

**CITY OF WASILLA
ORDINANCE SERIAL NO. 09-69(AM)**

AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING TITLE 7, ANIMAL CONTROL, OF THE WASILLA MUNICIPAL CODE TO UPDATE THE PROCESS AND RENAME THE CODE TO BE ANIMAL CARE AND REGULATION.

* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

* **Section 2. Amendment of chapter.** WMC Title 7, Animals, is renamed to read Animal Care and Regulation, as follows:

Title 7

ANIMAL[S] CARE AND REGULATION

Chapters:

- 7.04 General Provisions**
- 7.08 Hearing Officer**
- 7.12 Animal Control Officers**
- 7.16 Registration**
- 7.20 Animal Bites and Attacks**
- 7.28 Impoundment**
- 7.32 Penalties**

* **Section 3. Amendment of section.** WMC 7.04, Animals, General Provisions, is amended to read as follows:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.04.010 Definitions.

When used in this title, the following words and phrases shall have the meanings set forth in this section:

"Abandon an animal" means to leave an animal for an extended period of time without food, water or shelter or in conditions where the animal's life, safety or health is endangered. A rebuttable presumption of abandonment shall exist where an animal care and regulation officer receives no response in 24 hours after noticing the property where the animal is located.

"Accidental bite" means a bite occurring under circumstances in which the animal was not acting aggressively.

"Aggressive bite" means a bite that is accompanied by an attack.

"Animal" means vertebrate domestic or domesticated members of the Animalia kingdom, unless otherwise provided by this title.

"Animal **care and regulation** [CONTROL] office" means the agency having authority (including agencies authorized by contract with the city) for enforcement of the animal **care and regulation** [CONTROL] provisions of this title and of all animal shelters maintained at city expense, including the expense of contract services provided to the city.

"Animal **care and regulation** [CONTROL] shelter" means any premises designated for the purpose of impounding and caring for animals impounded pursuant to this title.

"Annoyance" means interference with the sleep, work or reasonable right to peace, safety, or privacy of a person.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

"Attack" means an animal exhibiting overt aggressive behavior which may include, but is not limited to, snarling, baring teeth, chasing, growling, snapping, pouncing, or lunging.

"Boarding facility" means a commercial facility or establishment which offers the service of boarding animals.

"Breeding facility" means a commercial facility or establishment which offers the service of selling or breeding animals.

"Canid hybrid" means an [OWNED] offspring of a wild member of the genus and the family Canidae bred to a member of the genus and species Canis familiaris. The offspring of a canid hybrid bred with a wild member of the family Canidae, another canid hybrid, or a member of the genus and species Canis familiaris is also a canid hybrid. [CANID HYBRIDS ARE DOMESTICATED ANIMALS.] **Canid hybrids are illegal to possess except as allowed pursuant to 5 AAC 92.030. Animal care and regulation may provide license, microchip, and vaccination services as allowed by state law to the owner of a canid hybrid meeting the requirements of 5 AAC 92.030.**

"Cat" means a member of the genus and species Felis catus.

"Cattery" means any premises used for breeding, buying, selling, keeping or boarding five or more cats over the age of six months, whether for profit or not.

"Chief animal **care and regulation** [CONTROL] officer" means the person appointed by the mayor (including a person appointed by an agency authorized by contract with the city) who has primary responsibility for administering and enforcing the provisions of this title.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

[“COMPETENT VOICE CONTROL” MEANS:

1. THE PERSON EXHIBITING THE VOICE CONTROL IS PRESENT WITH THE ANIMAL AND MONITORS ALL OF ITS ACTIVITIES;
2. THE PERSON EXHIBITING THE VOICE CONTROL IS CAPABLE OF DIRECTING ALL OF THE ANIMAL’S MOVEMENTS AND ACTIVITIES BY VOCAL COMMANDS;
3. THE ANIMAL UNDER VOICE CONTROL FOLLOWS ALL OF THE VOCAL COMMANDS QUICKLY AND ACCURATELY.]

“Confine” means to keep an animal in a fence, pen, building, or other secure enclosure from which the animal cannot escape, and which keeps the animal from coming into contact with other animals or humans outside the area of confinement.

“Control” means to simultaneously monitor, direct, and restrict an animal's movements and activities, in a humane manner, so as to prevent violations of this title. Specific types of control are:

A. “Control by command” includes all of the following:

- 1. The person exhibiting the voice control is within sight and sound of the animal and monitors all of its activities;**
- 2. The person exhibiting the voice control is capable of directing all of the animal's movements and activities by vocal commands; and**
- 3. The animal under voice control follows all of the vocal commands quickly and accurately;**

B. “Control by confinement” means to control an animal within any fully fenced pen, kennel, yard, or structure, which:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

1. Prevents the exit of the confined animal on its own volition;

2. Prevents the protrusion of the animal's paws and teeth through the outer perimeter of the enclosure so as to stop the animal from physically injuring a person or another animal;

C. "Control by leash" means that a person, who is physically and mentally capable of monitoring, directing, and restricting the animal, controls the animal by means of a securely attached leash, chain or other item, including an electronic collar;

D. "Control by attachment" means that the animal is attached directly or indirectly to a person, or to an immovable object, with a harness or similar device and is controlled by means of a chain, leash, or similar item so that:

1. when the animal is on private property, it cannot travel off the private property including onto any public easement on, or adjacent to, the property; or

2. when the animal is attached to an immovable object on public property, it cannot be left unattended and its movements shall be limited to three feet from the object to which it is attached; and

E. "Control by harness" means to control an animal by a harness or other similar device attached directly or indirectly to a person or object.

"Day" means a calendar day; provided that the time in which an act required by this title is to be done is computed by excluding the first day and including the last, unless the last day is not a business day, and then it is also excluded.

"Dog" means a member of the genus and species *Canis familiaris*, commonly known as domestic dog, but does not include other members of the family *Canidae*,

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

such as a fox, coyote, wolf or any other game species, the taking of which is regulated by the state. For purposes of this title, "dog" shall include canid hybrids unless otherwise specified.

"Domesticated" means animals owned which are commonly or historically adapted to man's use or pleasure.

"Human victim" means a human being who is placed in fear, apprehension, physically injured, or killed as the result of an animal attack or animal aggressive behavior.

"Identification" means a collar and tag, brand, tattoo, or other mark or means which makes ownership of the animal ascertainable.

"Kennel" means any premises used for breeding, buying, selling, keeping or boarding five or more dogs over the age of six months, whether for profit or not.

"Livestock" includes, but is not limited to, domestic animals such as horses, cattle, sheep, goats, pigs, chickens, ducks and other such animals normally considered farm animals, whether kept for profit or not.

"Neutered dog or cat" means any male dog or cat rendered incapable of reproduction by surgical operation.

"Own" means to have, keep, possess, harbor, take care of, have custody of, or control over any animal **for a period of seven days.**

"Owner" means any person, group of persons, association or corporation owning, keeping, taking care of, having custody of, having control over, or harboring any animal or animals **for a period of seven days.**

"Physical injury" means an impairment of physical condition or pain.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

"Provocation" means the teasing, molesting, tormenting, abusing, or assaulting of an animal to incite the animal to bite or attack.

"Restraint" means either:

1. Actual physical control, such as a leash, chain, fence or building;
2. Competent voice control while actively engaged in an organized activity which requires that an animal not be physically restrained, or in a form of recognized hunting which requires the use of an animal such as a retriever;
3. The condition of an animal when on the property of its owner, in visual contact with the owner, and obedient to the owner's command.

"Running at large" means an animal is not under restraint.

"Sanitary" means free from bacteria, parasites, waste, filth or other elements in amounts which would endanger the health or welfare of an animal.

"Secure enclosure" means any fully enclosed fenced pen, kennel, yard, or structure, which must include a roof, walls, and floor. Approval for a secure enclosure shall be obtained from the chief animal care and regulation officer. The secure enclosure shall:

A. be located so as not to interfere with public access to the owner's or custodian's property; and

B. reasonably prevent:

- 1. the accidental release of any animal confined in the enclosure;**
- 2. the confined animal from leaving the enclosure by its own efforts;**
- 3. unauthorized persons from gaining entry to the enclosure;**

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

4. the entry into such enclosure by any animal other than the confined animal; and

5. the confined animal from biting or clawing a person or animal through the enclosure.

"Serious physical injury" means any physical injury which creates a risk of death, causes serious and protracted disfigurement, causes protracted impairment of health, causes protracted impairment of any bodily member or organ, or causes the protracted loss or impairment of any bodily function or that unlawfully terminates a pregnancy.

"Spayed dog or cat" means any female which has had a surgical ovario-hysterectomy to prevent conception.

"Victim" means a person whose animal is physically injured or killed.

"Victim animal" means an animal which is physically injured or killed.

"Wild" refers to a type of animal which generally lives in its original and natural state and is not domesticated, or animals which are classified as wild under state law.

7.04.020 Jurisdiction.

A. The city has jurisdiction over domestic and domesticated animals including canid hybrids. The city does not have jurisdiction over the following animals:

1. Wild animals;
2. Game animals, the taking or possession of which is regulated by the state or federal government.

B. This title contemplates that a contract **may be** in place [OR BE IN PLACE] with a private or public agency to provide animal **care and regulation** [CONTROL]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

services within the city. Where a provision of this title authorizes or requires an action by the city, the authorization or requirement also applies to the private or public agency with which the city currently contracts for animal care and regulation [CONTROL] services.

7.04.030 Animal annoyance.

It is unlawful for any animal owner to allow an animal to annoy any person. Violation of this provision is an infraction.

7.04.040 Sanitary enclosures.

It is unlawful for any person to own any animal unless all structures, pens and yards, and areas in which the animal is kept, are maintained in a sanitary and safe condition. Violation of this provision is an infraction.

7.04.050 Diseased animals.

It is unlawful to own any animal infected with a contagious or pestilential disease, except when the animal is confined and isolated from other animals, people or under the care of a licensed veterinarian. Violation of this provision is an infraction.

7.04.060 Animals in public places.

It is unlawful to tie, stake or fasten any animal within any highway, street, alley or public place within the city, or so that the animal has access to any portion of any highway[,] or street including the right-of-way, alley or public place therein; provided, that the mayor or his or her designee may make exceptions in the case of an organized animal activity and similar temporary sporting or festive events. Violation of this provision is an infraction.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.04.070 Restraint of animals.

- A. All animals shall be continuously under restraint.
- B. Livestock animals which are generally kept in a herd, flock or other grouping are subject to a single failure-to-restrain violation for the group.
- C. No person shall release, without permission of the owner, any animal from restraint, except to preserve the animal's life.
- D. Violation of any provision of this section is an infraction.

7.04.080 Humane animal care.

Humane animal care includes, but is not limited to, providing:

- A. Sufficient wholesome and nutritious food [AT LEAST ONCE] daily which will keep the animal in healthy physical condition;
- B. Sufficient daily quantities of fresh water which meet the hydration requirements for the animal;
- C. Adequate shelter which provides adequate air and ventilation and which prevents the animal from being exposed to inclement or adverse weather conditions, overheating from sunlight, unsanitary conditions and dirty, wet and uncomfortable conditions which may endanger the health or welfare of the animal; and
- D. Veterinary care when needed to treat the animal for sickness, [OR] disease, injury, or to prevent suffering of the animal.

7.04.090 Cruelty to animals.

- A. No person shall intentionally injure or kill an animal unless:
 - 1. The act committed is done humanely in conformity with applicable federal, state, borough, and city law;

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

2. The act is necessary to defend a human being or an animal from attack.

B. No person shall intentionally or recklessly wound, injure, torment, poison, provoke, otherwise abuse or unnecessarily overwork an animal, or procure, or attempt any such acts.

C. No owner shall fail to provide humane animal care or abandon an animal by failing to provide humane animal care.

D. No person shall throw or deposit any poisonous substance on any exposed public or private place where it may endanger any animal.

E. No person shall intentionally abandon, harass, **molest**, torture or kill an animal, or encourage an animal to fight with another animal for sport, training or entertainment.

F. A person shall not intentionally capture a domestic or domesticated animal with any type of trap that physically harms the animal, including, but not limited to, steel jaw traps, snares and spring traps, except an authorized city, borough, state or federal employee or agent.

G. Acts in violation of this section constitute cruelty to animals. Cruelty to animals is an infraction.

H. Persons convicted of cruelty to animals shall forfeit all rights and interests, if any, in the animal(s).

7.04.100 Protective custody.

A. **[AN]The chief animal care and regulation officer or authorized agent of the city may authorize taking an animal [MAY BE TAKEN] into protective custody when necessary to preserve the animal's health or safety including but not**

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limited to circumstances where the [BY THE CITY IF THE CHIEF ANIMAL CONTROL OFFICER MAKES A DETERMINATION, IN WRITING, THAT AN] animal is [EITHER]:

1. Not humanely cared for by the owner; [OR]
2. [IS b] Being cruelly treated by any person;[.]
3. Left unattended due to the arrest, hospitalization, or other incapacity

of the owner; or

4. Lost or abandoned by the owner.

B. All animals taken into protective custody shall be examined by a licensed veterinarian to determine the animal's physical condition.

C. The chief animal care and regulation [CONTROL] officer may release an animal taken into protective custody to the owner contingent upon conditions in a written release order.

1. If an owner refuses to redeem an animal under the conditions of a written release order or violates the conditions of a written release order, the animal is subject to forfeiture to the city upon a hearing before the chief animal care and regulation [CONTROL] officer.

2. The owner may appeal the forfeiture as set forth in Chapter 7.08.

D. A person whose animal is taken into protective custody shall be responsible for all reasonably incurred fees, costs, and expenses, including, but not limited to, impoundment fees and veterinary costs associated with the city's custody, care or maintenance of the animal. Violation of this provision is an infraction.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

E. The chief animal **care and regulation** [CONTROL] officer may, for good cause, waive a portion of the fees, expenses, or costs and may enter into a payment schedule agreement with an owner.

