt, shoot or attempt to shoot, willfully injure, or maim any bird or Wild fowl; or to rob any bird or Wild fowl nest of its eggs.

(b) Birds congregating in such numbers in a particular locality as to constitute a Public Nuisance or endanger the health of the public or damage property may be removed by persons authorized and/or qualified to perform such removal by the City of Union Public Safety Department. Feral or Wild pigeons are deemed a Public Nuisance, and may be removed by such authorized and/or qualified persons regardless of number in a particular locality.

(c) It shall be unlawful for any person other than an Animal Control Officer to feed Wild or Feral pigeons on any public property located within the City limits.

**Section 3-10. Dogs and Cats in estrus.**

(a) All female dogs or cats in season shall be kept inside a building or within a secure fence or other enclosure which limits the dog or cat to a particular confined area so that the dog or cat cannot come into contact with a male dog or cat except for planned breeding. Persons who plan the breeding of dogs or cats and the selling of the resulting puppies or kittens must obtain a City Business License.

(b) When allowed outdoors to relieve itself, a female dog or cat in season shall be on a hand-held leash and under the observation of its Owner or Keeper and must remain on the property of the Owner or Keeper. Female dogs or cats in season are not permitted to be walked on any public roadway or property.

### **Section 3-11. Identification for Animals Required.**

All dogs and cats within the City shall at all times wear a collar that displays the Owner's name, address and telephone number. A current rabies inoculation tag must also be displayed on the collar at all times.

### **Section 3-12. Nuisance Animals.**

It shall be unlawful for any person to permit any Animal(s) they own, keep, hold, board or harbor to: (1) damage the property of anyone other than its Owner; (2) enter the property of anyone other than its Owner or kill or maim domestic Animals or wildlife; (3) enter the property of anyone other than the Owner and interfere with the ordinary use or enjoyment of the property; (4) excessively make disturbing noises, including, but not limited to: continued and repeated caterwauling, howling, whining, or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others; (5) foul the air with odor and thereby cause unreasonable annoyance or discomfort to neighbors or others near the premises where the Animal is kept or harbored; (6) cause unsanitary conditions in enclosures or surroundings where the Animal is kept or harbored; or (7) be offensive or dangerous to public health, safety or welfare by virtue of the number and/or types of Animals maintained.

### **Section 3-13. Trapping of Nuisance Animals.**

The Owner or lawful resident of property on which any Nuisance Animal(s) are present may request a live trap from Animal Control in which to trap and remove the Nuisance Animal(s). The live trap must be inspected at a minimum of once every twelve (12) hours by the person who requested the trap, and Animal Control or the Public Safety Department contacted immediately upon the trapping of an Animal therein. Traps will not be placed when an Animal Control Officer will be unavailable to pick it up the next day (i.e. weekends, holidays, or when all Animal Control Officer(s) will be off duty).

### **Section 3-14. Surrendering of Animals.**

The Owner of a domesticated Animal may surrender ownership of said Animal by contacting an Animal Control Officer and signing a surrender of animal form. Upon surrendering the Animal to the City, the Animal automatically and irrevocably becomes the sole property of the City. The Animal may be put up for adoption, delivered to an Animal Shelter or a humane society or rescue group, or humanely euthanized by a properly licensed Animal Shelter employee. The surrendering of an Animal after receiving a citation for a violation of any section of this article, or if surrendered in a condition that violates any section of this article, will not release the Owner or person having control over the Animal from any civil or criminal proceedings arising from the violation.

### **Section 3-15. Dangerous Animals.**

(a) No person shall own, keep, harbor or have charge of or in any way maintain within the City any Animal which is Dangerous or Vicious, or that has attacked or injured any person or Pet without provocation, except as specifically provided herein. This section shall not apply to any Animal that attacks any person or Animal that is unlawfully upon its Owner or Keeper's premises or is in compliance with subsection (c).

(b) Any person witnessing an Animal attacking a human being or Pet shall notify an Animal Control Officer or other law enforcement officer authorized to enforce this Chapter. If an Animal Control Officer or a law enforcement officer has determined that an Animal has bitten or attacked a person, an Animal Control Officer shall promptly notify the Union County Health Department of the bite or attack and shall cooperate with the health department in the capture and Impounding of the Animal.

