

ARTICLE 161
ANIMALS

§161.01 Wild and other animals prohibited.

(a) (1) *Prohibitions; exceptions.* No person shall sell or give to another person, possess, harbor, keep, or yard wild or other animals identified in this section or in regulations promulgated by the Commissioner pursuant to subdivision (e) of this section other than in:

- (i) a zoological park or aquarium operated by the Department of Parks, by the Wildlife Conservation Society, or by the Staten Island Zoological Society; or
- (ii) a laboratory operated pursuant to §504 of the Public Health Law; or
- (iii) a veterinary hospital or other veterinary or medical facility where veterinary care is provided for such animals; or
- (iv) a temporary exhibit, performan or display that has been issued a permit by the Commissioner.

(2) *Permits.* Persons who own, operate, manage or control any premises, businesses or activities in which such animals will be exhibited or displayed, or persons who propose to exhibit or display such animals, including, but not limited to, in a rodeo, circus or other performance, petting zoo, farm museum, school or similar institution, or for a film, television, photographic or other production or a media or non-media event, or for commercial, educational or other purposes, must obtain a permit issued by the Commissioner.

(A) The Commissioner may impose reasonable conditions and time limits on such exhibitions, usages or displays when issuing such permits, including requiring proof of insurance and a showing that places where animals are to be exhibited, used or displayed have protective devices that the Department is satisfied will prevent animals from escaping or injuring the public.

(B) All animals exhibited or displayed shall have received all species appropriate immunizations and have been tested for zoonotic diseases in accordance with federal and state law and guidelines, and recommendations of the Association of Zoos and Aquariums, or other recognized animal health authorities. The Commissioner may prohibit the use, display or exhibition of an animal that, in the opinion of the Commissioner, carries an unreasonable risk of exposing persons to zoonotic diseases or physical harm.

(C) An application for a permit to exhibit, use or display animals shall be submitted to the Department at least ten (10) business days prior to the arrival of such animals into New York City in preparation for such exhibition, use or display by the person or entity that proposes to exhibit, use or display such animals or the person in control of the premises where such animals will be exhibited, used or displayed.

(D) Any animal of a species for which a rabies vaccine licensed and approved by the USDA is available shall be currently vaccinated against rabies in accordance with the vaccine manufacturer's instructions sufficiently in advance of any permit being issued for its exhibition, use or display, so that such vaccine shall be effective at the time of the animal's exhibition, use or display.

(E) The Department may impose a fee to cover its costs in issuing such permits.