F. Animals taken into protective custody **under this section shall** [BECAUSE OF A DETERMINATION BY THE CHIEF ANIMAL CONTROL OFFICER THAT THE ANIMAL WAS CRUELLY TREATED MAY] remain in protective custody at the **discretion of the** chief animal **care and regulation** [CONTROL] officer[S DISCRETION, UNTIL FINAL DISPOSITION OF THE CASE.] **until:**

1. Forfeited to the city pursuant to WMC 7.32.030; or

2. The animal is returned to its owner it shall be subject to a written release order specifying conditions and restrictions for maintaining the animal and caring for the animal.

G. The chief animal care and regulation officer may authorize temporary placement of animals taken into protective custody or into approved foster home subject to a written agreement on conditions, restrictions, care and protection of the animal.

H. Upon recommendation of the chief animal care and regulation officer, an animal in city protective custody may be forfeited pursuant to WMC 7.32.030.

7.04.110 Live animal traps.

A. Intentional capture of domestic and domesticated animals by trap is prohibited, unless a live animal trap issued by the city, **borough**, [(or an agency authorized by contract with the city)] is used.

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B. A person who is issued a live animal trap by the city (or an agency authorized by contract with the city) for the purposes of capture and control of unrestrained domestic and domesticated animals shall check the trap at least twice every twenty-four (24) hours to determine whether an animal has been trapped.

C. A person shall provide humane animal care for any animal captured.

D. A person shall release the animal without unreasonable delay to the animal care and regulation [CONTROL] office or an animal care and regulation [CONTROL] officer or the owner, as set forth in subsection E of this section.

E. No person shall release an animal caught in the live animal trap to anyone other than an animal care and regulation [CONTROL] officer or to an owner without first receiving permission from the animal care and regulation [CONTROL] office.

F. Violation of any provision of this section is an infraction.

7.04.120 Severability.

Should any provision of this title or its application be held invalid, the remainder of its provisions shall not be affected.

* **Section 4. Amendment of section.** WMC 7.08, Hearing Officer, is amended to read as follows:

7.08.010 Hearing officer.

A. Appeals and other proceedings under this chapter shall be heard by a hearing officer. To be appointed as a hearing officer, a person must have knowledge of this title, principles of due process, and animal treatment and behavior. A person may not act as hearing officer in any case in which the person or any member of the person's immediate family has a substantial financial or personal interest, and must

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

certify to the absence of any such interest on a form provided by the city clerk at the time of selection to hear an appeal or other proceeding. A hearing officer may not be a current city officer or employee.

B. The mayor from time to time shall solicit persons who are willing to serve as hearing officers, shall select qualified persons from among those who apply, and submit the names of those who have been selected to the council for approval.

C. The mayor shall maintain a list of persons who have been approved by the council to serve as hearing officers, and upon the commencement of an appeal or other proceeding under this chapter select from the list a person to serve as hearing officer for the appeal or other proceeding.

D. Compensation of a hearing officer shall be determined by council resolution.

7.08.020 Jurisdiction.

A. The hearing officer has appellate jurisdiction over the **determination of animals classified as Level 1, 2, 3, or 4 by the chief animal care and regulation [CONTROL] officer,** ~~["S CLASSIFICATION OF AN ANIMAL AS A NUISANCE OR DANGEROUS AND]~~ related written administrative orders, and **animals forfeited** ~~[THE FORFEITURE OF AN ANIMAL]~~ pursuant to Section 7.04.100(C)(1) or 7.20.040(E).

B. The hearing officer has original jurisdiction over the determination of animals **recommended for classification as Level 5** ~~[CLASSIFIED AS VICIOUS]~~ by the chief animal **care and regulation** ~~[CONTROL]~~ officer.

Bold and underline added. ~~[CAPS AND BRACKETS, DELETED.]~~

7.08.030 Proceedings.

A. Proceedings before the hearing officer shall be open to the public and electronically recorded.

B. Proceedings before the hearing officer shall be subject to the following order and time limitations, unless the hearing officer, for good cause shown, permits a change in the order or an extension of time:

1. Opening presentation by city staff: fifteen (15) minutes;
2. Opening presentation by animal owner: twenty (20) minutes;
3. Rebuttal remarks by city staff: ten (10) minutes;
4. Witness statements (witnesses are subject to examination by the hearing officer);
5. Closing remarks by city: ten (10) minutes;
6. Closing remarks by animal owner: ten (10) minutes;
7. Rebuttal remarks by city: five minutes;
8. Hearing officer's deliberation and oral presentation of findings, conclusions and written order;

7.08.040 Filing fees.

A. A one hundred dollar (\$100.00) nonrefundable filing fee shall accompany an appeal to the hearing officer from a determination and related administrative order that an animal is a Level 1, 2, 3, or 4, from an animal forfeiture decision, or from an administrative decision of the chief animal care and regulation [CONTROL] officer. There shall be no fees collected for a hearing on recommended Level 5 classifications[S CLASSIFICATION OF AN ANIMAL AS A NUISANCE OR

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

DANGEROUS AND RELATED ADMINISTRATIVE ORDERS, OR A FORFEITURE OF AN ANIMAL PURSUANT TO SECTION 7.04.100(C)(1) OR 7.20.040(E)].

[B. A ONE HUNDRED DOLLAR (\$100.00) FILING FEE SHALL ACCOMPANY A REQUEST FOR A HEARING BEFORE THE HEARING OFFICER TO DETERMINE AN ANIMAL'S VICIOUSNESS.]

C. A person filing an appeal under this section may apply in writing on a form approved by the mayor for a payment schedule for the filing fee. A person requesting a payment schedule shall be required to have the full amount of the filing fee paid no later than five days prior to the scheduled date of the appeal hearing.

D. A person granted a payment schedule who fails to make the full payment at least five days prior to the hearing date of the appeal shall forfeit the appeal and shall forfeit any money paid to date for the appeal. The decision or order of the chief animal **care and regulation** [CONTROL] officer shall remain in effect.

E. A person who files an appeal under this section may withdraw that appeal by a written request to the clerk prior to the day of the appeal hearing. If an appeal is withdrawn, the filing fee shall be reimbursed to the person who filed the appeal based on the following schedule:

| Time of Appeal Withdrawal | Amount of Refund |
|--|------------------|
| 1. Filing date through five days after filing date | 100 percent |
| 2. Six through ten days after filing date | 50 percent |
| 3. Eleven through fifteen days after filing date | 25 percent |
| 4. More than 16 days after filing date | 0 percent |

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.08.045 Stays upon appeal.

The requirements of a classification or written administrative order may be stayed by the chief animal and care regulation officer when the classification or written administrative order is under appeal.

7.08.050 Hearings.

A. General Procedures. An appeal or other proceeding under this chapter shall be conducted pursuant to the following procedures:

1. A request for a hearing shall be in writing and filed with the clerk within five **business** days of the date **the animal owner is served with** [OF] the chief animal **care and regulation** [CONTROL] officer's written administrative order.

2. Within five **business** days of receipt of the written request for a hearing by the clerk, a hearing date shall be set no sooner than twenty (20) calendar days, nor later than thirty (30) calendar days after receipt of the request.

3. The chief animal **care and regulation** [CONTROL] officer shall file the record with the city clerk regarding the case within five **business** days after receipt of a notice of appeal.

4. Witness lists, written briefs, and other information to be considered by the hearing officer shall be filed by the parties no less than **five business** [SEVEN] days before the hearing.

5. Within ten (10) **business** days after the hearing, the hearing officer shall deliberate and issue written findings and conclusions based on the record. The decision **may** [SHALL] include an order stating the amount of fees and costs associated with the care of the animal while the case was pending.

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B. Level 5 classification hearings[VICIOUS ANIMAL HEARINGS]. Level 5 classification [VICIOUS ANIMAL] hearings include the following additional procedures:

1. The standard of proof to be applied to Level 5 [VICIOUS ANIMAL] adjudications is the preponderance of the evidence standard. The preponderance of the evidence standard of proof is met when evidence as a whole shows the facts sought to be proved are more probable than not.

2. All animals found to be a Level 5 classification [VICIOUS] by the hearing officer shall be humanely euthanized.

3. All animals found not to be a Level 5 classification by the hearing officer shall be remanded back to the chief animal care and regulation officer for reclassification.

C. Level 1, 2, 3, and 4 classification and written administrative orders hearings [NUISANCE OR DANGEROUS ANIMAL HEARINGS]. Level 1, 2, 3, and 4 classification and written administrative order [NUISANCE OR DANGEROUS ANIMAL] hearings are subject to the following additional procedures:

1. The hearing officer shall give substantial deference to the written administrative order issued by the chief animal care and regulation [CONTROL] officer if the decision of the chief animal care and regulation [CONTROL] officer is supported by the substantial evidence in the record.

2. The hearing officer may affirm, reverse or modify the classification of an animal as a Level 1, 2, 3, and 4 classifications [NUISANCE OR DANGEROUS] and may modify the written administrative order issued by the chief animal care and

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regulation [CONTROL] officer. [HOWEVER, THE MANDATORY CONDITIONS SET FORTH IN SECTION 7.20.090, IF THE ANIMAL IS CLASSIFIED AS NUISANCE, OR SECTION 7.20.050 IF THE ANIMAL IS CLASSIFIED AS DANGEROUS, SHALL NOT BE MODIFIED BY THE HEARING OFFICER.]

D. Forfeiture Hearings. Forfeiture hearings pursuant to Section 7.04.100(C)(1) or 7.20.040(E) are subject to the following additional procedures:

1. The hearing officer shall give **substantial** deference to the written administrative order issued by the chief animal **care and regulation** [CONTROL] officer, and the determination by the chief animal **care and regulation** [CONTROL] officer of the **costs**, fees and expenses to be paid by the owner, if the decision of the chief animal **care and regulation** [CONTROL] officer is supported by substantial evidence in the record.

2. The hearing officer may affirm or reverse the chief animal **care and regulation** [CONTROL] officer's decision in a forfeiture proceeding.

3. If the hearing officer reverses the decision of the chief animal **care and regulation** [CONTROL] officer in a forfeiture proceeding, the hearing officer **shall** order conditions of release prior to releasing the animal to its owner.

E. Substantial Evidence. For the purpose of forfeiture, **Level 1, 2, 3, and 4 hearings**[NUISANCE AND DANGEROUS ANIMAL HEARINGS], substantial evidence means the relevant evidence a reasonable mind might accept as adequate to support a conclusion.

7.08.060 Reconsideration.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. A [THE] hearing officer may reconsider a decision upon a petition for reconsideration [PETITION] of a party who filed a written argument. [A.] The petition [MOTION] for reconsideration shall be filed with the city clerk within five (5) business days after the hearing officer's decision has been mailed or personally served by the city clerk [CHIEF ANIMAL CONTROL OFFICER] (or agent authorized by contract with the city).

B. The city clerk shall schedule [NOTIFY THE INTERESTED PARTIES OF] a hearing for the hearing officer to review the motion for reconsideration [PETITION DECIDE WHETHER TO RECONSIDER THE MATTER] within fifteen (15) calendar days after receipt of the request. The decision on the motion for reconsideration shall be based on the motion for reconsideration and any written response of the primary parties on the motion for reconsideration. Written responses shall be filed no less than five business days before the hearing. The hearing officer may also hear oral argument of the interested parties. In determining whether to reconsider the matter, no additional evidence shall be taken. A decision shall be reconsidered only if:

1. There was a clerical error in the decision;
2. The decision resulted from fraud or mistake; or
3. There is newly discovered evidence or a change in circumstances which, by due diligence, could not have been discovered before the original hearing.

C. If the petition for reconsideration is granted, the hearing officer shall decide the matter immediately or set the matter for rehearing within 10 calendar days.

D. For the purposes of appeal to the appropriate court:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

1. Where the hearing officer denies the **motion for** reconsideration, the hearing officer's decision on the **motion** [PETITION] for reconsideration is the final decision; **and**

2. Where the hearing officer grants the **motion** [PETITION] for reconsideration, the hearing officer's decision on reconsideration is the final decision.

7.08.070 Appeals to Superior Court.

A. Appeals by the animal owner or city from the written decision of the hearing officer shall be to the **Alaska S**[S]uperior Court **in Palmer** and governed by the 600 Series of the Alaska Rules of Appellate Procedure. The city clerk [(OR AGENT AUTHORIZED BY CONTRACT WITH THE CITY)] shall estimate the cost of preparing the transcript of the hearing and compiling the record on appeal. The appellant shall deposit the estimated costs for preparation of the transcript and record with the city clerk in advance. Upon completion of the record on appeal, the city clerk shall refund any excess deposit or charge to the appellant for costs exceeding the deposit **and any additional charges that were underestimated before the transcript is released.**

B. The hearing before the Superior Court is an administrative appeal heard solely on the record established before the hearing officer.

7.08.080 Fees upon appeal.

An animal whose owner is awaiting a decision on appeal may remain in impoundment at the chief animal **care and regulation** [CONTROL] officer's sole decision. The owner is responsible for all **charges, costs,** fees and expenses incurred from the date of impoundment. **All fees are due in full prior to release of the animal.**

[A REQUEST TO APPEAL A DECISION OF THE CHIEF ANIMAL CONTROL

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

OFFICER TO THE HEARING OFFICER SHALL BE ACCOMPANIED BY ADVANCE PAYMENT OF ROOM AND BOARD FEES CALCULATED FROM THE DATE OF THE DECISION OF THE CHIEF ANIMAL CONTROL OFFICER TO THE DATE SET FOR HEARING BY THE HEARING OFFICER.]

* **Section 5. Amendment of section.** WMC 7.12, Animal Control Officers, is amended to read as follows:

ANIMAL CARE AND REGULATION [CONTROL] OFFICERS

7.12.010 Animal care and regulation [CONTROL] officers—Appointment.

A. Appointment. The mayor or agency authorized by contract with the city shall appoint a chief animal care and regulation [CONTROL] officer.

B. Contract for Services. The city may contract, in whole or in part, for any or part of its animal care and regulation [control] services.