(c) If an Animal Control Officer determines that an Animal has dangerous propensities, or has attacked a person or a Domestic Animal without provocation, the Animal Control Officer shall notify the Owner or Keeper by serving written notice upon such person or upon the premises of the Owner or the Keeper that the Animal shall be confined to the Owner or Keeper's premises within three (3) days of notice in a securely enclosed and locked pen, kept indoors, or a combination of these. The pen must have all sides a minimum of six (6) feet high, a secure top, a locking gate, and the pen must be a minimum of one hundred (100) square feet in size. If the pen does not have a secure bottom, all sides must be embedded into the ground at least one (1) foot deep. The premise must be clearly posted on all sides giving notice that a Dangerous Animal is kept on the property. In addition, a proof of liability insurance or surety bond of at least Fifty Thousand Dollars (\$50,000.00) insuring or securing the Owner for personal injuries inflicted by the Dangerous Animal must be provided by the Owner within such three (3) day period. Failure to comply with the requirements of this section 3-15(c) within such three (3) day period shall be cause for the seizure and disposal of the Animal as set forth in section 3-15(f).

(d) Animals deemed Dangerous or Vicious may only be out in public provided that they are restrained at all times on a leash with a minimum tinsel strength of three hundred (300) pounds and which shall be no more than three (3) feet in length. Such Animal must be muzzled at all times, but without interfering with such Animal's breathing or vision. The Dangerous or Vicious Animal must be under the control of a competent person of eighteen (18) years of age or older at all times.

(e) All Animals deemed Dangerous or Vicious will be registered with an Animal Control Officer.

(f) If an Animal Control Officer or a law enforcement officer determines that there has been a violation of subsection (c), then the Animal Control Officer shall notify the Owner or Keeper immediately in writing, if the Owner or Keeper is known or can be found in reasonable time. The Owner or Keeper shall turn the Animal over to the Animal Control Officer

immediately upon delivery of such notification. If the Owner or Keeper fails to promptly surrender the Animal, such person may be arrested for a violation of this section and the Animal may be seized pending trial, and upon final determination or conviction determining such Animal to be Dangerous or Vicious, the Animal Control Officer may release the Animal to proper authority, only, for the humane destruction of the Animal.

(g) If the Owner or Keeper cannot immediately be identified or found, an Animal Control Officer shall seize and Impound the Animal and leave written notice in a conspicuous place on or about the premises as to the conditions of the Impoundment, where the Animal is being held, and the officer who Impounded the Animal.

(h) If an Owner/Keeper is found guilty of violating this section or pleads guilty or no contest, the Owner/Keeper shall relinquish all rights of ownership of the Animal to the Animal Control Officer.

(i) This section does not apply to licensed security companies on patrol in a confined area or Animals used for law enforcement purposes by law enforcement officers.

### **Section 3-16. Running at large.**

No person is permitted to allow any Animal to Run at Large within the City, except as explicitly and specifically authorized herein. Exempt from this section are: (a) any Animal involved in an organized performance or training event; and (b) any Animal used for law enforcement purposes by a law enforcement officer.

### **Section 3-17. Seizure, Impoundment, Reclaiming and Destruction Procedures.**

(a) A police officer, Animal Control Officer, or any person appointed for the purpose by the City shall take into custody and Impound, or cause to be taken into custody and Impounded, and disposed of as provided in this Chapter, any dog Running at Large in the City, except as specifically excluded herein. An Animal Control Officer may Impound or cause to be taken into custody and Impounded, and disposed of as provided in this Chapter, any cat Running at Large in the City.

(b) After any Unidentifiable Animal has been Impounded for five (5) days and is unclaimed by its Owner, the Animal Shelter may, unless the Animal must be kept pending disposition of a criminal or civil trial involving the animal, or pending a hearing on the disposition of the Animal, dispose of the Animal by adoption or by euthanasia, or the Animal may be turned over to any organization established for the purpose of caring for Animals, such as the Humane Society.

(c) When any Identifiable Animal is Impounded by the City and the name and address of the Owner appears on the collar of the Animal, the City shall attempt to notify such Owner by telephone or by posting a notice on the Owner's residence within two (2) days of the time the Animal was seized. Notwithstanding the foregoing, no positively identifiable dog shall be destroyed by an Animal Control Officer or any Animal Shelter until the Owner of such dog

has been provided written notice by registered mail delivered to such Owner's last known address that the dog is in the possession of an Animal Control Officer or Animal Shelter. Subject to the other provisions of this Chapter, the dog may be destroyed by euthanasia if the Owner does not pick up the dog within two (2) weeks after the date such notification was mailed. In addition to any impoundment fee and any other costs or fees provided for elsewhere in this Chapter or otherwise lawfully established by an Animal Control Officer or Animal Shelter, such Owner must also pay all reasonable costs associated with the extended holding period described in this subsection, including the cost of mailing the notice, before the dog is returned to the Owner.

