

Postponed indefinitely 4/16/02

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Department of
Health & Human Services
For reading: February 26, 2002

ANCHORAGE, ALASKA
AO NO. 2001-158 (S-1)

AN ORDINANCE AMENDING ALL OF TITLE 17, REGULATING THE CARE AND CONTROL OF ANIMALS WITHIN THE MUNICIPALITY, INCLUDING BUT NOT LIMITED TO ADOPTION, IMPOUND, EUTHANASIA, LICENSING, IMMUNIZATION, QUARANTINE, ADMINISTRATION, FEES, FINES AND PENALTIES, AND OTHER MATTERS

WHEREAS, the Anchorage Animal Control Advisory Board and members of the public, together with an animal law consultant, worked since January 1998 to reorganize Title 17; and

WHEREAS, on August 21, 2001, the Anchorage Animal Control Advisory Board recommended the repeal and reenactment of Title 17, Animals, as set forth below; now therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code Title 17, Animals, is hereby amended to read as follows:

TITLE 17
ANIMALS

- | | |
|-------|---|
| 17.05 | General Provisions. |
| 17.10 | Standards for the Care <u>and</u> Control [AND SALE] of Animals. |
| 17.15 | <u>Rabies Control and Municipal</u> [ANIMAL, FACILITY, AND BREEDER]
Licensing. |
| 17.25 | <u>Impoundment, Adoption, Redemption, and Euthanasia of Animals.</u> |
| 17.30 | <u>Rabies Control; Immunization and Quarantine Procedures.</u> |
| 17.35 | Cruelty to Animals (Renumbered to 8.55) |
| 17.40 | Regulation of Animal Behavior. |
| 17.60 | Wolf Hybrids. |
| 17.70 | Animal <u>Care and Control</u> Fees, Fines and Penalties. |

Chapter 17.05 GENERAL PROVISIONS

17.05.005	<u>Purpose.</u>
17.05.010	Definitions, <u>generally</u> .
17.05.020	Animal <u>care and control</u> center [OFFICE].
17.05.030	Animal control officers; powers and duties.
17.05.040	Records.
17.05.050	Authority to prescribe additional regulations and to issue orders.
17.05.060	Inspections.
17.05.070	Enforcement generally [; SERVICE AND CIVIL ACTIONS].
17.05.080	[CIVIL] Notices of violation [("NOV")].
17.05.090	Citation procedure for criminal violations (Repealed)
17.05.100	Hearings on NOVs and administrative decisions.
17.05.105	Appeals of NOVs and administrative decisions.
17.05.110	Law enforcement animals. (Repealed)

17.05.005 Purpose.

The purpose of this title is to promote public health and safety and to encourage responsible pet ownership and the humane care of animals.

17.05.010 Definitions, generally.

The following words, terms and phrases and their other verb forms and tenses, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative Decision is a decision of the chief animal control officer under chapters 17.15 (rabies control and municipal licensing), 17.25 (redemption, disposition, protective custody or impoundment decisions or conditions), and 17.40 (classified animals).

Agent, see Custodian.

Aggressive bite means a bite that is accompanied by an attack in which the animal exhibits overt behavior that includes any of the following: snarling, baring teeth, chasing, growling, snapping, pouncing, lunging or similar aggressive behavior.

AMC means Anchorage Municipal Code.

Animal means all members of the *Phylum Chordata*, *Subphylum Vertebrata* [VERTEBRATE SUBPHYLUM OF CHORDATES], excluding non-domestic animals and humans, [WHEN USED IN THIS TITLE, WITH THE EXCEPTION OF SECTION 17.35, ANIMAL MEANS DOGS OR CATS] unless otherwise specifically stated.

At large means not [UNDER RESTRAINT] controlled

Bite means an animal bite that breaks the skin or [CAUSES OTHER PHYSICAL INJURY OR] results in significant evidence of biting.

Business day means any one of the days between Monday and Friday, 8:00 a.m. - 5:00 p.m. which is a normal business day for the Municipality of Anchorage

Breeder means any person who intentionally breeds an animal. [AND SUBSEQUENTLY SELLS, TRADES, GIVES AWAY OR OTHERWISE DISPOSES OF THE OFFSPRING.]