- (b) For the purposes of this Code, a wild animal is deemed to be any animal which is naturally inclined to do harm and capable of inflicting harm upon human beings and all such animals are hereby prohibited pursuant to subdivision (a) of this section. Such animals shall also include: (i) any animals specified by the Commissioner in regulations promulgated pursuant to this section; (ii) any native or exotic wildlife whose possession or sale is prohibited because they are designated as protected or endangered pursuant to any federal, state or local law, regulation, or rule; and (iii) any of the following animals:
- (1) All dogs other than domesticated dogs (*Canis familiaris*), including, but not limited to, wolf, fox, coyote, hyaena, dingo, jackal, dhole, fennec, raccoon dog, zorro, bush dog, aardwolf, cape hunting dog and any hybrid or cross-breed offspring of a wild dog and domesticated dog.
 - (2) All cats other than domesticated cats (*Felis catus*), including, but not limited to, lion, tiger, leopard, ocelot, jaguar, puma, panther, mountain lion, cheetah, wild cat, cougar, bobcat, lynx, serval, caracal, jaguarundi, margay and any hybrid or cross-breed offspring of a wild cat and domesticated or other cat.
 - (3) All bears, including polar, grizzly, brown and black bear.
 - (4) All fur bearing mammals of the family Mustelidae, including, but not limited to, weasel, marten, mink, badger, ermine, skunk, otter, pole cat, zorille, wolverine, stoat and ferret.
 - (5) All Procyonidae: All raccoon (eastern, desert, ring-tailed cat), kinkajou, cacomistle, cat-bear, panda and coatimundi.
 - (6) All carnivorous mammals of the family Viverridae, including, but not limited to, civet, mongoose, genet, binturong, fossa, linsang and suricate.
 - (7) All bats (*Chiroptera*).
 - (8) All non-human primates, including, but not limited to, monkey, ape, chimpanzee, gorilla and lemur.
 - (9) All squirrels (*Sciuridae*).
 - (10) Reptiles (*Reptilia*). All Helodermatidae (gila monster and Mexican beaded lizard); all front-fanged venomous snakes, even if de venomized, including, but not limited to, all Viperidae (viper, pit viper), all Elapidae (cobra, mamba, krait, coral snake), all Atractaspidae (African burrowing asp), all Hydrophiidae (sea snake), all Laticaudidae (sea krait); all venomous, mid-or rear-fanged, Duvernoy-glanded members of the family Colubridae, even if de venomized; any member, or hybrid offspring of the family Boidae, including, but not limited to, the common or green anaconda and yellow anaconda; any member of the family Pythonidae, including, but not limited to, the African rock python, Indian or Burmese python, Amethystine or scrub python; any member of the family Varanidae, including the white throated monitor, Bosc's or African savannah monitor, Komodo monitor or dragon, Nile monitor, crocodile monitor, water monitor, Bornean earless monitor; any member of the family Iguanidae, including the green or common iguana; any member of the family teiidae, including, but not limited to, the golden, common, or black and white tegu; all members of the family Chelydridae, including snapping turtle and alligator snapping turtle; all turtles and tortoises with a carapace length of less than four (4) inches; and all members of the order Crocodylia, including, but not limited to, alligator, caiman and crocodile.
 - (11) Birds and Fowl (*Aves*): All predatory or large birds, including, but not limited to, eagle, hawk, falcon, owl, vulture, condor, emu, rhea and ostrich; roosters, geese,

- ducks and turkeys prohibited or otherwise regulated pursuant to §161.19 of this Code, the Agriculture and Markets Law or applicable federal law.
- (12) All venomous insects, including, but not limited to, bees other than non-aggressive honey bees (*Apis mellifera*), hornet and wasp. Persons keeping honey bees shall file a notice with the Department, on a form provided or approved by the Department, containing the beekeeper's name, address, telephone, e-mail and fax numbers, emergency contact information, and location of the hive, and they shall notify the Department within ten business days of any changes to such information. Beekeepers shall adhere to appropriate beekeeping practices including maintaining bee colonies in moveable-frame hives that are kept in sound and usable condition; providing a constant and adequate water source; locating hives so that the movement of bees does not become an animal nuisance, as defined in §161.02 of this Article; and shall be able to respond immediately to control bee swarms and to remediate nuisance conditions.
- (13) *Arachnida and Chilopoda*: All venomous spiders, including, but not limited to, tarantula, black widow and solifugid; scorpion; all venomous arthropods including, but not limited to, centipede.
- (14) All large rodents (*Rodentia*), including, but not limited to, gopher, muskrat, nutria, paca, woodchuck, marmot, beaver, prairie dog, capybara, sewellel, viscacha, porcupine and hutia.
- (15) All even-toed ungulates (*Artiodactyla*) including, but not limited to, deer, antelope, sheep, pigs, including pot bellied pigs, goats, cattle, giraffe and hippopotamus. Such prohibition shall not affect persons who keep livestock in accordance with applicable law.
- (16) All odd-toed ungulates (*Perissodactyla*) other than domesticated horses (*Equus caballus*), including, but not limited to, zebra, rhinoceros and tapir.
- (17) All marsupials, including, but not limited to, Tasmanian devil, dasyure, bandicoot, kangaroo, wallaby, opossum, wombat, koala bear, cuscus, numbat and pigmy, sugar and greater glider.
- (18) Sea mammals (*Cetacea, Pinnipedia and Sirenia*), including, but not limited to, dolphin, whale, seal, sea lion and walrus, and any other predatory marine and freshwater animals and fishes including, but not limited to, sharks and piranhas.
- (19) All elephants (*Proboscides*).
- (20) All hyrax (*Hyracoidea*).
- (21) All pangolin (*Pholidota*).
- (22) All sloth and armadillo (*Edentala*).
- (23) Insectivorous mammals (*Insectivora*): All aardvark (*Tubulidentata*), anteater, shrew, otter shrew, gymnure, desman, tenrec, mole and hedge hog.
- (24) Gliding lemur (*Dermoptera*).
- (c) In addition to domesticated dogs and cats, an animal may be kept, possessed, harbored or sold in the City of New York provided that possession of the animal is not otherwise prohibited by law, including federal, state and local laws regulating domestic animals and livestock or protecting wildlife and endangered species. Such animals include, but are not limited to, gerbil, hamster (*Mesocricetus auratus*), guinea pig, domesticated rabbit and fowl or small birds such as parakeet, parrot, canary and finch.
- (d) An animal whose possession is prohibited pursuant to this section may be seized by any authorized employee, officer or agent of the Department or of any other agency of the