(d) Any Owner or Keeper of an Animal which has been Impounded, with the exception of an Animal abused by its Owner or Impounded as Dangerous, quarantined on suspicion of contraction of rabies, or being held in connection with any criminal or civil trial, may claim the Animal upon payment of a Redemption Fee as outlined in section 3-18 and of all other fees set by the applicable Animal Shelter associated with the Animal being in the custody and care of such Animal Shelter. A dog abused by its Owner or Impounded as Dangerous can only be released to the Owner by the court following adjudication of any case pending related to the Animal.

(e) Notwithstanding anything in this Chapter to the contrary, any Animal impounded in an Animal Shelter that is Feral, Wild or otherwise Dangerous or Vicious or a threat to Animal Shelter staff may, in the discretion of an Animal Control Officer, be humanely euthanized by licensed Animal Shelter personnel at any time with no required hold period.

(f) No Animal in possession of the City under this Chapter shall be donated or sold to any laboratory or research facility.

**Section 3-18. Adoption; Impoundment; Redemption; Fees.**

(a) A Redemption Fee shall be paid to the City of Union before reclaiming of an Animal in accordance with the procedures of this Chapter. This Redemption Fee is in addition to any other fees charged by the Union County Animal Shelter. The Redemption Fee for all Animals is as follows:

(1)	First Offense:	\$50.00
(2)	Second Offense:	\$100.00
(3)	Third Offense:	\$200.00
(4)	Fourth and Each Subsequent Offense:	\$500.00

(b) Impoundment and Adoption fees may be set by any Animal Shelter, as approved by the governing body of such Animal Shelter, from time to time.

(c) All dogs and cats shall be inoculated for rabies before adoption and in accordance with South Carolina law.

(d) All dogs and cats shall conform to provisions in regards to sterilization in

accordance with South Carolina law before adoption.

**Section 3-19. Violation and Penalties.**

Whoever violates any section of this Chapter for which no penalty is otherwise provided and upon conviction, shall be deemed guilty of a misdemeanor and shall be fined not more than \$549.00, imprisoned for not more than thirty (30) days, or both, in the discretion of the court. To the extent that any court of competent jurisdiction should ever determine such penalty to be unlawful or unenforceable as a criminal penalty, such penalty shall automatically, and without further approval required, become a civil penalty of \$549.00 and no imprisonment.

**ARTICLE II. RABIES**

**Section 3-20. Inoculation Required.**

It shall be unlawful for any person to own, harbor, maintain or have in possession within the City any Pet over four (4) months old unless such Pet has been currently inoculated against rabies by a duly licensed veterinarian or person authorized to administer the vaccine.

**Section 3-21. Inoculation Tag required to be attached.**

At the time a Pet is inoculated against rabies, the Owner shall obtain from the veterinarian a metal tag to be attached to the Pet's collar. The tag shall bear an inscription showing that such Pet has been inoculated against rabies and the year of such inoculation, and must be worn by such Pet at any time such Pet is not on the Owner's premises, for any reason.

**Section 3-22. Removal of old tag.**

It shall be the duty of every person to whom a certificate has been issued to immediately remove the tag or badge from the collar of the Pet covered by such certificate upon the expiration of such certificate and to replace such tag by the tag secured from a veterinarian upon the issuance of a new certificate. The duty to keep all Pets continuously inoculated against rabies is a continuing obligation.

**Section 3-23. Quarantine of any Animal which bites a person required.**

Any Animal which bites a person shall be quarantined for ten (10) days if ordered by the South Carolina Department of Environmental Health Control County Health Officer. During quarantine, the Animal shall be securely confined and kept from contact with any other Animal. At the discretion of the South Carolina Department of Environmental Control County Health Officer, the quarantine may be on the premises of the Owner. If the South Carolina Department of Environmental Health Control County Health Officer requires other confinement, the Owner shall surrender the Animal for quarantine period to an Animal Shelter or veterinary hospital approved by such County Health Officer at its own expense.

### **Section 3-24. Disposal of Animal Suspected of Having Rabies.**

After any Animal has been quarantined pursuant to the South Carolina Rabies Control Act and is unclaimed by its owner, after the Animal Shelter employees have made a good faith effort to contact the identified Owner and complied with the provisions of section 3-17 of this Chapter (if the animal is a dog), the Animal Shelter employees, unless the Animal must be kept pending disposition of a criminal or civil trial, may dispose of the animal by adoption or by euthanasia, or the Animal may be turned over to any organization established for the purpose of caring for Animals, such as the Humane Society. If euthanized, the head of such Animal may be sent to a laboratory for pathological examination and confirmation of the diagnosis.