[BUSINESS FACILITY MEANS PREMISES WHERE A PERSON DERIVES INCOME FROM THE PHYSICAL HARBORING OF ANIMALS, INCLUDED BUT NOT LIMITED TO BUYING AND SELLING, TRAINING, BOARDING AND GROOMING, AND WHICH IS NOT A DOG FANCIER'S FACILITY, DOG MUSER'S FACILITY OR CATTERY.]

Cat means a member of the genus and species *Felis domestica*.

[CATTERY MEANS PREMISES WHERE A PERSON OWNS FOUR OR MORE CATS OVER THE AGE OF FOUR MONTHS.]

Chief animal control officer means the municipal department head responsible for animal control and administration of the municipal animal control contract or his or her designee.

Chronic animal noise means repeated vocalization [NOISE] by an animal or animals for more than seven consecutive minutes [WITHIN ANY SIXTY MINUTE PERIOD] during the Daytime noise period from 7:00 a.m. to 10:00 p.m. and more than five consecutive minutes [OF NOISE IN ANY 60 MINUTE PERIOD] during the Nighttime noise period from 10:00 p.m. to 7:00 a.m. Daytime noise generated by a licensed facility in its reasonable and customary manner of operation only during feeding and loading/unloading times is excused to a maximum of 10 consecutive minutes.

Commercial facility: A person or facility that boards or grooms dogs, cats, rabbits, ferrets, and/or horses [ANIMALS] for fees or services, or any person that reconveys four or more dogs or cats in a calendar year, or any person or facility that breeds more than three litters of dogs and cats in a calendar year [BUT] excluding Veterinary facilities. Commercial facility shall also include pet stores.

Confine, see *Control by confinement* below. [IN RELATION TO AN ANIMAL MEANS TO CONTAIN AN ANIMAL IN A HUMANE MANNER WITHIN A SECURE ENCLOSURE IN SUCH A MANNER AS TO PREVENT VIOLATIONS OF THIS TITLE.]

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

Control by command [WHICH] means to control an animal by visual or audible

commands, or a combination thereof, to which the animal responds promptly and accurately; or

2. Control by confinement means to control an animal in a humane manner within any fully fenced pen, kennel, yard, or structure, which prevents the exit of any animal confined therein solely on its own volition[;] and the protrusion through the outer perimeter of the enclosure of the animal's paws and/or teeth to an extent which would enable the animal to physically injure a person or another animal; or

3.[2] Control by leash [WHICH] means to control an animal by securely attaching a leash, chain or an item which is physically capable of restraining the animal, including electronic collar, [OTHER SIMILAR DEVICE] to the animal which is [also] in the secure possession of a person physically and mentally capable of monitoring, directing and restricting the animals movements and activities; or

4[3] Control by attachment [WHICH] means to control an animal by a harness or other similar device attached directly or indirectly to a person or [SECURELY ATTACHING THE ANIMAL TO AN] immovable object by means of a chain, leash or similar device in such a manner that:

- a. When the animal is on private property, it cannot travel off the private property on which the immovable object is located, or into any public vehicular or pedestrian way, or other public easement; or
- b. When the animal is on public property, the animal is temporarily attached in such a manner that it cannot travel more than three feet from the immovable object and is not [LEFT] unattended by the owner; or

5[4] Control by harness [WHICH] means to control an animal by a harness or other similar device attached directly or indirectly to a person or [IMMOVABLE] object during an event of competition, training, demonstration, or show.

[CRIMINAL NEGLIGENCE SHALL HAVE THE SAME MEANING AS DEFINED IN AS 11.81.900.]

Current rabies vaccination means a vaccination

As specified in the current Compendium of Animal Rabies Vaccines prepared by the Rabies Subcommittee of the National Academy of Sciences and by the National Association of State Public Health Veterinarians, Inc.;

2. Administered in accordance with state law; and

3. Evidenced by a current rabies vaccination certificate in a form approved by the state division of public health and signed by a currently licensed veterinarian.

Custodian means a person entrusted by the owner with the full responsibility for an animal under this title.

Dog means a member of the genus and species *Canis familiaris*

[*DOG FANCIER'S FACILITY* MEANS PREMISES WHERE A PERSON OWNS FOUR OR MORE DOGS OVER THE AGE OF FOUR MONTHS, AND WHICH IS NOT A DOG MUSER'S FACILITY OR A BUSINESS FACILITY.]