7.12.020 Powers and duties of animal care and regulation [CONTROL] officers.

A. Chief Animal Care and Regulation[CONTROL] Officer. The chief animal care and regulation [CONTROL] officer has [ALL THE POWERS OF A DEPUTY ANIMAL CONTROL OFFICER AND] the power to administer and enforce the provisions of this title, including, but not limited to, the following: operating animal shelters, holding animal care and regulation [CONTROL] hearings as authorized by this title, conducting low cost rabies vaccination clinics for dogs and cats, issuing written animal care and regulation [CONTROL] administrative orders, negotiating and settling nonjudicial disputes and matters under this title, entering into settlement and payment schedule agreements, and developing and implementing animal care and regulation [CONTROL] policies, regulations and procedures.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

[B. DEPUTY ANIMAL CONTROL OFFICER. A DEPUTY ANIMAL CONTROL OFFICER HAS THE DUTY TO ENFORCE THE PROVISIONS OF THIS TITLE, SUBJECT TO THE CHIEF ANIMAL CONTROL OFFICER'S AUTHORITY, INCLUDING BUT NOT LIMITED TO, INVESTIGATING ANIMAL CONTROL MATTERS AND ISSUING, FILING, AND SERVING CITATIONS AND WRITTEN ADMINISTRATIVE ORDERS, AND BEING CERTIFIED AS A LAY VACCINATOR BY THE STATE OF ALASKA FOR THE PURPOSE OF ADMINISTERING RABIES VACCINES TO DOGS AND CATS UNDER THE JURISDICTION OF THE CITY.]

7.12.030 Interference.

A. It is unlawful for any person to **taunt, harass,** interfere with, hinder **or molest** an animal **care and regulation** [CONTROL] officer or officer or agent of the city in the performance of any of the officer's duties under this title.

B. It is unlawful for any person to remove or release any animal from the animal shelter, animal **care and regulation** [CONTROL] vehicles, **city** live animal traps, or from any other official custody of any animal **care and regulation** [CONTROL] officer or agent of the city without first obtaining permission to do so from the animal **care and regulation** [CONTROL] office.

C. It is unlawful for any person to hinder or interfere with any animal **care and regulation** [CONTROL] investigation, reporting or prosecution.

D. An individual may lawfully detain any animal found in violation of the city code, provided they immediately notify the animal **care and regulation** [CONTROL] office and surrender the animal **as directed by** [TO] the animal **care and regulation** [CONTROL] office.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

E. Violation of this section is an infraction.

7.12.040 Recordkeeping.

A. Records. The animal care and regulation [CONTROL] office shall keep accurate and detailed records including, but not limited to, records regarding money[S] received and expended, registering, impoundment, disposition of animals, and investigations regarding animals coming under the city's jurisdiction.

B. Confidentiality. Complaints and investigation records shall be kept confidential and not released unless otherwise required by law.

7.12.050 Policies, regulations and procedures.

The chief animal care and regulation [CONTROL] officer shall, subject to the approval of the mayor of the city, establish written policies, regulations and procedures to carry out the provisions of this title. [ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES ADOPTED AND ADMINISTERED BY THE CHIEF ANIMAL CONTROL OFFICER SHALL BE SET FORTH IN THE MANUAL ENTITLED “ANIMAL CONTROL POLICIES[, REGULATIONS] AND PROCEDURES,” WHICH SHALL BE MADE AVAILABLE TO THE PUBLIC FOR NO MORE THAN COST. THE CHIEF ANIMAL CONTROL OFFICER MAY MODIFY, AMEND OR RESCIND, IN WRITING, IN WHOLE OR IN PART, SUBJECT TO THE APPROVAL OF THE MAYOR OF THE CITY, THE “ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES” MANUAL.]

* **Section 6. Amendment of section.** WMC 7.16, Registration, is amended to read as follows:

7.16.010 Registration—Dogs and cats.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. Registration Required. Within the city, no person shall own any dog or cat over the age of six months without registering each dog or cat.

B. Registration. Registration of a dog or cat shall include the name, **phone number**, and address of the owner and the name, breed, color, age and sex of the dog or cat, whether the dog or cat is spayed or neutered, the expiration date of its rabies vaccination, rabies certificate number, and the location and description of any identification on the dog or cat.

C. Immunization. The city shall not register a dog or cat unless the dog or cat has been vaccinated with a state of Alaska approved rabies vaccine by a licensed veterinarian, or by a state of Alaska lay rabies vaccinator, and the period of immunization has not expired. Proof of immunization shall be a completed rabies vaccination certificate in the form required by the state of Alaska.

1. If ownership of an animal is transferred and the animal has a current rabies immunization, proof of transfer of ownership or proof of the animal's identification must be provided when registering the animal.

D. Expiration of Dog and Cat Registration. Dog and cat registrations expire as follows:

1. For dogs and cats not tattooed or microchipped in compliance with **this** [THE] chapter, the registration expiration date is three years from the date of registration.

2. There is no registration expiration date for dogs and cats tattooed or microchipped in compliance with this chapter.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

E. Application to Canid Hybrids. The rabies vaccination requirement for registration does not apply to canid hybrids unless and until the state of Alaska approves a rabies vaccine for the particular species of canid hybrids.

F. Violation. Violation of subsection A of this section is an infraction.

7.16.020 Registration—Kennel and catteries.

A. Registration Required. In addition to the registration requirements of Section 7.16.010 and any required permits in Title 16, no person shall own or operate a kennel or cattery or own five or more dogs or cats over the age of six months without registering as a kennel or cattery operator for each location of a kennel or cattery.

B. Registration. Registration as a kennel or cattery operator shall state the name and address of the owner, the name and address of the operator, the kennel or cattery name, the physical location of the kennel or cattery, and a complete list of the dogs or cats by city registration and rabies certificate numbers.

C. Re-registration. If there are any changes in ownership or location of the kennel or cattery, the kennel or cattery shall be re-registered.

D. Expiration of Kennel and Cattery Registrations. Registration shall be valid for a period of three years.

E. Violation. Violation of subsection A or C of this section is an infraction.

F. The chief animal care and regulation officer may immediately revoke the registration of a kennel or cattery for good cause, including but not limited to, a conviction of the owner for cruelty to animals in violation of WMC 7.04.090 or A.S. 11.61.140.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.16.030 Registration—Updating information.

It is the responsibility of every dog or cat owner and kennel or cattery operator to update and provide the city with current registration information regarding the items set forth in Sections 7.16.010(B) and 7.16.020(B). Violation of this provision is an infraction.

7.16.040 Kennel and cattery requirements.

A. No kennel or cattery shall be maintained or operated in a manner which is **not sanitary**, an annoyance **or in any other way jeopardizes the health and wellbeing of any animal**.

B. All kennel or cattery facilities shall meet the following requirements:

1. Shelter which provides adequate air and ventilation and which shall prevent the dogs or cats from being exposed to inclement or adverse weather conditions, overheating from sunlight, unsanitary conditions or dirty, wet and uncomfortable conditions which may endanger the health or welfare of the dog or cat; **and**

2. The dogs or cats shall be physically restrained or confined within the premises of the kennel or cattery; **and**

3. The premises shall be free from bacteria, parasites, waste, filth, or other elements in amounts which would endanger the health or welfare of the dogs or cats; **and**

4. Sufficient amounts of wholesome and nutritious food and fresh water shall be provided to keep the dogs or cats in healthy physical condition.

C. Violation of subsection B of this section is an infraction.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.16.050 Registration tags and tattoos or microchip identification for dogs and cats.

A. Registration Tags. Each registered dog and cat shall be issued a registration tag with an identification number and telephone number of the animal care and regulation[CONTROL] office.

B. Tag Replacement. The registration tag shall be securely fastened to the dog's or cat's choke chain, collar or harness, which shall be worn at all times when the dog or cat is off the owner's property, except when a dog or cat is in competition, training, in use as a police dog by law enforcement personnel, or while performing recognized sporting activities.

C. Registration Tattoos or Microchip Identification. The dog or cat owner may have the dog or cat tattooed or have a microchip identification approved and inserted by the city with the city identification number. Such tattoo will be in the right ear of the dog or cat. The microchip identification shall be inserted in a location specified by the chief animal care and regulation [CONTROL] officer.

D. Performance of Registration Tattoos. A tattoo or microchip implant may be performed in a place other than the animal care and regulation [CONTROL] shelter, [(including shelters authorized by contract with the city,)] by someone other than a animal care and regulation[CONTROL] officer, at the owner's expense, if the owner notifies the city (or an agency authorized by contract with the city) of the identification number and the location of the tattoo or microchip.

[E. APPLICATION. IF THE DOG OR CAT IS TATTOOED, OR HAS A MICROCHIP IDENTIFICATION INSERTED, AS SET FORTH IN SUBSECTION C OR D

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

OF THIS SECTION, THE PROVISIONS OF SUBSECTION B OF THIS SECTION DO NOT APPLY TO THAT DOG OR CAT.]

[7.16.060 REGISTRATION CERTIFICATES FOR KENNELS AND CATTERIES.

EACH REGISTERED KENNEL OR CATTERY SHALL BE ISSUED A REGISTRATION CERTIFICATE WITH A CITY IDENTIFICATION NUMBER.]

7.16.070 Fees.

A. **License registration fees:**

1. The license registration fee for a [EACH] dog or cat shall be \$15 if the animal is spayed or neutered. For animals that are not spayed or neutered, the registration fee shall be \$30.

2. When registering five or more animals, a kennel or cattery license is required. The registration of the kennel or cattery shall be \$50 and the registration for each animal at that kennel or cattery shall be \$2. The kennel or cattery license shall last for three years. [FIVE DOLLARS (\$5.00). HOWEVER, IF AT THE TIME OF REGISTERING DOGS OR CATS THE OWNER IS ALSO REGISTERING A KENNEL OR CATTERY, THE REGISTRATION FEE SHALL BE TWENTY-FIVE DOLLARS (\$25.00) FOR REGISTERING EACH KENNEL OR CATTERY AND ONE DOLLAR (\$1.00) FOR EACH DOG OR CAT OVER FIVE DOGS OR CATS REGISTERED WITH THE KENNEL OR CATTERY LICENSE.

B. THE FEE FOR EACH DOG OR CAT SHALL BE FIVE DOLLARS (\$5.00) WHEN KENNEL OR CATTERY OPERATORS REGISTER INDIVIDUAL DOGS OR CATS OTHER THAN AT THE TIME OF REGISTERING A KENNEL OR CATTERY.]

7.16.080 Unexpired dog and kennel licenses.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

Dog and kennel licenses issued under prior city law shall be valid in lieu of registration until the license has expired at which time registration requirements shall become effective for those dogs and kennels.

7.16.090 Exemptions.

A. The registration requirements for dogs and cats under this chapter do not apply to any dog or cat kept within the city for less than thirty (30) calendar days. All such dogs and cats are subject to all other provisions of this title. This subsection does not allow a thirty (30) day grace period for compliance with registration requirements for dog and cat owners within the city. This subsection is an exemption only for dogs and cats kept temporarily within the boundaries of the city.

B. The Humane Society shelters, Society for the Prevention of Cruelty to Animal shelters, and hospitals and clinics operated by licensed veterinarians for the care and treatment of animals are exempted from the dog, cat, kennel and cattery registration requirements set forth in Sections 7.16.010 and 7.16.020. However, the shelters, hospitals and clinics are subject to all other requirements of this title.

7.16.100 Kennel and cattery inspections.

A. The chief animal care and regulation [CONTROL] officer may inspect a kennel or cattery that has applied for a registration certificate under Section 7.16.020, or the agency authorized by contract with the city [MAY SET FORTH A POLICIES, REGULATIONS AND PROCEDURES MANUAL] to ensure compliance with this title [SECTION 7.16.040], prior to the issuance of a kennel or cattery license. Any inspection

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

performed under this section shall require the owner be given reasonable notice prior to the inspection time and date.

B. Upon receiving written complaint that the kennel or cattery does not meet any or all of the requirements of this title [SECTION 7.16.040], the chief animal care and regulation [CONTROL] officer may, at the officer's discretion, inspect any kennel or cattery, at reasonable times, between 8 a.m. and 10 p.m.

7.16.110 Written administrative orders.

A. If, upon the inspection of a kennel or cattery, the kennel or cattery does not meet the requirements of this title [SECTION 7.16.040], the chief animal care and regulation [CONTROL] officer may issue a written administrative order to the kennel or cattery owner setting forth the conditions the kennel or cattery owner shall meet in order to be in conformance with this title [SECTION 7.16.040].

B. The kennel or cattery owner shall be granted a reasonable length of time of no more than thirty (30) calendar days within which to remedy any deficiencies found.

C. If, upon a second inspection after the time granted in the written administrative order, the kennel or cattery is still in violation of any provision of Title 7, the chief animal care and regulation [CONTROL] officer may revoke any registration certificate.

D. Each day a kennel or cattery owner operates the kennel or cattery without a registration certificate constitutes a separate violation for operating a kennel or cattery without registration.

E. Violation of the written administrative order under this provision is an infraction.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

F. Notwithstanding WMC 7.16.110. B and C, the chief animal care and regulation officer may immediately order the closing of a kennel or cattery and the impoundment of all animals if conditions of the kennel or cattery pose an imminent risk to the health and safety of the animals or to the public. The owner of the kennel or cattery may appeal the closure to the animal care and regulations board pursuant to WMC 7.08.020.

[7.16.120 REGISTRATION, TAGGING AND TATTOOING IMPLEMENTATION.

THE ANIMAL CONTROL OFFICER, AT THE OFFICER'S DISCRETION, MAY INCLUDE IN AN ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES MANUAL POLICIES, REGULATIONS AND PROCEDURES TO CARRY OUT THE REQUIREMENTS OF THIS CHAPTER.]

7.16.130 Distribution of animal care and regulation [CONTROL] regulations.

Every owner registering a dog or a cat, or a kennel or a cattery shall be furnished a copy of Title 7: Animals, and acknowledge in writing the receipt thereof.

7.16.140 Reciprocal agreements.

The city is authorized to enter reciprocal agreements regarding animal registrations with a municipality. Under reciprocal registration agreements, a registration issued by either the borough or a city will be treated as valid by the non-issuing jurisdiction as long as the registration would be valid in the issuing jurisdiction.