## **ARTICLE III. CRUELTY AND ABUSE**

### **Section 3-25. Abuse of Animals.**

It shall be unlawful for any person to negligently or willfully:

(a) Fail to provide adequate Sustenance for any Animal he/she owns, possesses, or harbors;

(b) Fail to provide adequate medical attention for any sick, diseased or injured Animal he/she owns, possesses, or harbors;

(c) Keep any Animal under unsanitary or inhumane conditions which are detrimental to the Animal's health and general welfare or fail to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease; or fail to provide a living area free of accumulated waste and debris so that the Animal is free to walk or lie down without coming in contact with any waste or debris;

(d) Tease, molest, or in any way bother or harass any Animal;

(e) Fail to provide permanent, clean Shelter for an Animal he/she owns, possesses, harbors, or encloses, wherein the Animal can be protected from extremes of weather (heat, cold, rain, etc.) and allowed to remain dry and comfortable during inclement weather;

(f) Convey any 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;

(g) Place or confine an Animal, or allow an Animal to be placed or confined, in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such Animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death. In such cases of confinement:

- (1) After making a reasonable effort to find the driver of a vehicle in which an Animal is so confined, an Animal Control Officer, in the presence of a police officer, may use the least intrusive means reasonably available 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;
  - (2) An Animal Control Officer shall then Impound the Animal and leave in a prominent place on the motor vehicle in question a written notice of the Animal's Impoundment, and a brief description of the Animal, and where and when the Animal may be reclaimed;
  - (3) So long as an Animal is within sight of an Animal Control Officer or a police officer, this section shall not be interpreted to require that any warrant be obtained before removing the Animal so long as such removal is otherwise consistent with the United States Constitution;
- (h) Fail to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to allow any Animal kept outdoors to protect itself from the direct rays of the sun; or
- (i) Inflict unnecessary pain or suffering upon any Animal, or fail to provide prompt medical attention to prevent suffering, or cause the same to be done, whether such person is the Owner thereof or has the charge or custody of the same.

### **Section 3-26. Confinement of Animals.**

- (a) No person shall tether, fasten, chain, tie or restrain an Animal, or permit such tying or restraint on premises in his control, to a tree, fence, post, dog house or any other stationary object unless the tethering device used is at least ten (10) feet in length and attached in such a manner as to prevent strangulation or other injury to the Animal and entanglement with objects other than the stationary objects to which the device is attached.
- (b) No person shall tether, fasten, chain, tie or restrain an Animal, or cause such restraining of an Animal, to a cable trolley system that allows movement of the Animal unless the length of the cable along which the tethering device can move must be at least ten (10) feet, and the tethering device must be of such length that the Animal is able to move at least ten (10) feet away from the cable perpendicularly.
- (c) No person shall tether, tie, stake or chain any Animal where the Animal can obstruct, block or hamper the normal use of any public property or private property without the landowner's consent.
- (d) No person shall tether, tie, stake or chain any Animal to any metering device or attempt to obstruct the device in such that it prevents any service to be read, disconnected, shut off or interrupted.

(e) It is unlawful to attach a chain, wire, or any other tethering device to, or cause such attachment to, a choke-type or pronged collar.

(f) It is unlawful to attach a chain or wire or other tethering device in such a manner that does not allow the Animal access to food, water and or proper Shelter.

(g) It is unlawful for any chain or wire or other restraining device to exceed one-eighth (1/8) of the Animal's weight.

(h) Any Animals confined within a fenced yard must have an adequate space for exercise. Provided further that where Animals are kept or housed on property without a fenced yard, the Owner of such Animals or persons having custody of such Animals shall provide an enclosure for such Animals. The Animal shall be provided with shade and protection from the elements. Enclosures shall be maintained in a sanitary condition. Properly installed electronic dog-containment systems may be utilized, provided the public is visually advised of its existence from the street and/or sidewalk.

(i) An Animal shall not be considered enclosed by a fence or containment system or restrained if the Animal can pass through, under or over the fence, or if the gate of the fence is not, or cannot be, securely latched.

(j) An Animal that can snap or bite a person through a fence or electronic containment system shall not be considered enclosed by the fence or restrained.