[*DOG MUSER'S FACILITY* MEANS PREMISES WHERE A PERSON OWNS FOUR OR MORE DOGS OVER THE AGE OF FOUR MONTHS PRINCIPALLY FOR THE PURPOSE OF DOG MUSHING, AND WHICH IS NOT A DOG FANCIER'S FACILITY OR BUSINESS FACILITY.]

Euthanasia means a painless death or a method of causing death painlessly.

Ferret means a member of the genus and species *Mustela putorius furo*.

Humane care or treatment or humane manner means the [HUMANE] care and treatment of an animal, including but not limited to providing the animal with:

1. Safe and necessary control, confinement [RESTRAINT] and appropriate space;
2. Adequate veterinary [MEDICAL] treatment, wholesome food and water; and
3. Heat, ventilation, and sanitary shelter from wind, temperatures, precipitation and sun conditions detrimental to its health;

all of which are consistent with or dictated by the animal's normal requirements, veterinary [MEDICAL] needs, feeding habits and its condition, size, species and breed.

[*IMMATURE ANIMAL* MEANS AN ANIMAL TOO YOUNG TO BE WEANED FROM THE CARE OF ITS PARENT(S).]

[*INTENT* SHALL HAVE THE SAME MEANING AS DEFINED IN AS 11.81.900.]

Municipality or municipal shall mean the Municipality of Anchorage.

Multi-animal facility means a dwelling unit, residence, or business premise containing or housing four or more dogs, four or more cats, or four or more rabbits, four or more ferrets, four or more horses, or any combination of seven or more of the above animals.

Notice of violation (herein "NOV") means a citation issued by the chief animal control officer or designee for civil violations of this title.

Notice to Comply means a notice issued by the chief animal control officer or designee requiring compliance with this title.

Officer means a person charged by law with the duty to enforce provisions of this title.

Owner means any person or custodian, who owns, restrains, [OR] possesses or holds title to an animal or knowingly permits an animal to remain on premises occupied by such person.

Physical injury means an impairment of physical condition or [SUBSTANTIAL] pain that [WHICH] is accompanied by scrapes, cuts, punctures or other evidence of similar injuries.

Protective custody means to protect and preserve the health, safety, humane care, or treatment of an animal.

Restrain or restraint means to confine or control an animal

Secure enclosure means any fully enclosed fenced pen, kennel, [OR] yard, or [A] structure, which must include a roof, walls and floor, [WHICH SHALL BE] subject to approval by the chief animal control officer. [, AND REASONABLY PREVENTS] The secure enclosure shall:

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

B. Reasonably prevent

- 1 The accidental release by any person of any animal confined in such enclosure;
- 2 The exit from such enclosure of any animal confined therein solely on its own volition;
- 3 The entry into such enclosure by any person except the owner and other persons authorized by this title or explicitly authorized by the owner, and who are also physically and mentally capable of monitoring, directing and restricting the confined animal's movements and activities;
4. The entry into such enclosure by any animal other than the animal confined therein; and
5. The protrusion through the outer perimeter of the enclosure of the confined animal's paws and/or teeth to an extent which would enable it to physically injure a person or another animal.

Serious physical injury means any physical injury which creates a [SUBSTANTIAL] risk of death, [OR WHICH] causes serious [PROTRACTED] disfigurement, causes impairment of health, [OR] causes impairment of any bodily organ, or causes the loss or impairment of any bodily function.

Sterile means rendered incapable of reproduction by surgical operation by a licensed veterinarian.

[SUBSTANTIAL CREDIBLE EVIDENCE MEANS EVIDENCE WHICH COULD BE BELIEVED BY A REASONABLE PERSON AND UPON WHICH A CHIEF ANIMAL CONTROL OFFICER COULD REASONABLY MAKE A DECISION.]

Unweaned animal means an animal too young to be weaned from the care of its parent(s).

Wolf dog means the offspring of a wolf or wolf hybrid. For the purposes of this title, wolf dogs and wolf hybrids shall be synonymous.

Wolf hybrid means a member of the genus and species *Canis lupis* x *Canis familiaris*.

Cross reference(s)--Definitions and rules of construction generally, § .05.020.