* **Section 6. Amendment of section.** WMC 7.20, Animal Bites and Attacks, is amended to read as follows:

[7.20.010 DEFINITIONS.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. FOR THE PURPOSE OF THIS TITLE, THE FOLLOWING DEFINITIONS SHALL APPLY UNLESS THE CONTEXT CLEARLY INDICATES OR REQUIRES A DIFFERENT MEANING.

“ACCIDENTAL BITE OR ATTACK” MEANS A BITE OR AN ATTACK THAT OCCURS UNDER CIRCUMSTANCES THAT CAN BE DEEMED AS OCCURRING BY CHANCE.

“ATTACK” MEANS VIOLENT OR AGGRESSIVE PHYSICAL CONTACT WITH A PERSON OR ANIMAL OR VIOLENT OR AGGRESSIVE BEHAVIOR THAT CONFINES THE MOVEMENT OF A PERSON, INCLUDING BUT NOT LIMITED TO CORNERING OR CIRCLING A PERSON.

“BITE” MEANS THE ANIMAL, BY USING ITS TEETH, BREAKS THE SKIN OF A HUMAN BEING OR ANIMAL.

“DANGEROUS ANIMAL” MEANS ANY ANIMAL WHICH:

1. HAS BITTEN OR ATTACKED WITHOUT PROVOCATION A HUMAN BEING WHETHER ON PUBLIC OR PRIVATE PROPERTY RESULTING IN MINOR INJURIES SUCH AS, BUT NOT LIMITED TO, BRUISING, LACERATIONS, PUNCTURE WOUNDS OR ABRASIONS WHICH DO NOT REQUIRE HOSPITALIZATION;

2. HAS BITTEN OR ATTACKED AN ANIMAL WITHOUT PROVOCATION WHETHER ON PUBLIC OR PRIVATE PROPERTY, AND CAUSED INJURIES THAT REQUIRE VETERINARY CARE. VETERINARY CARE INCLUDES TREATMENT PERFORMED EITHER BY A LICENSED VETERINARIAN OR BY A LAY PERSON WITH THE SKILLS AND KNOWLEDGE TO PERFORM SUCH CARE OR BY A LAY PERSON UNDER THE DIRECTION OF A VETERINARIAN.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

"NUISANCE ANIMAL" MEANS AN ANIMAL:

1. THAT HAS ENGAGED IN THE FOLLOWING ACTIVITIES:

- A. AGGRESSIVE POSTURING;
- B. AGGRESSIVE LURCHING; OR
- C. BARKING; AND

2. HAS BY ITS BEHAVIOR CAUSED A PERSON TO MODIFY, STOP OR ALTER THE PERSON'S ACTIVITY; CAUSED A PERSON TO FEAR FOR A PERSON'S SAFETY FROM THE ANIMAL'S BEHAVIOR OR HAS CAUSED FLIGHT OF AN ANIMAL OR DISRUPTION OF A DOMESTIC ANIMAL FLOCK OR GROUP. THE BURDEN OF PROOF IN THIS SECTION SHALL BE ONE OF A REASONABLE BELIEF BY THE VICTIM OR VICTIM OWNER THAT THE VICTIM WAS IN DANGER OF BEING ATTACKED AS DEFINED IN THIS SECTION, BUT AN ACTUAL ATTACK DID NOT OCCUR.

"PROVOCATION" MEANS THE TEASING, TORMENTING, ABUSING OR ASSAULTING OF AN ANIMAL THAT MAY INCITE THE ANIMAL TO BITE OR ATTACK.

"SERIOUS INJURY" MAY INCLUDE BUT IS NOT LIMITED TO A PUNCTURE WOUND, DISFIGURING LACERATION, AVULSION, DEEP SOFT TISSUE OR BONY INJURY TO A HUMAN BEING OR ANIMAL REQUIRING MEDICAL EVALUATION OR TREATMENT.

"VICIOUS ANIMAL" MEANS ANY ANIMAL WHICH HAS, WITHOUT PROVOCATION, CAUSED SERIOUS INJURY OR DEATH TO A HUMAN BEING, WHETHER ON PRIVATE OR PUBLIC PROPERTY.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.20.015 Classification of animals.

A. Classifications. Subject to the authority of the chief animal care and regulation officer pursuant to WMC 7.20.018, an animal may be classified based on one of the following levels:

1. Level 1 classification is established if an unrestrained animal Has engaged in the following activities:

a. aggressive lunging; or

b. barking; and

c. Has by its behavior caused a person to modify, stop, or alter the person's activity; caused a person to fear or be in apprehension for a person's safety from the animal's behavior; or has caused flight of an animal or disruption of a domestic animal flock or group. The burden of proof in this section shall be one of a reasonable belief by the victim or victim owner that the victim was in danger of being attacked as defined in WMC 7.04.010, but an actual attack did not occur; or

d. Is found at large more than two times within a 12-month period.

2. Level 2 classification is established if an animal bites or causes any physical injury to any domestic or wild animal.

3. Level 3 classification is established if an animal:

a. while under restraint, inflicts an aggressive bite or causes any physical injury to any human; or

b. causes any serious physical injury to a domestic animal.

4. Level 4 classification is established if any of the following occur:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

a. an unrestrained animal inflicts an aggressive bite or causes physical injury to any human; or

b. an unrestrained animal kills a domestic animal; or

c. an animal, regardless of whether it is restrained, for the second time causes any physical injury to a domestic animal or wild animal.

5. Level 5 classification is established if any of the following occur:

a. an animal, regardless of whether it is restrained, causes serious physical injury or the death of any human; or

b. an animal is used as a weapon in the commission of a crime; or

c. an animal classified as Level 3 or Level 4, or as a dangerous animal under a prior enactment of this code, for the second time commits any behavior described in WMC 7.20.015.A.3 or A.4 after the owner receives notice, or should have been aware, of the Level 3 or 4 classification.

7.20.018 Exceptions to classifications.

A. Notwithstanding WMC 7.20.015, the chief animal care and regulation officer shall have discretionary authority to refrain from classifying an animal even if the animal has engaged in the behaviors specified in WMC 7.20.015, if the chief animal care and regulation officer determines that one of the following is true:

1. At the time of the injury or damage, the victim was committing trespass or other tort on premises occupied by the owner or custodian of the animal, the victim was teasing, tormenting, abusing, or assaulting the animal, its

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

offspring, or the owner or custodian, or the victim was committing or attempting to commit a crime;

2. The animal was protecting or defending itself, its offspring, or a human within the immediate vicinity of the animal from an attack or assault while under control or confined;

3. The injury or damage to a domestic animal occurred while the animal was working or in training as a hunting animal, herding animal, or predator abatement animal on the property of or under the control of its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal;

4. The animal is trained to attack a person independently or upon oral command while under the restraint and supervision of an authorized government or law enforcement unit and the act is directly associated with the proper execution of the animal's duties;

5. The animal was responding to pain or injury;

6. The animal was protecting its offspring from attack by another animal;

7. The animal is trained or is being trained for the sport of Schutzhund competition or personal protection and the victim was a willing participant and did not file a complaint;

8. The animal, with a current rabies vaccination, caused injury to the owner, owner's family, trainer, or person caring for the animal, unless:

a. The injured party filed a complaint; or

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

b. The victim is a minor who is not involved in training or competing with the animal; or

9. The decision not to classify reasonably serves and promotes justice, fairness, and the purposes and intent of this title, the protection of public health, safety and welfare, and the humane care and treatment of animals.

B. If at any time during a supervised quarantine a domestic animal is rabid or is tentatively diagnosed as rabid, the provisions of WMC 7.24.060.B shall apply. This provision shall not exempt a domestic animal which is not euthanized, pursuant to WMC 7.20, from the provisions of this chapter if the domestic animal is determined to be rabies free.

7.20.020 [ANIMAL BITE AND ATTACK INCIDENTS-]Investigation and classification of animals.

A. The [UPON RECEIVING A COMPLAINT OF AN ANIMAL BITE OR ATTACK INCIDENT, THE DEPUTY] animal care and regulation [CONTROL] officer shall investigate and report each animal bite or attack [THE] incident to the chief animal care and regulation [CONTROL] officer. The chief animal care and regulation [CONTROL] officer shall classify bite and attack incidents as accidental or non-accidental[IN ACCORDANCE WITH THIS CHAPTER].

1. No other conditions of release shall be required if the incident is classified as accidental, except for the supervised quarantine provisions set forth in Section 7.24.050, registration requirements set forth in Chapter 7.16 and fee and expense requirements set forth in Section 7.28.030.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

B. If the bite or attack incident is classified as non-accidental, the animal involved may be classified by the chief animal care and regulation [CONTROL] officer as a Level 1, 2, 3, or 4, and shall recommend Level 5 classifications to the hearing officer[NUISANCE, DANGEROUS OR VICIOUS].

C. If the incident is classified as non-accidental, the conditions, facts and circumstances of the incident, and seriousness of any bite, shall be considered in determining the classification of the animal.

D. The classification of an animal as a Level 1, 2, 3, or 4, or a recommendation to the hearing officer as a Level 5 classification[NUISANCE, DANGEROUS OR VICIOUS] shall be completed by the chief animal care and regulation [CONTROL] officer within fifteen (15) [TEN (10)] business days of the receipt of the bite or attack report.

E. The animal care and regulation office shall provide written notification to the owner of the classified animal and the human victim or victim owner of any classification or recommended [UPON] classification. Notice shall be provided in writing and served by personal service or certified mail. Notice by personal service shall be made pursuant to Alaska Rule of Civil Procedure 4(d). notice by certified mail shall be made pursuant to Alaska Rule of Civil Procedure 4(h)[OF THE ANIMAL AS A NUISANCE, DANGEROUS OR VICIOUS, THE ANIMAL CONTROL OFFICE SHALL NOTIFY IN WRITING BY PERSONAL SERVICE OR BY CERTIFIED MAIL AND REGULAR MAIL THE FOLLOWING:

1. THE OWNER OF THE ANIMAL CLASSIFIED;
2. THE VICTIM OR VICTIM OWNER IN THE INCIDENT CLASSIFIED; AND

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

3. NOTICE BY PERSONAL SERVICE SHALL BE COMPLETE UPON DELIVERY, AND NOTICE BY MAIL SHALL BE DEEMED COMPLETE UPON RETURN OF THE RECEIPT OF THE NOTICE AS DELIVERED, UNDELIVERABLE, REFUSED OR UNCLAIMED.]

F. **No person shall make a fraudulent complaint, statement or report to Animal Care and Regulation Office.** [IT IS A VIOLATION FOR ANY COMPLAINT, REPORTS, STATEMENTS OR OTHER DOCUMENTATION TO BE FRAUDULENTLY FILED.] Violation of this provision is an infraction.

7.20.025 Regulation of classified animals.

A. **The chief animal care and regulation officer shall have the discretion to increase or decrease a classified animal's restrictions based upon relevant circumstances.**

B. **In addition to other requirements of this chapter, the owner of a classified animal shall comply with the following redemption conditions:**

1. **Level 1 classification. Whenever an animal classified as Level 1 is on the owner's property outside the owner's home, the animal shall be restrained by a physical restraint so the animal cannot reach any public sidewalk, public right-of-way, or adjoining property and shall be located so as not to interfere with public access to the owner's property.**

2. **Level 2 classification. Animals classified as Level 2:**

a. **shall be confined in a location which may include a secure enclosure or under control by leash only.**

3. **Level 3 and 4 classifications. Animals classified as Level 3 or 4:**

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

a. shall be kept in the owner's home or when outside the home shall be confined in a secure enclosure. When the animal is not on the owner's property, it shall be controlled by leash and muzzled; and

b. it is a violation of this subsection to breed, sell, exchange, gift or abandon an animal classified as Level 3 or 4.

4. Level 5 classification. Animals classified as Level 5 shall be euthanized. A hearing officer may issue an order suspending the animal owner's right to adopt an animal from the animal care and regulation shelter and may set conditions for regaining that right.

a. A hearing shall be held before the hearing officer, pursuant to WMC 7.08, when an animal is recommended as Level 5 classification by the chief animal care and regulation officer. If the animal is determined to be a Level 5 classification, it shall be humanely destroyed. The animal owner may waive their right to a hearing before the hearing officer and surrender the animal to the chief animal care and regulation officer. Once surrendered the animal shall be humanely euthanized at the convenience of the city. The owner of the surrendered animal will not be responsible for any fees, costs, or expenses incurred for the impoundment for the animal beyond the date of a signed release waiver.

b. Animals recommended for Level 5 classification pursuant to this chapter, shall be impounded and held at the animal care and regulation shelter until the hearing before a hearing officer. The animal owner is responsible for all costs, fees, and expenses pursuant to WMC 7.20.040.D.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

c. It is unlawful to own an animal classified as Level 5, pursuant to this chapter. Violation of this provision is an infraction.

C. Microchip, immunization, and registration requirements. To ensure correct identification, all classified animals shall be implanted with a permanent microchip to identify the animal and its owner. All animals shall be vaccinated with a State of Alaska approved rabies vaccine and all vaccinations appropriate to species. In addition, all dogs and cats shall be registered in accordance with WMC 7.16.050.

D. Insurance. The chief animal care and regulation officer may require that the owner of an animal classified as Level 4 furnish proof of liability insurance in the amount of at least \$100,000 for bodily injury or death of any person or domestic animal. If required, the policy shall be on file in the animal care and regulation office and shall be required to be kept current throughout the ownership of the animal. Failure to maintain the insurance is cause for the animal to be immediately impounded. If proof of insurance is not submitted within seven calendar days after impoundment, the animal shall be forfeited to the city.

E. Warning sign. The owner or custodian of a Level 3 or 4 classified animal shall display in a prominent place on the premises where the animal is kept, a sign, easily readable by the public, using the words "Dangerous Animal." The sign and its location must be approved by the chief animal care and regulation officer.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

F. Spay or neuter. The owner of an animal classified as a Level 3 or 4 shall have the animal spayed or neutered at the owner's expense prior to having the animal released by the chief animal care and regulation officer.