(k) Persons found in violation of this section will, upon their first offense, be given a warning and allowed five (5) days to meet the requirements of this section. If after the fifth day the violation continues, a citation shall be issued by an Animal Control Officer. Upon a repeat offense by the same person, any Animals under the control of the person found in violation of this section may, in the discretion of an Animal Control Officer, be Impounded and placed in an Animal Shelter or other safe location until ordered by the court to be released. The Owner of the Impounded Animal(s) shall be responsible for any costs associated with the Animal's placement.

(l) This section does not apply to walking an Animal on a hand-held leash.

### **Section 3-27. Abandonment of Animals.**

No Owner or Keeper shall abandon an Animal. An Animal shall be considered abandoned when left alone, deserted, forsaken, or given up without providing adequate food, water and sanitary Shelter for twenty-four (24) hours or longer. No person shall leave or cause to be left any wounded, diseased or infirmed Animal on a street, alley, lot, yard or common area. If an Animal is found abandoned by its Owner or Keeper, an Animal Control Officer may take custody and Impound the Animal. An Animal Control Officer may enter private property to provide food and water for the first twenty-four (24) hours. If the Animal's life is in imminent danger due to Abandonment, the Animal Control Officer shall immediately Impound the Animal. Absent exigent circumstances, the Animal shall be kept for not less than five (5) days, and attempts shall be made to notify the Owner in accordance with Section 3-17 of this Chapter. After five (5) days,

if the Owner has not redeemed the Animal in accordance with this Chapter, the Animal may be put up for adoption, given over to the humane society or rescue group, or humanely euthanized by licensed Animal Shelter personnel.

**Section 3-28. Pet Shops/ Grooming Salons.**

Animal Control Officers or Public Safety Officers shall have the authority to conduct inspections of Pet Shops and Pet Grooming Salons, to the extent not preempted by state law, in order to determine if there is any abuse of Animals. Abuse of Animals shall include any act described in this article or any other act that is detrimental to the well-being of the Animal. It shall be unlawful for any Pet Shop or Pet Grooming Salon owner or employee to violate this section.

**Section 3-29. Arrest for violation of article; care of Animal after such arrest.**

(a) Any person violating this article may be arrested and held without warrant, in the same manner as in the case of persons found breaking the peace. If the Animal is not owned by the person arrested, the person making the arrest, with or without warrant, shall use reasonable diligence to give notice thereof to the Owner of the Animal found in the custody of the person arrested, and shall properly care and provide for such Animal until the Owner thereof shall take charge of the same; provided, however, the Owner shall take charge of same within five (5) days from the date of such notice. If the Owner fails to take charge of the Animal on the sixth day following such notice, ownership of the Animal is converted to the Union County Animal Shelter and it may be disposed of by adoption, delivery to a County Humane Society or euthanized by licensed Animal Shelter personnel.

(b) The Owner of the Animal shall be responsible for expenses incurred by the City for the care and provision of the Animal during any portion of the five (5) days of custody. When the person arrested is not the Owner of the Animal, the Owner may request restitution from the arrested person through the court.

(c) When an Animal is seized by an Animal Control Officer due to a violation of this article, the Animal will remain Impounded until otherwise directed by the court or as specifically provided herein. The Owner of the Animal shall be responsible for expenses incurred by the City for the care and provision of the Animal during its Impoundment.

(d) If the Animal is injured or terminally ill from violations of this article to an extent that, in the opinion of Animal Shelter personnel, the Animal will not recover to a functional level, or the Animal is suffering beyond the point of relief by veterinary care, the Animal may be humanely euthanized by licensed Animal Shelter personnel with no civil or criminal liability to the veterinarian, Animal Control Officer or the City.

## **ARTICLE IV. DOGS**

### **Section 3-30. Dogs which chase vehicles, attack persons, etc.**

It shall be unlawful for any person to keep or have within the City a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles.

### **Section 3-31. Habitual and Persistent Barking.**

(a) No person shall allow a dog to unreasonably disturb any person by habitually and/or persistently barking, howling, yelping, whining or making other noises. It shall constitute a violation of this section if the howling or barking occurs continually and is audible beyond the property line of the premises on which the dog is located.

(b) Any complainant must provide on a barking dog complaint the dog Owner's address, description of the dog, and the dates, times and duration of the violation(s). Upon receipt of the complainant's information, an Animal Control Officer will issue a written warning to the Owner of the dog, and the dog Owner will be allowed three (3) days from the issuance of the written warning notice to correct the problem before being charged under this section.