17.05.020 Animal care and control center [OFFICE].

- A Except as otherwise provided in this Code, the animal care and control center [OFFICE] shall administer and enforce this title.
- B The animal care and control center [ANIMAL CONTROL CENTER SHALL BE IN THE ANIMAL CONTROL OFFICE.] shall be responsible for keeping animals which the animal care and control center [OFFICE] impounds or assumes custody of under this title.
- C The municipality may contract with a private person or entity to perform the functions of the animal care and control center [OFFICE]

(GAAB 7.05.010, 7.25.010; AO No. 78-65A; AO No. 96-134(S-2), § 2, 7-1-97)

17.05.030 Animal control officers; powers and duties.

- A The chief animal control officer shall be appointed by the mayor. If the municipality contracts with a private person or entity to perform the functions of the animal care and control center [office], the chief animal control officer shall be the head of the department charged with administration of the contract.
- B The chief animal control officer may appoint one or more deputy animal control officers
- C The chief animal control officer or designee and all deputy animal control officers shall be peace officers as defined in Anchorage Municipal Code [AMC] 1.45.030.
- D The chief animal control officer shall administer the animal care and control center [OFFICE]. If the municipality contracts with a private person or entity to perform the functions of the animal care and control center [OFFICE], the chief animal control officer may delegate to the contractor those powers of the chief animal control officer which are necessary [AND CONVENIENT] to the performance of the contract and which lawfully may be delegated to a private person or entity.

The chief animal control officer or designee shall take all actions reasonable and necessary to abate, [PUNISH AND] prevent violations of, and enforce this title, [AND] to promote the humane care and treatment of animals, and [THE] protect[ION OF] the

public health, safety and welfare

- E. Interfering with, hindering, resisting, [OR] molesting, or providing false information, either written or oral, to an animal control officer or representative of the animal care and control center in the lawful enforcement [OF] or [LAWFUL] performance of a duty under this title, and/or releasing, or attempting to release, an animal from the custody of an animal control officer, are declared crimes by and punishable in accordance with Title 8 of this Code.

(GAAB 17.25.010; AO No. 78-65A; AO No. 86-39; AO No. 96-134(S-2), § 3, 7-1-97)

17.05.040 Records.

- A. The chief animal control officer shall maintain complete and detailed records of the following in accordance with chapter 3.90 [3.95] and as required by municipal contract:

- 1 The issuance and revocation of licenses under this title;
- 2 All animals brought into the custody of the animal care and control center [OFFICE] by impoundment or otherwise;
- 3 The disposition of all animals in the custody of the animal care and control center [OFFICE];
- 4 Rabies immunizations reported to, ordered and administered under the direction of the animal care and control center [OFFICE];
- 5 Reports required by or made pursuant to this title;
- 6 Investigations of violations of this title;
- Monies received for fees and charges imposed by this title; and
- 8 Notices of violation, including the disposition thereof.

- B. The animal control office shall not disclose the identity of a person who surrenders an animal, claims or adopts an animal from the animal care and control center unless the chief animal control officer determines that protection of the public health, safety or welfare requires such disclosure, or unless required under chapter 3.90.

(GAAB 17.25.030; AO No. 78-65A; AO No. 96-134(S-2), § 6, 7-1-97)

Editor's note—AO No. 96-134(S-2), § 4, repealed section 17.05.040. Formerly, such section pertained to powers and duties of animal control officers and derived from GAAB 17.25.020; AO No. 78-65A; AO No. 92-75(S). Subsequently, section 6 of the same ordinance renumbered § 17.05.050 as a new § 17.05.040. Therefore, the history note reflects the history of former § 17.05.050. Section 42 of same ordinance incorporated repealed § 17.25.100.

17.05.050 Authority to prescribe additional regulations and to issue orders.

- A. The chief animal control officer may issue regulations in accordance with chapter 3.40 necessary [AND CONVENIENT] to the administration of this title, including, but not limited to:
- 1 Providing the forms and other documents used in the administration of this title
 - 2 Providing citation books to be used under this title.
 - 3 Establishing fees, charges, and procedures for:
 - a. Licensing animals and facilities;
 - b. Adopting, boarding, and redeeming animals from the animal care and control center; and
 - c. Vaccination and other services rendered by the animal care and control center.
 4. Interpreting the provisions of this title.
- B. The chief animal control officer may issue orders to implement and carry out the intent, purpose and requirements of this title with respect to any specific event, condition or decision.