G. Control by leash. A Level 1, 2, 3, or 4 classified animal shall only be off the property of the owner or custodian if it is restrained by leash, under the direct control of a responsible adult, and muzzled if classified as a Level 3, or 4. The strength and length of the leash and strength and type of muzzle shall be approved by the chief animal care and regulation officer.

H. Notice of disposal or escape. The owner or custodian of an animal classified as Level 1, 2, 3, 4, or 5 pursuant to this title shall:

1. Notify the animal care and regulation office immediately if the animal escapes, is unconfined without control of a competent person, is lost, attacks another human being or animal, or dies.

I. Change in location. The owner shall notify the chief animal care and regulation officer of any change in the physical location of an animal classified under this section, and the new location shall be subject to the terms and conditions of the conditional release order.

1. The release conditions shall apply to an animal being boarded at a location other than the approved location.

2. The notification to the chief animal care and regulation officer set forth in this section shall not apply to temporary moves of the animal for the purposes of providing veterinarian care.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

3. Upon notice to the chief animal care and regulation officer, the subject animal may be impounded until the owner complies with all requirements of the conditional release order, or until such time as the chief animal care and regulation officer schedules a forfeiture hearing pursuant to WMC 7.32.030. In the event the animal is impounded, the owner shall be responsible for all costs and fees associated with the impoundment. Violation of this subsection is an infraction.

[7.20.030 EXCEPTIONS TO CLASSIFICATIONS.

A. EXCEPTIONS TO NUISANCE, DANGEROUS AND VICIOUS ANIMAL CLASSIFICATIONS ARE AS FOLLOWS:

1. NO ANIMAL MAY BE DECLARED A NUISANCE, DANGEROUS OR VICIOUS IF ANY INJURY OR DAMAGE IS SUSTAINED BY A PERSON OF SUFFICIENT AGE AND UNDERSTANDING WHO, AT THE TIME THE INJURY OR DAMAGE WAS SUSTAINED, WAS:

A. TEASING, TORMENTING, ABUSING OR ASSAULTING THE ANIMAL;
OR

B. COMMITTING OR ATTEMPTING TO COMMIT A CRIME OR INTENTIONAL TORT WHICH WOULD WARRANT IMMEDIATE DEFENSE OF PERSON OR PROPERTY.

2. NO ANIMAL MAY BE DECLARED A NUISANCE, DANGEROUS OR VICIOUS IF THE ANIMAL WAS PROTECTING OR DEFENDING A PERSON OR PROPERTY WITHIN THE IMMEDIATE VICINITY OF THE ANIMAL OR DEFENDING ITSELF FROM AN UNJUSTIFIED ATTACK.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

3. NO DOG MAY BE DECLARED A NUISANCE, DANGEROUS OR VICIOUS IF THE INJURY OR DAMAGE TO AN ANIMAL WAS SUSTAINED WHILE THE DOG WAS WORKING AS A HUNTING DOG, HERDING DOG OR PREDATOR CONTROL DOG ON THE PROPERTY OF, OR UNDER THE CONTROL OF ITS OWNER, AND THE DAMAGE OR INJURY WAS TO A SPECIES OR TYPE OF ANIMAL APPROPRIATE TO THE WORK OF THE DOG.

4. NO DOG MAY BE DECLARED A NUISANCE, DANGEROUS OR VICIOUS IF THE DOG HAS BEEN TRAINED SPECIFICALLY FOR A GOVERNMENT OR LAW ENFORCEMENT AGENCY TO ATTACK PERSONS INDEPENDENTLY OR UPON ORAL COMMAND, AND AT THE TIME OF THE BITE OR ATTACK THE ATTACKING DOG IS UNDER THE CONTROL AND SUPERVISION OF AN AUTHORIZED GOVERNMENT OR LAW ENFORCEMENT UNIT, AND THE ACT IS DIRECTLY ASSOCIATED WITH THE PROPER EXECUTION OF GOVERNMENTAL OR LAW ENFORCEMENT DUTIES.

B. IF AT ANY TIME DURING A SUPERVISED QUARANTINE A DOMESTIC OR DOMESTICATED ANIMAL IS RABID OR IS TENTATIVELY DIAGNOSED AS RABID, THE PROVISIONS OF SECTION 7.24.060(B) SHALL APPLY. THIS PROVISION SHALL NOT EXEMPT A DOMESTIC OR DOMESTICATED ANIMAL WHICH IS NOT EUTHANIZED, PURSUANT TO THIS CHAPTER, FROM THE PROVISIONS OF THIS CHAPTER IF THE DOMESTIC OR DOMESTICATED ANIMAL IS DETERMINED TO BE RABIES-FREE.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.20.040 Impoundment and written release orders.

A. Impoundment. An animal classified as a Level 1 or 2, [INVOLVED IN A BITE OR ATTACK INCIDENT SHALL BE IMPOUNDED] at the [ANIMAL CONTROL SHELTER UNLESS THE] chief animal care and regulation [CONTROL] officer's discretion, may be impounded at the animal care and regulation shelter, [AT THE OFFICER'S DISCRETION, PERMITS SUPERVISED CONFINEMENT TO BE AT A LICENSED VETERINARIAN CLINIC OR HOSPITAL,] licensed kennel, or at the owner's house if the kennel or home has adequate facilities to quarantine the animal. An animal involved in a bite or attack incident classified as a Level 3 or 4, at the chief animal care and regulation officer's discretion, shall be impounded at the animal care and regulation shelter, licensed veterinarian clinic or hospital, licensed kennel approved by the chief animal care and regulation officer, or at the owner's house if the kennel or home has adequate facilities to quarantine the animal. Any quarantine of an animal not at the animal care and regulation [CONTROL] shelter shall be posted with a quarantine sign that states the reason for the quarantine, conditions and dates of the quarantine. If the animal is recommended for classification as Level 5, it shall be [CLASSIFIED AS VICIOUS AND IS CONFINED AT A CLINIC OR HOSPITAL AFTER THE PERIOD OF SUPERVISED QUARANTINE ENDS, THE ANIMAL SHALL BE RELEASED TO THE ANIMAL CONTROL OFFICE AND] impounded at the animal shelter unless the animal is:

1. Presently u[U]nder a veterinarian's care for sickness, disease or injury requiring the animal to remain at the clinic or hospital; or

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

2. Kept under other specially required conditions at the time of the requested release by the city.

B. Written Release Order. An owner of an animal classified as a Level 1, 2, 3, or 4 [NUISANCE OR DANGEROUS] shall be provided a written release order by the chief animal care and regulation [CONTROL] officer, setting forth the conditions of release accompanied by written findings of fact and conclusions.

1. The conditions of the written release order shall include, but are not limited to, all requirements set forth in Section 7.20.025[7.20.090] for animals classified as Level 1, 2, 3, and 4[NUISANCE AND SECTION 7.20.050 FOR ANIMALS CLASSIFIED AS DANGEROUS]. The conditions of release must be acknowledged by the owner's signature and kept on file by the chief animal control and regulation officer or his designee. The owner shall have five days from receipt of the conditional release order to comply and implement all of the terms and conditions of the order, unless stated otherwise.

2. The chief animal care and regulation [CONTROL] officer may, at the officer's discretion, include other requirements or conditions in the written release order.

3. The chief animal care and regulation [CONTROL] officer or the officer's designee shall inspect the owner's premises to determine if the owner meets the conditions of release requirements pertaining to confinement of the animal prior to release of the animal.

4. In determining the release conditions, the [THE] chief animal care and regulation [CONTROL] officer shall consider factors, including but not limited to the following[FACTORS, IN DETERMINING THE CONDITIONS OF RELEASE]:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

a. The observed or reported past and present actions of the animal owner in controlling and restraining animals;

b. The circumstances of the incident and the extent of the injury to the person or animal attacked;

c. The owner's past history of compliance with past and present city animal **care and regulation** [CONTROL] ordinances;

d. The owner's past history of compliance with other state or municipal animal **care and regulation** [CONTROL] ordinances and laws.

C. Conditions of Written Release Order to be Met. All conditions of the written release order must be met, or the animal owner must demonstrate the ability to meet the conditions prior to release of the animal. Whether the animal owner has met the conditions or has the ability to meet the conditions shall be determined by the chief animal **care and regulation** [CONTROL] officer.

D. Fees and Expenses. Prior to any release, all fees and expenses reasonably incurred by the city from the date of impoundment shall be paid by the owner.

E. Forfeiture of Animal. If an owner refuses to redeem an animal under the conditions of a written release order, refuses to pay fees and expenses, or violates any condition of a written release order, the animal is subject to forfeiture to the city **pursuant to section 7.32.030.** [UPON A HEARING BEFORE THE CHIEF ANIMAL CONTROL OFFICER AS SET FORTH IN AN ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES MANUAL OR A MANUAL ADOPTED BY AN AGENCY AUTHORIZED BY CONTRACT WITH THE CITY.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

F. Violation. Violation of a written release order is an infraction. Each day the owner fails to abide by the written release order issued by the chief animal **care and regulation** [CONTROL] officer constitutes a separate infraction for violating the conditions of the written release order.

G. Release Agreements. The chief animal **care and regulation** [CONTROL] officer may, at the officer's discretion, enter into conditional release agreements for animals involved in bite or attack incidents, **except for animals recommended for Level 5 classification.**

[7.20.050 DANGEROUS ANIMALS—MANDATORY CONDITIONS OF RELEASE.

A. DANGEROUS ANIMALS. THE MANDATORY CONDITIONS OF RELEASE FOR AN ANIMAL CLASSIFIED AS DANGEROUS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING CONDITIONS:

1. THE ANIMAL SHALL BE TATTOOED IN THE RIGHT EAR BY THE CITY WITH A CITY REGISTRATION NUMBER. IN LIEU OF A TATTOO, A MICROCHIP APPROVED BY THE CITY MAY BE IMPLANTED IN THE ANIMAL. THE COST OF MICROCHIP IDENTIFICATION SHALL BE PAID BY THE OWNER.

2. TWO PHOTOGRAPHS OF THE ANIMAL CLEARLY AND ACCURATELY DEPICTING SIZE, COLOR AND MARKS SHALL BE MAINTAINED BY THE ANIMAL CONTROL OFFICE. IF THE ANIMAL IS NOT AN ADULT AT THE TIME OF THE CLASSIFICATION, THE OWNER SHALL PROVIDE AN UPDATED PHOTOGRAPH ON THE DATE SET FORTH IN THE RELEASE ORDER.

3. WHILE ON THE OWNER'S PROPERTY, THE ANIMAL SHALL BE SECURELY CONFINED INDOORS, OR IN A SECURELY ENCLOSED AND LOCKED

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

PEN OR STRUCTURE SUITABLE TO PREVENT THE ENTRY OF PERSONS AND ANIMALS, AND CONSTRUCTED TO PREVENT THE ANIMAL FROM ESCAPING BY CLIMBING, BURROWING OR OTHERWISE ESCAPING FROM THE ENCLOSURE.

A. THE PEN OR STRUCTURE SHALL NOT BE MAINTAINED OR OPERATED IN A MANNER WHICH IS AN ANNOYANCE, AS DEFINED BY SECTION 7.04.010.

B. THE PEN OR STRUCTURE SHALL MEET THE FOLLOWING REQUIREMENTS:

I. SHELTER WHICH PROVIDES ADEQUATE AIR AND VENTILATION AND WHICH WILL PREVENT THE ANIMAL FROM BEING EXPOSED TO INCLEMENT OR ADVERSE WEATHER CONDITIONS, OVERHEATING FROM SUNLIGHT, UNSANITARY CONDITIONS OR DIRTY, WET AND UNCOMFORTABLE CONDITIONS WHICH MAY ENDANGER THE HEALTH OR WELFARE OF THE ANIMAL;

II. THE PEN OR STRUCTURE SHALL BE FREE FROM BACTERIA, PARASITES, WASTE, FILTH, OR OTHER ELEMENTS IN AMOUNTS WHICH WOULD ENDANGER THE HEALTH OR WELFARE OF THE ANIMAL;

III. THE PEN OR STRUCTURE SHALL HAVE SECURE SIDES AND A SECURE TOP. THE PEN OR STRUCTURE SHALL HAVE A BOTTOM SECURED TO THE SIDES UNLESS IT IS DEEMED NOT NECESSARY BY THE CHIEF ANIMAL CONTROL OFFICER FOR THE PARTICULAR TYPE OF ANIMAL. IF THE PEN OR STRUCTURE HAS NO BOTTOM SECURED TO THE SIDES, THE SIDES SHALL BE EMBEDDED INTO THE GROUND TO A DEPTH OF NOT LESS THAN ONE FOOT.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

THE SIDES OF THE PEN AND THE TOP AND BOTTOM, IF ANY, SHALL BE SECURELY ATTACHED TO EACH OTHER ALONG EACH EDGE;

IV. IF FOR A DOG, THE PEN OR STRUCTURE SHALL ALSO HAVE MINIMUM DIMENSIONS OF FIVE FEET IN WIDTH BY TEN (10) FEET IN LENGTH, AND SHALL BE CONSTRUCTED OF MATERIAL AND IN A MANNER TO PREVENT THE DOG'S JAWS FROM PROTRUDING THROUGH THE ENCLOSURE.

C. THE PEN OR STRUCTURE MUST BE APPROVED BY THE CHIEF ANIMAL CONTROL OFFICER.

4. THE ANIMAL MAY BE OFF THE OWNER'S PREMISES ONLY IF IT IS RESTRAINED BY A LEASH, MUZZLED, AND UNDER THE DIRECT CONTROL OF A RESPONSIBLE ADULT. THE STRENGTH AND LENGTH OF THE LEASH AND STRENGTH AND TYPE OF MUZZLE SHALL BE APPROVED BY THE CHIEF ANIMAL CONTROL OFFICER.

5. THE OWNER SHALL DISPLAY IN A PROMINENT PLACE ON THE PREMISES WHERE THE ANIMAL IS KEPT A SIGN, EASILY READABLE BY THE PUBLIC, USING THE WORDS "DANGEROUS ANIMAL." THE SIGN AND ITS LOCATION MUST BE APPROVED BY THE CHIEF ANIMAL CONTROL OFFICER.