City of New York, and the Commissioner shall provide for such animal's appropriate disposition.

- (1) An order issued by the Commissioner pursuant to this section shall contain a notice that the owner of such animal may, within three business days of receipt of the order, request an opportunity to be heard with respect to whether the animal is a prohibited animal and its appropriate disposition. The Commissioner shall provide such an opportunity to be heard as soon as practicable, but no later than 15 days after receipt of such request.
- (2) With the written consent of the Department, an owner of any animal whose possession is prohibited pursuant to this section, may remove such animal to another jurisdiction where its possession is not prohibited pursuant to any local or other law.
- (e) The Commissioner may promulgate such regulations as may be necessary to add to the list in subsection (b) any animal which the Commissioner determines is naturally inclined to do harm and capable of inflicting bodily harm upon human beings.
- (f) If any provision of this section is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this section.

§161.02 Definitions.

When used in this article, the following terms shall have the following meaning:

Adoption means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring as a pet, a homeless, lost, stray, abandoned, seized, surrendered, or unwanted animal.

Animal behaviorist means a person certified as an applied animal behaviorist or veterinary behaviorist by the Animal Behaviorist Society or other person with qualifications acceptable to the Department, who works with pets and their owners to modify animal behavior, provide socialization training for animals and their owners, and assesses or diagnoses behavioral pathology in animals.

Animal nuisances shall include, but not be limited to, animal feces, urine, blood, body parts, carcasses, vomitus and pervasive odors; animals that carry or are ill with contagious diseases communicable to persons or other animals; and dangerous dogs. A beekeeping nuisance shall mean conditions that include, but not be limited to, aggressive or objectionable bee behaviors, hive placement or bee movement that interferes with pedestrian traffic or persons residing on or adjacent to the hive premises; and overcrowded, deceased or abandoned hives.

Animal rescue group shall mean a not-for-profit organization, group or unincorporated entity that accepts unwanted dogs or cats from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public.

Animal shelter or shelter for homeless animals means a not-for-profit facility holding a permit in accordance with §161.09 of this Article where homeless, lost, stray, abandoned, seized, surrendered or unwanted animals are received, harbored, maintained and made available for adoption to the general public, redemption by their owners or other lawful disposition, and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other organization devoted to the welfare, protection or humane treatment of animals.

Boarding kennel business or establishment means a facility other than an animal shelter where animals not owned by the proprietor are sheltered, harbored, maintained, groomed, exercised, fed, or watered in return for a fee.

Cat means a domesticated animal of the species *Felis catus* kept as a pet, except for any animal that is a hybrid or cross-breed of such species whose possession is prohibited in New York City pursuant to §161.01 of this Article.

Dangerous dog means a dog which menaces, threatens, attacks or bites a person or persons, or which kills or inflicts physical injury upon any persons, when such persons are peacefully conducting themselves in any place where they may lawfully be, and any dog owned or harbored for the purpose of dog fighting. A Department record of a bite report made pursuant to §11.03 or of a dog bite or other injury made by a police officer shall be prima facie evidence that a dog is dangerous.

Dog means a domesticated animal of the species *Canis familiaris* kept as a pet, but does not mean any other animal that is a hybrid or cross-breed of such species whose possession is prohibited in New York City pursuant to §161.01 of this Article.