(AO No. 78-65A; AO No. 83-2; AO No. 96-134(S-2), § 8, 7-1-97)

17.05.060 Inspections.

- A. Except as to those inspections under Section 17.15.090(A)(2), during normal business hours, a peace officer or animal control officer, upon presentation of proper identification, is [MAY] authorized to inspect premises where animals are or are intended to be confined [KEPT] to determine whether the animals are being or will be confined [KEPT] in compliance with this title.
- B. If the premises where animals are kept have been vacated by such animals' owner or if a person lawfully entitled to possession of the premises refuses entry to a peace officer or animal control officer lawfully entitled to inspect such premises under this title, the officer shall obtain and serve an administrative search warrant to inspect the [SUCH] premises [UNDER THIS TITLE]. The application [OFFICER MAY APPLY] to the trial courts of the state to obtain an administrative search warrant shall state [, STATING IN THE APPLICATION] the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned within ten days.
- C. The chief animal control officer is authorized to [MAY] conduct an animal census of the municipality. The chief animal control officer may authorize those who take the census to accept applications for and issue animal [DOG] licenses in the field.

(GAAB 17.10.030; AO No. 78-65A; AO No. 96-134(S-2), § 9, 7-1-97)

1 17.05.070 Enforcement generally; SERVICE AND CIVIL ACTIONS].

2 A. Notwithstanding any other provision of this Code, the provisions of this title may be enforced
3 by any peace officer.

4 B. In addition to all other enforcement provisions of this title, the chief animal control officer shall
5 have the authority to commence civil actions to enjoin violations of this title or to obtain other
6 equitable or legal relief for violations of this title.

7 C [D]. Service in civil actions under this title shall be by personal delivery whenever reasonably
8 possible[,] or by posting at the owners address, if known. If the owner's address is unknown,
9 notice shall be made by posting at the [A] premises from which an animal is seized. Service
10 may also be made by certified mail, return receipt requested, or by other method prescribed by
11 the Alaska [RULES OF] Court['S] Rules of Civil Procedure.

12 [C. A VIOLATION OF THIS TITLE IS HEREBY DECLARED TO CREATE A PUBLIC
13 NUISANCE.]

14 (GAAB 17.25.030; AO No. 78-65A; AO No. 96-134(S-2), § 6, 7-1-97)

15 17.05.080 [CIVIL] Notices of violation [("NOV")].

16 A Upon verifying [DISCOVERING] a violation of this title has occurred, an officer may [SHALL]
17 issue a notice to comply or a notice of violation ("NOV") and serve it on the owner or custodian
18 of the animal if that person can be identified at the time of the violation. If the owner cannot
19 then be identified, the officer may impound the animal and [MAY] serve the notice to comply
20 or NOV at such time as the owner of the animal can be identified.

21 A[n] NOV shall have [IM]printed prominently on its face the following notice.

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YOU MAY PAY THE CIVIL FINE NOTED HEREON OR DEMAND A
HEARING ON THE CHARGES OF THIS NOTICE OF VIOLATION ("NOV")
WITHIN 15 BUSINESS DAYS OF RECEIVING THIS NOV. DEMAND FOR
HEARING OF THIS NOV MUST BE MADE BY FILING A WRITTEN
REQUEST FOR [NOTICE OF] HEARING TO THE ADDRESS ON THE
FORMS PROVIDED BY THE ANIMAL CARE AND CONTROL [OFFICE.]
CENTER.

2. A notice to comply will have written prominently on its face the following:

a. The nature, time, place, title section and penalties for the violation and/or
continuance of the violation;

b. The specific number of days allowed for the abatement of the violation to ensure
compliance with this title;

c. The action necessary to correct violation; and

d The consequences of non-compliance.

B. A person who violates a provision of this title shall be subject to a civil penalty as set forth in 17.70 [OF NOT LESS THAN \$10.00 NOR MORE THAN \$300.00, IN AN AMOUNT TO BE ESTABLISHED BY REGULATION].

1. If the civil penalty is not paid within 15 business days of service, and a written request for hearing has not been received, the chief animal control officer shall issue and serve a second notice with a late penalty.

2. Each day during which a violation described in this title occurs shall constitute a separate offense.

C. If the chief animal control officer determines that a NOV has been improperly issued, the officer [HE] may rescind it by writing the word "void" on its face. A record shall be maintained for all actions taken pursuant to this subsection. The chief animal control officer will [MAY] invoke this section upon a finding that one of the following conditions existed at the time the NOV was issued:

1. A mistake of fact occurred and no violation took place;
2. [A MISTAKE OF LAW OCCURRED AND] The conduct complained of is not a violation;
3. The NOV was improperly executed by the issuing officer; or
4. Other good cause which may:
 - a. [MAY] C[c]onstitute a [LEGAL] defense to the violation; or
 - b. Reasonably serve[S] the purpose and intent of this title, the protection of the public health, safety and welfare, the humane care and treatment of animals, and promotes fairness and justice to the alleged violator.