6. THE OWNER SHALL HAVE THE ANIMAL SPAYED OR NEUTERED AT THE OWNER'S EXPENSE.

B. CHANGE IN LOCATION. THE OWNER SHALL NOTIFY THE CHIEF ANIMAL CONTROL OFFICER OF ANY CHANGE IN THE PHYSICAL LOCATION OF AN ANIMAL CLASSIFIED UNDER THIS SECTION, AND THE NEW LOCATION

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE CONDITIONAL RELEASE ORDER FOR KENNEL AND RESTRAINT REQUIREMENTS.

1. THE CONDITIONS SHALL APPLY TO AN ANIMAL BEING BOARDED AT A LOCATION OTHER THAN THE APPROVED LOCATION AND KENNEL AS STATED IN THE MANDATORY CONDITIONS OF THE CONDITIONAL RELEASE ORDER ISSUED UNDER THIS SECTION.

2. THE NOTIFICATION TO THE CITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO TEMPORARY MOVES OF THE ANIMAL FOR THE PURPOSES OF PROVIDING VETERINARIAN CARE.

3. UPON NOTICE TO THE CHIEF ANIMAL CONTROL OFFICER, THE SUBJECT ANIMAL MAY BE IMPOUNDED UNTIL THE OWNER COMPLIES WITH ALL REQUIREMENTS OF THE CONDITIONAL RELEASE ORDER, OR UNTIL SUCH TIME AS THE CHIEF ANIMAL CONTROL OFFICER SCHEDULES AN IMPOUNDMENT AND FORFEITURE HEARING. IN THE EVENT THE ANIMAL IS IMPOUNDED, THE OWNER SHALL BE RESPONSIBLE FOR ALL COSTS AND FEES ASSOCIATED WITH THE IMPOUNDMENT. VIOLATION OF THIS SUBSECTION IS AN INFRACTION.

C. MANDATORY CONDITIONS OF RELEASE. THE MANDATORY CONDITIONS OF RELEASE SET FORTH IN THIS SECTION AND ANY OTHER CONDITIONS IMPOSED BY THE CHIEF ANIMAL CONTROL OFFICER OR THE ANIMAL CONTROL BOARD SHALL REMAIN IN EFFECT FOR THE LIFE OF THE ANIMAL AS LONG AS THE ANIMAL REMAINS UNDER THE JURISDICTION OF THE CITY OR THE CITY'S AGENT.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

[7.20.060 VICIOUS ANIMALS.

A. ALL ANIMALS CLASSIFIED AS VICIOUS, PURSUANT TO THIS CHAPTER SHALL BE HUMANELY DESTROYED UNLESS A HEARING BEFORE THE ANIMAL CONTROL BOARD IS REQUESTED.

B. IF A VICIOUS ANIMAL HEARING IS REQUESTED BEFORE THE ANIMAL CONTROL BOARD, PURSUANT TO SUBSECTION A OF THIS SECTION AND CHAPTER 7.08, HUMANE DESTRUCTION OF THE ANIMAL SHALL BE STAYED UNTIL THE ANIMAL CONTROL BOARD DETERMINES WHETHER THE ANIMAL IS VICIOUS. IF THE ANIMAL IS DETERMINED TO BE VICIOUS BY THE ANIMAL CONTROL BOARD, IT SHALL BE HUMANELY DESTROYED.

C. ANIMALS CLASSIFIED AS VICIOUS, PURSUANT TO THIS CHAPTER, SHALL BE IMPOUNDED AND HELD AT THE ANIMAL CONTROL SHELTER UNTIL DESTROYED.

D. IT IS UNLAWFUL TO OWN AN ANIMAL CLASSIFIED AS VICIOUS, PURSUANT TO THIS CHAPTER. VIOLATION OF THIS PROVISION IS AN INFRACTION.]

[7.20.070 NUISANCE AND DANGEROUS ANIMALS—OWNER'S NOTIFICATION.

THE OWNER OF AN ANIMAL CLASSIFIED AS A NUISANCE, OR DANGEROUS SHALL NOTIFY THE ANIMAL CONTROL OFFICE IMMEDIATELY IF THE ANIMAL IS RUNNING-AT-LARGE OR HAS BITTEN OR ATTACKED A HUMAN BEING OR ANOTHER ANIMAL. VIOLATION OF THIS PROVISION IS AN INFRACTION.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.20.080 Animal classification and written release order review by hearing officer[BOROUGH ANIMAL CONTROL BOARD].

A. An owner aggrieved by the classification or the written release order for an animal as **Level 1, 2, 3, or 4** [NUISANCE, DANGEROUS OR VICIOUS] may **appeal to a hearing officer** [HAVE THE DECISION REVIEWED BY THE ANIMAL CONTROL BOARD] as set forth **in** Chapter 7.08. **A hearing date shall be set before the hearing officer when an animal has been recommended as Level 5 classification by the chief animal care and regulation officer as set forth in section 7.08 unless the owner wishes to surrender the animal to the city.**

B. A victim or victim owner aggrieved by the decision of the chief animal **care and regulation** [CONTROL] officer's classification or conditional release order for an animal where classification resulted from an incident involving the victim or victim owner may appeal that decision to **a hearing officer** [THE ANIMAL CONTROL BOARD] by following the procedures set forth in Chapter 7.08 and paying the required costs and filing fees. If the victim is under the age of majority the victim's parent or authorized guardian may appeal the decision.

7.20.085 Compliance inspections.

The owner or custodian of any animal classified as Level 2, 3, or 4 shall consent to inspection of the property where the animal is kept with 24 hours written notice by the animal care and regulation office. The inspection shall be set at a reasonable time and in a reasonable manner to verify compliance with the requirements of this chapter.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.20.095 Removal, reduction or modification of classification.

A. An owner of a classified animal, including an animal classified under a repealed classification scheme, may apply to the chief animal care and regulation officer, in writing, to have the classification reduced, modified, or removed in accordance with this section upon payment of outstanding fees, including a review fee of \$35, and showing that:

1. A Level 1 or Level 2 animal has been classified for one year without any further incident, including any violation of this title; or

2. A Level 3 or Level 4 animal has been classified for two years, or a minimum of 18 months if recommended by the hearing officer after a hearing on the classification, without any further incident, including any violation of this title;

a. The owner has attended and presents evidence of the owner's and animal's satisfactory completion of an obedience training course;

b. Notwithstanding the two-year time provision of subsection A.2 of this section, the chief animal care and regulation officer must review the classification of an animal upon an application presented after 18 months if advised to do so by the hearing officer. The advisement by the hearing officer must be in writing made after a hearing on the classification and must specify the facts and circumstances which support the advisement.

B. Restrictions for Level 3 and Level 4 animals may not be reduced, modified, or removed by the Chief Animal and Care Regulation Officer, except the requirement for the use of a secure enclosure.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

C. Requests for termination, modification, or reduction of a classification may be submitted to the chief animal care and regulation officer upon proof of compliance with requirements which were set by the chief animal care and regulation officer, hearing officer, or this title, but no more than once each year. All requests for reclassification shall be accompanied by a review fee of \$35.

[7.20.090 NUISANCE ANIMALS—MANDATORY CONDITIONS OF RELEASE.

A. NUISANCE ANIMALS. THE MANDATORY CONDITIONS OF RELEASE FOR AN ANIMAL CLASSIFIED AS A NUISANCE SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING CONDITIONS:

1. THE ANIMAL SHALL BE TATTOOED IN THE RIGHT EAR WITH A CITY REGISTRATION NUMBER, IN LIEU OF A TATTOO, A MICROCHIP MAY BE IMPLANTED IN THE ANIMAL. THE COST OF MICROCHIP IDENTIFICATION SHALL BE PAID BY THE OWNER.

2. TWO PHOTOGRAPHS OF THE ANIMAL CLEARLY AND ACCURATELY DEPICTING SIZE, COLOR AND MARKS SHALL BE MAINTAINED BY THE ANIMAL CONTROL OFFICE. IF THE ANIMAL IS NOT AN ADULT AT THE TIME OF THE CLASSIFICATION, THE OWNER SHALL PROVIDE AN UPDATED PHOTOGRAPH MEETING THE REQUIREMENTS OF THIS SUBSECTION ON THE DATE SET FORTH IN THE CONDITIONAL RELEASE ORDER.

3. WHILE ON THE OWNER'S PROPERTY, THE ANIMAL SHALL BE RESTRAINED:

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. WITH A FITTED COLLAR AND LEASH OR RUN DEVICE MADE OF WIRE, ROPE OR OTHER MATERIALS APPROVED BY THE CHIEF ANIMAL CONTROL OFFICER;

B. MUST BE KEPT IN A PEN OR KENNEL OPERATED IN COMPLIANCE WITH THIS TITLE; OR

C. MUST BE KEPT IN A FENCED AREA OF THE PROPERTY CONSTRUCTED TO PREVENT THE ANIMAL'S ESCAPE AND TO REDUCE OR ELIMINATE THE PUBLIC'S CONTACT WITH THE ANIMAL; AND

D. THE METHOD AND TYPE OF RESTRAINT SHALL BE APPROVED BY THE CHIEF ANIMAL CONTROL OFFICER.

4. THE ANIMAL, WHEN OFF OF THE OWNER'S PREMISES, SHALL BE RESTRAINED WITH A COLLAR AND A LEASH.

5. ALL FEES AND EXPENSES INCURRED UNDER SECTION 7.20.040 SHALL BE PAID IN FULL BY THE ANIMAL OWNER PRIOR TO RELEASE.

B. THE REQUIREMENTS OF THIS SECTION AND OTHER CONDITIONS IMPOSED BY THE CHIEF ANIMAL CONTROL OFFICER OR THE ANIMAL CONTROL BOARD SHALL REMAIN IN EFFECT FOR THE LIFE OF THE ANIMAL WHENEVER THE ANIMAL IS WITHIN THE BOUNDARIES OF THE CITY.

C. THE OWNER SHALL NOTIFY THE CHIEF ANIMAL CONTROL OFFICER OF ANY CHANGE IN THE PHYSICAL LOCATION OF AN ANIMAL CLASSIFIED UNDER THIS SECTION, AND THE NEW LOCATION SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THE CONDITIONAL RELEASE ORDER FOR KENNEL AND RESTRAINT REQUIREMENTS.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

1. THE CONDITIONS SHALL APPLY TO AN ANIMAL BEING TEMPORARILY BOARDED AT A LOCATION OTHER THAN THE APPROVED LOCATION AND KENNEL AS STATED IN THE MANDATORY CONDITIONS OF THE CONDITIONAL RELEASE ISSUED UNDER THIS SECTION.

2. VIOLATION OF THIS SUBSECTION IS AN INFRACTION. AN ANIMAL KEPT IN VIOLATION OF THIS SECTION MAY BE IMPOUNDED UNTIL SUCH TIME AS THE OWNER COMPLIES WITH ALL REQUIREMENTS OF THE CONDITIONAL RELEASE ORDER, OR UNTIL THE CHIEF ANIMAL CONTROL OFFICER SCHEDULES AN IMPOUNDMENT AND FORFEITURE HEARING. IN THE EVENT THE ANIMAL IS IMPOUNDED, THE OWNER SHALL BE RESPONSIBLE FOR ALL COSTS AND FEES ASSOCIATED WITH THE IMPOUNDMENT.

3. THE NOTIFICATION IN THIS SECTION SHALL NOT APPLY TO TEMPORARY MOVES FOR THE PURPOSES OF PROVIDING VETERINARIAN CARE TO THE ANIMAL.

D. IF AN ANIMAL CLASSIFIED AS A NUISANCE AGAIN ACTS AS A NUISANCE ANIMAL, THE ANIMAL MAY BE CLASSIFIED AS AT LEAST DANGEROUS BASED UPON THE CIRCUMSTANCES OF THE INCIDENT.]

7.20.100 Transfer of ownership of a classified animal.

A. Upon transfer of the ownership of an animal classified as Level 1 or 2, the owner shall transfer to the new owner a copy of the classification notice and conditional release order applicable to the animal. [BY THE CHIEF ANIMAL CONTROL OFFICER OR ANIMAL CONTROL BOARD AS A NUISANCE OR DANGEROUS SHALL HAVE THE CLASSIFICATION REMAIN IN FULL FORCE AND

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

EFFECT FOR THE LIFE OF THE ANIMAL WHENEVER THE ANIMAL IS WITHIN THE BOUNDARIES OF THE CITY OF WASILLA BUT NOT WITHIN THE BOUNDARIES OF THE MATANUSKA-SUSITNA BOROUGH OUTSIDE THE CITY UNLESS THE CITY HAS ENTERED AN INTER-GOVERNMENTAL AGREEMENT FOR ANIMAL CONTROL WITH THE MUNICIPALITY WHERE THE ANIMAL IS KEPT.

B. UPON TRANSFER OF THE OWNERSHIP OF AN ANIMAL CLASSIFIED AS A NUISANCE OR DANGEROUS THE OWNER SHALL TRANSFER TO THE NEW OWNER A COPY OF THE CLASSIFICATION NOTICE AND CONDITIONAL RELEASE ORDER APPLICABLE TO THE ANIMAL.]

B[C]. The new owner shall be bound by the conditional release order issued by the chief animal care and regulation [CONTROL] officer or the hearing officer [ANIMAL CONTROL BOARD].

C[D]. The owner shall notify the animal care and regulation [CONTROL] office within five [(5)] days of the transfer of ownership of a classified animal and shall notify the animal care and regulation [CONTROL] office of the new location of the animal.

D[E]. Violation of this section is an infraction.

7.20.110 Pre-existing classifications.

All classifications and conditional release orders or conditional release agreements issued under former law shall remain in full force and effect for the life of the animal classified, unless removed, reduced, or modified under the procedures established in WMC 7.20.080[REGARDLESS OF REVISIONS TO THE CLASSIFICATION AND CONDITIONAL RELEASE ORDER PROVISIONS OF THIS TITLE].

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

* **Section 8. Amendment of section.** WMC 7.24, Rabies Control, is amended to read as follows:

7.24.010 Definitions.

Notwithstanding Section 7.04.010, for purposes of this chapter the word “animal” includes all animals, unless otherwise specified. “Dog” does not include canid hybrids for purposes of this chapter.