(c) Should the violation continue after the issuance of a written warning notice and the three (3) day grace period, a citation carrying a civil penalty of not more than \$549.00 may be issued to the Owner of the dog in question if the complainant is willing to testify at trial to the persistent, habitual, and offensive noise generated by the barking dog.

(d) A dog Owner shall be deemed to have received the written warning notice of an Animal Control Officer under this section 3-31 if the written warning was personally served on the such Owner, posted on the residence where the dog is located, or sent to the residence where the dog is located by certified mail.

(e) It shall be a defense to violation of this section if the Owner of the dog proves by preponderance of the evidence that the reason the dog was howling or barking was that the dog was being provoked by a person through such activity as entering the property or badgering or teasing the dog.

### **Section 3-32. Minimum standards required for keeping three (3) or more dogs outside.**

(a) Kennel standards. Any person owning, maintaining, keeping or harboring three (3) or more dogs outside, whether for pleasure, exhibition, breeding or profit, upon his/her premises, shall provide a Kennel facility in conformity with the minimum standards set forth in this section.

(1) No person shall operate such a facility with three (3) runs within one hundred (100) feet of the residence of another. No person shall operate such a facility with more than three (3) runs within two hundred (200) feet of the residence of another.

(2) A link wire fence enclosing the whole area to be used shall be erected with adequate safeguards against burrowing. It shall not be less than four (4) feet in height.

(3) Separate units shall be provided for each dog with an adequate exercise run, of a minimum of one hundred (100) square feet, including adequate Shelter against the elements. Each unit shall have a concrete floor or similar surface with provision being made for proper drainage. Any such surface shall be sealed against moisture. Each unit shall be so designed as to be fully accessible for cleaning.

(4) Water shall be available at the Kennel facility and be provided for each unit on a regular basis.

(5) Each unit shall be thoroughly cleaned daily and all necessary and reasonable safeguards shall be taken to prevent odors, infestation and any unsanitary conditions.

(b) This section 3-32 shall not apply to persons who are associated with a recognized rescue group or are registered with the office of the Animal Control Officer(s) as temporary caretakers/foster homes for Animals. Dogs kept by temporary caretakers or foster homes must be kept in a fenced enclosure and in a fashion that complies with all other sections of this Chapter. A maximum of three (3) dogs may be kept in such temporary or foster status at any given location at any given time.

(c) This section shall not apply to a licensed animal hospital or veterinary clinic.

### **Section 3-33. Kennel Permit Required.**

(a) No Kennel facility shall be constructed or operated without an application having been made to the City Building and Zoning Department for a permit. No permit shall be issued to a rental unit or property without the written and notarized consent of the owner/management company.

(b) No permit shall be issued, except a temporary permit for construction, until a final inspection is made by the building and zoning department and an Animal Control Officer. An annual inspection of Kennels may be conducted by an Animal Control Officer to verify compliance.

(c) Any person submitting an application for the construction or operation of a Kennel facility to the City Building and Zoning Department must provide with the application a site plan describing the acreage of the property on which the proposed Kennel facility is to be located, the location and size of all existing and proposed physical improvements to be contained in each structure or enclosed area, the location and dimensions for any existing or proposed outdoor or indoor runs and exercise area, with description of intended materials and surfaces, and the location of any existing wells or sewage treatment areas on site.

**Section 3-34. Applicability to dogs under two months of age.**

Puppies under the age of two (2) months shall not be included in the total number of dogs under this article. The breeding of dogs for financial gain, regardless of the number of breeding Animals, shall require a City Business License, notwithstanding any other provision of this Chapter.

**ARTICLE V. Cats.**

**Section 3-35. Limitations on keeping cats.**

(a) No Owner of any cat shall allow the cat to freely roam out of doors unless it has been spayed or neutered. The Owner of each spayed or neutered cat shall keep a record for each cat from a duly licensed veterinarian containing: (1) a description of the cat; (2) the name of the Owner; and (3) the date on which the spaying or neutering took place.

(b) All cats allowed to roam out of doors shall be required to wear a collar at all times and the collar shall contain the Owner's identification information and proof of current rabies vaccination in accordance with Sections 3-11 and 3-21 of this Chapter.

(c) It shall be unlawful for any person to own, keep, hold, board or harbor more than five (5) adult cats that are allowed to roam freely outdoors. An adult cat is described as a cat over the age of four (4) months.

(d) The breeding of cats for financial gain, regardless of the number of breeding Animals, shall require a City Business License, notwithstanding any other provision of this Chapter.