(AO No. 41-75; GAAB 17.10.070; AO No. 78-65A; AO No. 83-97, 1-21-83; AO No. 90-27(S-1); AO No. 92-75(S); AO No. 96-134(S-2), § 10, 7-1-97)

17.05.090 Citation procedure for criminal violations. (Repealed)

(AO No. 41-75; GAAB 7.25.040; AO No. 78-65A; AO No. 92-75(S); AO No. 96-134(S-2), § 7, 7-1-97)

17.05.100 Hearings on NOV's and administrative decisions.

A Hearings. A person served with a NOV or administrative decision has [THE FOLLOWING PERSONS HAVE] a right to [MAY DEMAND] a hearing on the [A] NOV or administrative decision by filing a written demand for hearing on forms provided by the animal care and control center [OFFICE] no later than 15 business days after service of the NOV or administrative decision. [THE DATE THE NOV OR DECISION WAS SERVED ON SUCH PERSON:]

- [1. A PERSON WHO HAS BEEN SERVED AN NOV OR ADMINISTRATIVE DECISION; OR

2. A PERSON AGGRIEVED BY AN ADMINISTRATIVE DECISION OF THE CHIEF ANIMAL CONTROL OFFICER UNDER CHAPTERS 17.10 (CARE AND CONTROL OF ANIMALS)] 17.15 (RABIES CONTROL AND MUNICIPAL LICENSING), (FACILITY OR BREEDER LICENSE REVOCATIONS), 17.30 (QUARANTINE CONDITIONS) 17.25 (REDEMPTION, DISPOSITION, PROTECTIVE CUSTODY OR IMPOUNDMENT DECISIONS OR CONDITIONS), AND 17.40 (CLASSIFIED ANIMALS) AND 17.60 (WOLF HYBRIDS).]

B. A person may waive the right to a hearing prior to the hearing date

C [B]. *Procedure.* Hearings on NOV's and administrative decisions under this section shall be subject to and conducted in accordance with sections 3.60.045 and 3.60.055 through 3.60.070.

The Municipality shall designate an administrative hearing officer who shall conduct a hearing on the NOV or administrative decision within 20 business days after the date on which the request for hearing was filed. A party may request an extension or continuance of the hearing date from the administrative hearing officer, which may be approved upon good cause shown.

2 [1] The hearing officer shall fully develop the record of the hearing by:

- a. Requiring the animal care and control center [OFFICE] to present [ALL] relevant evidence; and
- b. [PERMITTING] Require the alleged violator or person aggrieved by the administrative decision to present [ALL] relevant evidence.

[2] THE CHIEF ANIMAL CONTROL OFFICER SHALL DESIGNATE A HEARING OFFICER WHO SHALL CONDUCT HEARING ON THE NOV OR ADMINISTRATIVE DECISION WITHIN 15 DAYS AFTER THE DATE ON WHICH THE DEMAND FOR HEARING WAS FILED.]

3 [A] Hearings relating to the impoundment of animals not redeemed shall be scheduled in the chronological order in which impoundment occurs, but shall be heard within 15 business days. A party may request an extension or continuance of the hearing date from the administrative hearing officer, which may be approved upon good cause shown [AND DECIDED PRIOR TO ALL OTHER HEARINGS AND DECISIONS OF THE HEARING OFFICER REGARDLESS OF WHEN SUCH OTHER HEARINGS OR DECISIONS WERE ORIGINALLY SCHEDULED].

4 [B] Upon request, the animal care and control center will provide to the alleged violator or person aggrieved all information related to the incident within 7 business days, upon payment of a minimum \$5.00 fee to obtain information in accordance with Title 3.90.

D [C] *Decision and order [RECOMMENDATION] of the hearing officer.* Within 20 business days after the conclusion of the hearing, [AS SOON AS POSSIBLE AFTER CONCLUSION OF THE HEARING,] the hearing officer shall prepare [FILE WITH THE CHIEF ANIMAL

CONTROL OFFICER A REPORT CONTAINING] a statement of the case, a summary of the proceedings, findings of fact, conclusions of law and a [RECOMMENDED] decision and order.