7.24.020 Rabies immunization.

A. A person may not keep, own or harbor a dog or cat over six months of age unless the dog or cat has been immunized for rabies in accordance with the laws of the state and city ordinance. Violation of this provision is an infraction.

B. It is unlawful for any person owning a dog or cat to knowingly procure, receive, use or attempt to use a purported proof, certificate of, or receipt for rabies immunization not actually given to the animal described in the proof, certificate or receipt. An act in violation of this provision is an infraction.

C. The rabies immunization requirements do not apply to canid hybrids unless and until a rabies vaccine is approved by the state.

1. For rabies issues concerning canid hybrids, the city shall defer to the state of Alaska.

7.24.030 Reporting.

A. All practitioners of human medicine shall report to the animal **care and regulation** [CONTROL] office within twelve (12) hours of discovery of the names and addresses of persons treated for animal bites and the owner of the animal, if known. Violation of this provision is an infraction.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

B. All practitioners of veterinary medicine shall report to the animal **care and regulation** [CONTROL] office within twelve (12) hours of observation of any animal having or suspected of having rabies. Violation of this provision is an infraction.

C. A person who knows of an animal biting a domestic or domesticated animal or human shall report the bite to the animal **care and regulation** [CONTROL] office within twelve (12) hours of witnessing or receiving knowledge of the bite. Violation of this provision is an infraction.

D. Except for dogs and cats, other domestic or domesticated animals that have bitten a human or another animal shall be reported immediately to the Alaska State Department of **Health** [SOCIAL] and **Social** [HEALTH] Services.

7.24.040 Surrender of animals.

An owner of a domestic or domesticated animal, at the request of an animal **care and regulation** [CONTROL] officer, shall not refuse to surrender the domestic or domesticated animal for supervised quarantine, pursuant to Section 7.24.050, if the domestic or domesticated animal has bitten a human or another animal. Violation of this provision is an infraction.

7.24.050 Supervised quarantine.

A. A domestic or domesticated animal subject to a supervised quarantine shall be securely confined for a minimum period of ten (10) calendar days following the bite.

B. At the discretion of the chief animal **care and regulation** [CONTROL] officer, the quarantine location may be:

1. At the designated animal shelter;

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

2. At a veterinary hospital or clinic of the owner's choosing, subject to the approval of the chief animal **care and regulation** [CONTROL] officer;

3. At a licensed boarding kennel or cattery of the owner's choosing, subject to the approval of the chief animal **care and regulation** [CONTROL] officer;

4. Confined on the owner's premises subject to the approval of the chief animal **care and regulation** [CONTROL] officer.

5. Exception. If at any time the chief animal care and regulation officer makes a determination to classify the animal as Level 3 or 4, or recommend as Level 5 to the hearing officer, the animal shall be surrendered to the animal care and regulation shelter pending the outcome of the case.

C. Fees and costs associated with quarantine, treatment and care reasonably incurred by the city shall be paid by the owner of the animal.

D. Violation of any condition of a supervised quarantine order is an infraction.

7.24.060 Rabid animals.

A. Notification of chief animal **care and regulation** [CONTROL] officer. When a domestic or domesticated animal under a supervised quarantine, other than at the animal shelter, is diagnosed or tentatively diagnosed as rabid, the chief animal **care and regulation** [CONTROL] officer shall be notified immediately.

B. Confirmation of diagnosis. If a domestic or domesticated animal is rabid or tentatively diagnosed as rabid, the chief animal **care and regulation** [CONTROL] officer may take any action necessary including, but not limited to, immediate

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

euthanasia and the removal of tissue samples from the domestic or domesticated animal to confirm the diagnosis of rabies.

C. Destruction of animals. Destruction of animals shall be as follows:

1. No person except an authorized agent of the state of Alaska, the chief animal **care and regulation** [CONTROL] officer, **any police officer**, [OR] a licensed veterinarian, **or any individual who has a reasonable objective belief that the animal is rabid** may kill or cause to be killed any domestic or domesticated animal which is rabid or may be rabid.

2. Any domestic or domesticated animal diagnosed or tentatively diagnosed as rabid by an Alaska licensed veterinarian shall be destroyed immediately.

D. Disposition of Rabid Animal. Disposition of rabid animals shall be as follows:

1. A person shall not fail or refuse to surrender a domestic or domesticated animal which is rabid or suspected of having rabies or has been directly exposed to a rabid animal, including the carcass or portion of the carcass.

2. The chief animal **care and regulation** [CONTROL] officer shall dispose of any dead domestic or domesticated animal, or portions of the animal, which is diagnosed as rabid or is suspected of being rabid.

E. Violation. Violation of subsection A, C.1 and 2. or D.1 of this section is an infraction.

7.24.070 Area quarantine.

A. When one or more positive diagnosis of rabies is made within the city, the chief animal **care and regulation** [CONTROL] officer may institute an area quarantine

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

for a period of thirty (30) calendar days. The area covered by the quarantine shall be at the discretion of the chief animal **care and regulation** [CONTROL] officer.

B. A person within the quarantine area may not:

1. Take a domestic or domesticated animal off the premises of its owner, except on a leash or in a harness; or

2. Take or ship a domestic or domesticated animal from the area of quarantine without written permission of the chief animal **care and regulation** [CONTROL] officer.

C. During an area quarantine a domestic or domesticated animal running-at-large may be destroyed forthwith by an authorized animal **care and regulation** [CONTROL] officer.

D. In the event subsequent and continued cases of rabies occur during the thirty (30) calendar day quarantine period, the quarantine time may be extended up to an additional six months at the discretion of the chief animal **care and regulation** [CONTROL] officer.

E. During the period of quarantine, the boundaries of the quarantine area may be adjusted by the chief animal **care and regulation** [CONTROL] officer as needed.

F. Any domestic or domesticated animal with a current rabies vaccination during an area quarantine which is bitten by any animal shall be immediately re-vaccinated and placed under supervised quarantine. The bite shall be reported immediately to the chief animal **care and regulation** [CONTROL] officer.

7.24.080 Cooperation with Alaska State Department of Health and Social Services.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. The city may defer to the judgment of the Alaska State Department of Health and Social Services on rabies issues. The city may cooperate on issues including, but not limited to:

1. Surrendering jurisdiction of an animal to the state;
2. Cooperation in state-authorized quarantines;
3. Cooperation in identification of rabies cases;
4. Control of the spread of rabies, including the euthanasia of animals in order to test brain tissue.

B. The city may enter into cooperative agreements with the Alaska State Department of Health and Social Services regarding the protocol for addressing rabies and potential rabies cases for all animals within the city, whether the animals are categorized as domestic, domesticated, wild or otherwise categorized. The protocol may [SHALL] be set forth in an animal control policies, regulations and procedures [MANUAL OR A MANUAL] adopted by an agency authorized by contract with the city.

C. Where city law conflicts with state law concerning rabies control, state law shall be controlling.

7.24.090 Low cost rabies vaccination clinics for dogs and cats.

The chief animal care and regulation [CONTROL] officer may[, AT THE OFFICER'S DISCRETION,] conduct low cost rabies vaccination clinics for dogs and cats[AS SET FORTH IN AN ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES MANUAL OR A MANUAL ADOPTED BY AN AGENCY AUTHORIZED BY CONTRACT WITH THE CITY].

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

* **Section 9. Amendment of section.** WMC 7.28, Impoundment Procedure, is amended to read as follows:

7.28.010 Impoundment procedure.

A. Animals Running-at-Large. Animals found running-at-large are subject to **immediate** impoundment by an animal **care and regulation** [CONTROL] officer or authorized agent providing animal **care and regulation** [CONTROL] **or authorized agent providing animal care and regulation** contract services to the city. Animals running-at-large without identification shall be impounded at the animal **care and regulation** [CONTROL] shelter for a period of not less than seventy-two (72) hours, unless sooner claimed by the owner. Animals with identification which are found running-at-large in the city shall be impounded for not less than one hundred twenty (120) hours, unless sooner claimed by the owner. Animals not claimed by the owner within the mandatory minimum impoundment period may be **forfeited pursuant to WMC 7.32.030**[HELD FOR ADOPTION OR DISPOSED OF IN A HUMANE MANNER].

B. Pursuit of Animals Running-at-Large. An animal **care and regulation** [CONTROL] officer shall not pursue an animal running-at-large onto property posted **in accordance with A.S. 11.46.350(c)** [WITH A "NO TRESPASSING" SIGN] or onto property where the property owner expressly refuses access to the animal **care and regulation** [CONTROL] officer **unless pursuit of an animal is necessary to protect the public or the health or safety of the animal.** [AN ANIMAL CONTROL OFFICER MAY ENTER THE ANIMAL OWNER'S PROPERTY TO ISSUE AN ANIMAL RUNNING-AT-LARGE CITATION.]

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

C. Notification. The animal **care and regulation** [CONTROL] office shall make reasonable effort to notify the owner of an impoundment and the conditions under which the owner may retain custody of the animal.

D. **Level 5 classified** [VICIOUS] Animals. All [VICIOUS] animals **being recommended for a level 5 classification** shall be impounded [WHENEVER POSSIBLE] and held at the animal **care and regulation** [CONTROL] shelter. If the owner of **an animal being recommended for a Level 5 classification** [VICIOUS ANIMAL] can be located [WITHIN THE HOLDING PERIOD SET FORTH IN SUBSECTION A OF THIS SECTION], a hearing before the **hearing officer shall** [ANIMAL CONTROL BOARD SHALL] be held [AT THE OWNER'S REQUEST] pursuant to Chapter 7.08 to adjudicate the animal as **a Level 5 classification**[VICIOUS].

7.28.020 Redemption of impounded animals.

A. The owner is entitled to reclaim possession of an impounded animal, unless otherwise provided by this title, upon the owner's compliance with the applicable registration and **microchipping** [TATTOOING] requirements, and the payment of fees and expenses set forth in this title.

B. The chief animal **care and regulation** [CONTROL] officer may, for good cause, enter into a conditional release agreement with an owner of an animal impounded, **other than those being recommended for a Level 5 classification.**

7.28.030 Fees.

A. The **mayor, or an agency authorized by contract with the city, shall set** [CITY ADOPTS THE] impoundment fees and costs to be charged by the animal **care**

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

and regulation [CONTROL] office or shelter or an agency authorized by contract with the city.

B. Payment of impoundment fees for an animal running-at-large shall not exceed **five** [THREE] hundred dollars (**\$5**[3]00.00) per animal for each incident of impoundment.

C. The owner of an impounded animal shall be responsible for expenses and costs in addition to the impoundment and boarding fees reasonably incurred by the city for care and maintenance of the animal, including the expense of contract services provided to the city.

D. The animal may not be returned to the owner unless and until fees are paid. If the fees are not paid within one hundred twenty (120) hours of notice of impoundment to the owner, the animal shall be subject to the adoption and euthanasia provisions of this title at the chief animal **care and regulation** [CONTROL] officer's discretion.

E. The chief animal **care and regulation** [CONTROL] officer may, for good cause, waive a portion of the fees, expenses or costs, and may enter into a payment schedule agreement with an owner.

7.28.040 Livestock auction.

The chief animal **care and regulation** [CONTROL] officer may, at the officer's discretion, auction livestock as set forth in [AN ANIMAL CONTROL] policies, regulations and procedures **established by the city or** [MANUAL OR A MANUAL] adopted by an agency authorized by contract with the city.

7.28.050 Adoption.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. In addition to the registration provisions set forth in Chapter 7.16, no dog or cat shall be adopted from the shelter unless the prospective owner agrees to have the animal spayed or neutered.

B. The **mayor, or an agency authorized by contract with the city, shall set** [COUNCIL HEREBY ADOPTS THE] animal adoption fees and costs to be charged by the animal **care and regulation** [CONTROL] office or shelter.

C. A dog or cat which is at least six months old and is not spayed or neutered when it is adopted shall be spayed or neutered within thirty (30) calendar days of the date of adoption. Dogs and cats which are under six months of age at the time of adoption shall be spayed or neutered within seven [(7)] months of the date of birth of the dog or cat. The owner of a dog or cat adopted from the shelter shall provide to the city written proof of having the dog or cat spayed or neutered by a licensed veterinarian within thirty (30) calendar days of the last date the dog or cat is required by this section to be spayed or neutered.

D. An animal may not be adopted from impoundment that shows symptoms of infectious or contagious disease or shows signs of aggression toward humans or other animals. **The chief animal care and regulation** [CONTROL] **officer or designee may approve the rescue of an animal or unclaimed animal that would otherwise be euthanized if the rescue group or individual agrees to provide the necessary medial care for the animal; except for animals classified as a Level 5.**

E. Records of adoptions shall be maintained by the animal **care and regulation** [CONTROL] office.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

F. The chief animal care and regulation [CONTROL] officer may, in the officer's discretion, establish an adoption plan and fee schedule for animals other than dogs or cats.

G. An animal classified as Level 3, 4, or 5 [A NUISANCE, DANGEROUS OR VICIOUS] may not be adopted from impoundment.

H. Adoption of any impounded animal is at the discretion of the city.

I. Adoption policies consistent with the provisions of this section may be established by the chief animal care and regulation [CONTROL] officer [AND SET FORTH IN AN ANIMAL CONTROL POLICIES, REGULATIONS AND PROCEDURES MANUAL OR A MANUAL ADOPTED BY AN AGENCY AUTHORIZED BY CONTRACT WITH THE CITY].

J. Failure to have a dog or cat spayed or neutered as set forth in subsection C of this section, or to provide written proof of the spay or neuter, is an infraction.

7.28.060 Voluntary release.

A person voluntarily releasing ownership of an animal to the city shall execute a release of ownership in favor of the city and pay a fee of five [THREE] dollars (\$5[3].00) per animal. The chief animal care and regulation [CONTROL] officer may, for good cause, waive the release fee.

7.28.070 [TATTOOING OR] microchip insertion—Impounded dogs and cats.