1 [2]. The decision and order [REPORTS] of the hearing officer [AND DECISIONS OF THE CHIEF ANIMAL CONTROL OFFICER] on impoundments shall be prepared [FILED AND MADE RESPECTIVELY] as soon as possible and prior to all other decisions [REPORTS AND] under this title.

[1 AFTER RECEIPT, REVIEW AND CONSIDERATION OF THE HEARING OFFICER'S REPORT, THE CHIEF ANIMAL CONTROL OFFICER SHALL ENTER A FINAL DECISION AND ORDER. FINAL ADMINISTRATIVE DECISION MAKING AUTHORITY CANNOT BE DELEGATED TO THE CONTRACTOR.]

2 [3] A final decision, which is not appealed, is deemed permanent and binding. A subsequent complaint or violation may not be brought on the same facts.

E [D]. *Fees, charges and compensation.* Unless the animal is released to its owner, fees and charges levied in connection with or related to a[N] NOV or administrative decision shall not be collectible or subject to penalties for non-payment pending a hearing officer's [HEARING, A] final decision and order [OF THE CHIEF ANIMAL CONTROL OFFICER] or an appeal of a final administrative decision to the animal control appeals board.

If the initial administrative decision that an animal may not be redeemed is reversed by the final decision of the hearing [CHIEF ANIMAL CONTROL] officer, [AFTER HEARING,] the [CHIEF ANIMAL CONTROL] hearing officer shall order that:

- a. The animal be returned to the owner or, if it has been euthanized, the owner shall receive compensation in an amount equal to the fair market value of the animal at the time of impoundment; and/or
- b. The owner shall receive reimbursement for or waiver of all boarding fees and charges and all applicable fines and penalties paid or charged respectively for the redeemed animal after the date of the initial decision of non-redemption.

F [E]. *Appeals.* Records [AND TRANSCRIPTS] and all relevant materials pertaining to appeals under this section shall be kept by the administrative hearing office in accordance with title 3.95 [BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES].

(AO No. 96-134(S-2), § 12, 7-1-97)

17.05.105 Appeals of NOVs and administrative decisions.

A. *Generally.* Appeals may be taken from [OF] the hearing [CHIEF ANIMAL CONTROL] officer's [FINAL] decision [ENTERED AFTER HIS REVIEW OF THE HEARING OFFICER'S FINDINGS, CONCLUSIONS AND RECOMMENDED DECISION] and order:

On a[N] NOV directly to the Superior Court of the Third Judicial District by the person to whom the NOV was issued [WHO SHALL BE KNOWN AS THE "APPELLANT"];

1 and

2 On a final administrative decision either:

- 4
- 5 a. To the animal control appeals board by the person aggrieved by the final
- 6 administrative decision [WHO SHALL BE KNOWN AS THE "APPELLANT"];
- 7 or
- 8
- 9 b. At the sole option of and by the person aggrieved, [("APPELLANT")] directly
- 10 to the Superior Court of the Third Judicial District.
- 11

12 B. *Procedures on appeal generally.* Procedures on appeals to the Superior Court under subsections

13 A.1 and A.2.b of this section shall be governed by Alaska Statutes [AS CHAPTER] 22.10 and

14 the Alaska Rules of Court, Rules of Appellate Procedure. Procedures on appeals to the animal

15 control appeals board under subsection A.2.a of this section shall be governed by the procedures

16 set forth in [THIS] subsections C, D and E of this section.

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18 C. *Procedures on appeals to the animal control appeals board.* An appeal to the animal control

19 appeals board may be taken by filing a written notice of appeal on forms provided by the animal

20 care and control center [OFFICE] within 15 business days after the date on which the final

21 decision of the [CHIEF ANIMAL CONTROL] hearing officer is served on the person

22 aggrieved.

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25 The municipal administrative hearing [ANIMAL CONTROL] office shall make the

26 [FULL] record of all documents, evidence and arguments presented to the hearing

27 officer together with the hearing officers [REPORT AND] final decision and order [OF

28 THE CHIEF ANIMAL CONTROL OFFICER WITHIN FIVE BUSINESS DAYS

29 AFTER THE FILING OF THE NOTICE OF APPEAL AND MAKE IT] available to all

30 parties to the appeal. The record shall be certified by the hearing [CHIEF ANIMAL

31 CONTROL] officer as true, complete and correct.

32 2 The parties to an appeal may each submit a memorandum arguing the hearing [CHIEF

33 ANIMAL CONTROL] officer's decision [APPEALED].

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- 35 a The losing party [APPELLANT] shall file its memorandum at the time of filing
- 36 the notice of appeal or within ten business days thereafter.
- 37
- 38 b. The prevailing party [CHIEF ANIMAL CONTROL OFFICER] shall file and
- 39 serve [ON THE APPELLANT AND FILE] its memorandum within five
- 40 business days after service [RECEIPT] of the losing party's [APPELLANT'S]
- 41 memorandum.
- 42

43 D. *Hearings on appeals to the animal control appeals board.* The animal control appeals board

44 shall examine [HEAR] appeals under this section solely on the record of documents, evidence,

45 and argument presented to the hearing officer, [THE HEARING OFFICER'S REPORT] and

46 the final decision of the hearing [CHIEF ANIMAL CONTROL] officer, together with such

47 appeal memoranda [ARGUING THE HEARING OFFICER'S DECISION] as the parties timely

48 [ANIMAL CONTROL OFFICE AND THE PERSON AGGRIEVED MAY] submit. There

shall be no oral argument before the animal control appeals board.

1 The animal control appeals board shall consider and render a decision within 60 business days from the date the appeal is filed [HEAR AND DECIDE APPEALS NOT EARLIER THAN 15 DAYS NOR LATER THAN 30 DAYS AFTER THE APPELLEE'S MEMORANDUM IS DUE].

2. Appeals relating to the impoundment of animals not redeemed shall be scheduled in the chronological order in which impoundment occurs, but shall be heard within 15 business days. A party may request an extension or continuance from the animal control appeals board which may be approved upon good cause shown.

E. *Decision of the animal control appeals board.* The animal control appeals board may either:

Affirm the decision of the administrative hearing [CHIEF ANIMAL CONTROL] officer;
or

2. Reverse the decision of the administrative hearing [CHIEF ANIMAL CONTROL] officer upon a written finding that:

a. The administrative decision is not supported by substantial [, CREDIBLE] evidence; and/or

b. The administrative decision is not in accord with the provisions of this title; or

3. Vacate the administrative hearing [CHIEF ANIMAL CONTROL] officer's final decision or any portion thereof, and remand such decision to the hearing officer for an additional hearing and further consideration [BY THE CHIEF ANIMAL CONTROL OFFICER AFTER SUCH HEARING AND] upon a written finding that:

a. The administrative hearing officer failed to conduct the hearing in accordance with sections 3.60.045 and 3.60.055 through 3.60.070; or

b. The administrative hearing officer failed to comply with [FULLY DEVELOP THE RECORD AS REQUIRED BY] section 17.05.100; or

4. Vacate and set aside the decision of the administrative hearing [CHIEF ANIMAL CONTROL] officer or any portion thereof when the board reasonably determines in writing that, based on all the evidence in the record, vacating the decision of the hearing [CHIEF ANIMAL CONTROL] officer reasonably serves and promotes the purpose and intent of this title, the protection of the public health, safety and welfare, the humane care and treatment of animals, and promotes fairness and justice to the person aggrieved by the administrative decision.

F. *Records [AND TRANSCRIPTS] pertaining to appeals.* All records [AND TRANSCRIPTS] and [ALL RELEVANT] materials pertaining to appeals under this section shall be kept in accordance with title 3.95 by the administrative hearing office [DEPARTMENT OF HEALTH AND HUMAN SERVICES].

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3 G. *Appeals to Superior Court.* Decisions of the animal control appeals board may be appealed to
4 the Superior Court for the Third Judicial District in accordance with state statutes and the
5 Alaska Rules of Appellate Procedure.

6 (AO No. 96-134(S-2), § 12A, 7-1-97)
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8 Editor's note—AO No. 96-134(S-2), § 11, effective July 1, 1997, repealed § 17.05.100.C. and D. because such
9 subsections were treated in 17.05.105.C. and D. Section 25 of the same ordinance, repealed § 17.15.040
10 because such section was incorporated into § 17.05.105. Section 40 of the same ordinance, repealed § 17.25.080
11 because such section was incorporated into § 17.05.105.
12

13 17.05.110 Law enforcement animals. (Repealed)
14

15 (AO No. 86-39, 7-15-86; AO No. 91-26; AO No. 96-134(S-2), § 13, 7-1-97)
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