All dogs and cats impounded and released from the animal care and regulation [CONTROL] shelter, whether by redemption, adoption or otherwise, shall receive a [TATTOO IN THE RIGHT EAR WITH A CITY REGISTRATION NUMBER, OR] a microchip implant approved by the city. If the animal is being released to the owner and

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

the owner requests to be present, the owner shall be present during the [TATTOOING OR] insertion of the microchip. The cost of the [TATTOO OR] microchip shall be paid by the owner. The chief animal care and regulation [CONTROL] officer, or an agency authorized by contract with the city, shall list the fee for a [TATTOO OR] microchip implant in a schedule [APPROVED BY THE MAYOR OR HIS OR HER DESIGNEE].

7.28.080 Euthanasia.

A. The chief animal care and regulation officer or designee may authorize euthanasia in the following circumstances:

1. An animal in city custody, not pending a hearing or court decision, which is not adoptable under WMC 7.28.050.D.;

2. An animal whose health or physical condition requires euthanasia for humane reasons. The euthanization decision shall be made by a licensed veterinarian or an animal care and regulation officer in consultation with a licensed veterinarian. Prior to euthanizing an animal, the city shall make reasonable efforts to contact the owner or custodian. Notwithstanding, in an emergency situation, where the condition of the animal requires immediate euthanization, the city may euthanize the animal for humane reasons prior to notification of the owner or custodian; or

3. An adoptable animal, remaining unadopted following expiration of the minimum term of availability specified in WMC 7.28.010.A.

B. An animal which is not eligible for redemption or adoption may be euthanized after the right to appeal expires without being invoked or after all appeals under this title are completed.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

C. Euthanasia of an animal shall be accomplished humanely by a licensed veterinarian.

D. The animal care and regulation shelter shall maintain a list available for review by the general public of animals euthanized within the past 30 days, including a photograph or a description of the animal and the reason for euthanasia.

* **Section 10. Amendment of section.** WMC 7.32, Penalties, is amended to read as follows:

7.32.010 Infractions and violations.

A. An infraction **or violation** is a minor offense which carries no jail sentence and cannot result in the loss of a valuable license. Except as otherwise provided in this title, any person convicted under this title shall be deemed guilty of an infraction and shall be punished by a fine not less than fifty dollars (\$50.00), nor greater than **five** [THREE] hundred dollars (~~\$~~**5**[3]00.00)

B. Unless an offense specifies a mental state as an element of the offense, each and every infraction or violation enacted pursuant to this chapter is a strict liability offense for which the owner of the animal is responsible.

7.32.020 Misdemeanors.

Any person convicted of a misdemeanor is subject to a penalty not to exceed a fine of one thousand dollars (\$1,000.00) and imprisonment for ninety (90) days.

7.32.030 Forfeiture.

A. Forfeiture occurs when an animal owner loses ownership rights in an animal and the city assumes the right to adopt or otherwise dispose of the animal

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in a humane manner. Any owner shall forfeit all rights of ownership in an animal under the following circumstances[IF THE OWNER IS]:

1. The owner is c[C]onvicted of violating Section 7.20.025 [7.04.090];
2. The owner is o[O]rdered by the court to forfeit the animal; [OR]
3. The owner fails to reclaim an animal running-at-large [REQUIRED BY THE CHIEF ANIMAL CONTROL OFFICER TO FORFEIT THE ANIMAL] pursuant to Section 7.04.100(C)(1) or 7.20.040(E);
4. The owner of an animal subject to supervised quarantine pursuant to WMC 7.24.050 fails to redeem the animal by paying the costs defined in WMC 7.24.050.C;
5. The owner of a classified animal fails to redeem the animal under the conditions of a written release order or refuses to pay fees and expenses incurred during impoundment of the animal in violation of WMC 7.20.040.C or E;
6. The owner of a classified animal fails to comply with a conditional release order and the animal is impounded pursuant to WMC 7.20.025.I.3;
7. An owner of an animal released from protective custody violates the conditional release order issued pursuant to WMC 7.04.100.F.2; or
8. An animal taken into city protective custody is recommended for forfeiture by the chief animal care and regulation officer.

B. Any forfeited animal shall be subject to the impoundment, [PERSON WHO FAILS TO PAY] adoption, and euthanasia requirements of this title[AND BOARDING FEES AND OTHER COSTS AND EXPENSES REASONABLY INCURRED BY THE CITY FOR THE CARE AND MAINTENANCE OF AN ANIMAL MAY BE

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

SUBJECT TO FORFEITURE OF THE PERSON'S RIGHTS AND INTEREST IN THE ANIMAL].

C. An animal [ANY] forfeited pursuant to subsection A.1, 2, 4, or 5 of this section is immediately subject to subsection B of this section. The chief animal care and regulation officer shall serve the owner of an animal subject to forfeiture pursuant to subsection A.6, 7, or 8 of this section a written notice of intent to forfeit. The notice shall be served on the animal owner by personal service or certified mail. If the owner cannot be served, notice shall be given by publication pursuant to Rule 4 of the Alaska Rules of Civil Procedure. Within five business days after service, the animal owner may appeal the forfeiture by filing a notice of appeal with the city clerk or agency authorized by contract with the city. If the animal owner fails to appeal the forfeiture within five business days, the animal is forfeited to the city.

E. Forfeiture appeals. The city shall appoint a hearing officer under WMC 2.76 to conduct the forfeiture hearing. Hearings shall be informal, hearsay is admissible and the technical rules of evidence do not apply. A person who requests a hearing may retain an attorney if the person desires. Proceedings of the hearing shall be recorded. The hearing officer shall state on the record the evidence relied on and the reasons for the officer's determination. The final decision of the hearing officer may be appealed to superior court pursuant to Rule 602 of the Alaska Rules of Appellate Procedure[ANIMAL SHALL BE SUBJECT TO THE IMPOUNDMENT, ADOPTION AND EUTHANASIA REQUIREMENTS OF THIS TITLE].

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

7.32.040 Civil penalty and statutory injunction.

Pursuant to A.S. 29.25.070(b), the city may institute a civil action against any person who violates any provision of this title. In addition to injunctive and compensatory relief, a civil penalty may also [NOT EXCEED ONE THOUSAND (\$1,000.000) MAY] be imposed for each violation. An action to enjoin a violation may be brought notwithstanding the availability of any other remedy. On application for injunctive relief and a finding of a violation or a threatened violation, the Superior Court shall grant the injunction. Each day that a violation of this title continues constitutes a separate violation.

7.32.050 Fines for infractions.

A. The following fine schedule is established for violations of the following provisions of this title:

| Amount | | |
|----------------|---|------------------------|
| Section | Section Description | Fine |
| 7.04.030 | Animal annoyance | \$50.00 |
| 7.04.040 | Failure to provide sanitary enclosure | [\$50.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.04.050 | Keeping diseased animals | [\$50.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

| | | |
|-------------|---|------------------------------|
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.04.060 | Animals in public places | [\$50.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.04.070(A) | Failure to restrain animal | |
| | First offense | <u>\$100</u> [75].00 |
| | Second offense, same owner (within 12 months) | <u>\$150</u> [100].00 |
| | Third offense, same owner (within 12 months) | \$200.00 |
| 7.04.070(C) | Release from restraint by non-owner | [\$50.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.04.090 | Cruelty to animals | <u>\$300</u> [250].00 |
| 7.04.100(D) | Failure to pay fees, costs and expenses | <u>\$100</u> [50].00 |
| 7.04.110(A) | Trapping domestic or domesticated animals | <u>\$300</u> [50].00 |
| 7.04.110(B) | Failure to check live trap | <u>\$300</u> [50].00 |
| 7.04.110(C) | Failure to provide humane care for trapped animals | <u>\$300</u> [50].00 |
| 7.04.110(D) | Failure to release in a timely manner | [\$75.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.04.110(E) | Unlawful release of a trapped animal | [\$50.00] |

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

| | | |
|----------------|---|------------------------|
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$150.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| 7.16.010(A) | Failure to register dog or cat | [\$50.00] |
| | <u>First Offense</u> | <u>\$0</u> |
| | <u>Second Offense, same person within 12 months</u> | <u>\$75.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$100.00</u> |
| 7.16.020(A) | Failure to register kennel or cattery | \$ <u>150</u> [75].00 |
| 7.16.020(C) | Failure to re-register kennel or cattery | \$75.00 |
| 7.16.030 | Failure to update and provide registration information | \$50.00 |
| 7.16.040(B) | Failure to meet kennel or cattery requirements | \$ <u>200</u> [100].00 |
| 7.16.110 | Failure to comply with written administrative order | \$100.00 |
| 7.28.050(J) | Failure to spay or neuter adopted dog or cat | \$ 100.00 |
| 7.24.020(A) | Failure to immunize dog or cat for rabies | \$100.00 |
| 7.24.020(B) | Fraudulent rabies certificate | \$ 250.00 |
| 7.24.030(A) | Failure of doctors to report bite | \$ <u>150</u> [50].00 |
| 7.24.030(B) | Failure of veterinarians to report rabies | \$150.00 |
| 7.24.030(C) | Failure of citizens to report bite | \$50.00 |
| 7.24.040 | Failure to surrender animal for supervised quarantine | \$ <u>200</u> [100].00 |
| 7.24.060(A) | Failure to report rabies of a quarantined animal | \$150.00 |
| 7.24.060(C)(1) | Unauthorized destruction of rabid animal | \$50.00 |
| 7.24.060(C)(2) | Failure of veterinarian to destroy rabid animal | \$50.00 |

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

| | | |
|----------------|---|---------------------------|
| 7.24.060(D)(1) | Failure to surrender rabid animal | \$200.00 |
| 7.20.030(B) | Filing fraudulent documentation | \$200 [100].00 |
| 7.20.040(F) | Failure to comply with written release order | [\$250.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$300.00</u> |
| 7.20.060(C) | Owning a <u>Level 5 classification</u> [VICIOUS] animal | \$300 [250].00 |
| 7.20.070 | Failure to notify of running-at-large classified animal | [\$150.00] |
| | <u>First Offense</u> | <u>\$100.00</u> |
| | <u>Second Offense, same person (within 12 months)</u> | <u>\$200.00</u> |
| | <u>Third offense, same person (within 12 months)</u> | <u>\$300.00</u> |
| 7.20.100(D) | Failure to notify of change in ownership of a classified animal | \$250.00 |
| 7.12.030(A) | Interference with animal <u>care and regulation</u> [CONTROL] officer | \$200 [150].00 |
| 7.12.030(B) | Unlawful release of animal in custody of <u>city</u> [BOROUGH] | \$150 [75].00 |
| 7.12.030(C) | Interference with investigation, reporting or prosecution | \$100.00 |
| 7.12.030(D) | Failure of citizen to notify or surrender detained animal | \$50.00 |

B. The fines set forth in subsection A of this section may not be judicially reduced.

7.32.060 Citations for infractions or violations.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

A. Citations—Contents. The citation issued for violation of the provisions of this title shall be in writing, state the nature of the violations, name the alleged violator, and contain a notice to answer to the charges against the alleged violator in the Alaska State District Court for the Third Judicial District at Palmer. The citation shall further state that the defendant is entitled to a trial, to engage counsel, to confront and question witnesses, to testify, and to subpoena witnesses in the defendant’s behalf. The citation shall also indicate whether a court appearance is mandatory or can be waived, shall state the fine established by city ordinance, the procedure the defendant must follow in responding to the citation, and the consequences for failure to respond.

B. Issuance. Any animal care and regulation [CONTROL] officer or other authorized agent of the city may issue, file and serve citations for violations of the provisions of this title.

C. Disposition. A person issued a citation pursuant to this title has the option of paying the applicable fine to the district court clerk upon entering the plea of “no contest” and waiving appearance in court. The defendant may enter a plea of “not guilty” and request a trial.

D. No Contest and Conviction. Persons who do not contest the citation, who change their original plea of “not guilty” to “no contest,” or persons convicted of the offense charged shall be fined according to the fine schedule for all violations set forth in Section 7.32.050 and for all other violations according to the fine limits set forth in Section 7.32.010.

7.32.070 Summons and complaint for misdemeanors.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]

Summons and complaints for misdemeanors shall be prepared and filed by legal counsel representing the city or by the State of Alaska Department of Law.

* **Section 11. Effective date.** This ordinance shall take effect upon adoption of the Wasilla City Council.

ADOPTED by the Wasilla City Council on October 26, 2009.


VERNE E. RUPRIGHT, Mayor

ATTEST:


KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Hall, Harris, Holler, Katkuks, and Woodruff in favor. Larson absent.

Bold and underline added. [CAPS AND BRACKETS, DELETED.]



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

Ordinance Serial No. 09-69: AMENDING TITLE 7, ANIMAL CONTROL, OF THE WASILLA MUNICIPAL CODE TO UPDATE THE PROCESS AND RENAME THE CODE TO BE THE ANIMAL CARE AND REGULATION CODE.

Agenda of: October 12, 2009

Date: September 30, 2009

Originator: Kristie Smithers, City Clerk

| Route to: | Department | Signature/Date |
|-----------|--|----------------------------|
| X | Chief of Police | <i>JC Rhini</i> |
| | Recreational and Cultural Services Manager | |
| | Director of Public Works | |
| X | Finance Director | <i>W. Smithers 10/1/09</i> |
| X | Deputy Administrator | <i>M. ...</i> |
| X | City Clerk | <i>K. Smithers RRP</i> |

REVIEWED BY MAYOR VERNE E. RUPRIGHT: _____

FISCAL IMPACT: yes \$ or no

Funds Available yes no

Account name/number:

Attachments: Proposed Ordinance Serial No. 09-69

SUMMARY STATEMENT:

The proposed ordinance amends the current animal control code by changing the name of the code from "animal control" to "animal care and regulation."

The classifications in regard to animals have been clarified into levels rather than by using the term "vicious" and "dangerous." All definitions will now be included into one section, and lastly, the violation and penalties section has been updated with many offenses having an escalating fee for second and third offenses.

It also changes several references from borough to city and corrects references from a board to a hearing officer which was recently amended by Council.

STAFF RECOMMENDATION: Approve the adoption of Ordinance Serial No. 09-69.