Exposure to rabies means a bite or non-bite penetration of the skin; or contamination of an open wound, abrasion, scratch or mucous membrane with saliva or other potentially infectious material from an animal subject to rabies.

Grooming parlor, salon, business, or establishment means a facility where animals are presented by their owners for bathing, dipping, clipping, combing, or cleaning for the purpose of improvement of the animal's appearance and or well-being in return for a fee and establishments which provide facilities for owners to groom their own pets.

Guard dog means a dog which is trained or used for personal protection, area protection, and/or the apprehension or warding off of an individual by means of barking, threatening gestures, biting, or restraining by the use of its teeth. Guard dog shall not include a police work dog as defined in Agriculture and Markets Law §108 (18), or successor provision.

Hybrid or cross-breed shall mean the offspring produced by two animals of different breeds, varieties or species.

Lost, stray and homeless animals. For the purpose of determining applicability of the Animal Shelters and Sterilization Act, §§17-801 *et seq.* of the Administrative Code, lost, stray and homeless animals shall mean any animals owned or formerly owned by residents of the City of New York, or animals whose owners are unknown, that are brought into or accepted by any New York City animal shelter by any person for any reason other than for the purpose of evaluation by an animal behaviorist pursuant to a request of the Department or order of the Commissioner.

Operating or in operation. An animal business or facility regulated by this Article is “operating” or “in operation” if any animals are being harbored or kept on its premises, and regardless of whether such business or facility is open to the public.

Owner means any person who owns, harbors, possesses, adopts, cares for or keeps an animal.

Pet shop means a facility other than an animal shelter where live animals are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail for profit. A pet shop shall not mean a pet dealer exclusively selling dogs and cats that is subject to Article 26-A of the Agriculture and Markets Law. However, a pet shop where animals other than, or in addition to, dogs and cats are sold shall hold a pet shop permit issued by the Commissioner and shall comply with all other applicable provisions of this Code and other applicable law.

Severe injury, with respect to an injury inflicted by a dog, means any physical injury inflicted by such dog upon a person that causes at least a broken bone or a disfiguring laceration requiring either multiple stitches or cosmetic surgery.

Small animal means a companion animal such as a dog, cat, fish, bird, rabbit, reptile, gerbil, hamster or other animal whose possession is not prohibited by §161.01 of this Article.

Stable for horses means a building where one or more horses are housed and/or maintained.

State Sanitary Code shall mean Chapter 1 of Title 10 of the Codes, Rules and Regulations of the State of New York, or successor rules.

Training establishment for small animals means a facility where small animals, whether or not belonging to the owner or employee of such facility, are trained for any purpose in return for a fee.

§161.03 Control of dogs and other animals to prevent nuisance.

- (a) A person who owns, possesses or controls a dog, cat or other animal shall not permit the animal to commit a nuisance on a sidewalk of any public place, on a floor, wall, stairway or roof of any public or private premises used in common by the public, or on a fence, wall or stairway of a building abutting on a public place.
- (b) Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, or of the Departments of Sanitation and Parks and Recreation, or successor agencies.

§161.04 Dog licenses.

- (a) *License required.* A dog license obtained in accordance with Chapter 115 of the New York State laws of 1894, as amended, shall be issued by the Department to every person who owns, possesses, keeps, harbors, adopts, purchases, or cares for a dog in New York City for each dog owned, possessed or controlled by such person, except that an animal shelter shall not be required to obtain a license for any dog kept by such shelter and an animal rescue group shall not be required to obtain a license for any dog harbored by such group for less than six months.
- (b) *License tag required in public.* Every person who owns, possesses or controls a dog shall not permit it to be in any public place, or in any open or unfenced area abutting on a public place, unless the dog has a collar about its neck with a currently valid metal tag attached thereto bearing the number of the license obtained for such dog in accordance with Chapter 115 of the Laws of 1894 of the State of New York, as amended or subdivision (c) of this section.
- (c) *Animal rescue groups.* Animal rescue groups shall provide an animal shelter from which they obtain dogs or cats with proof acceptable to such shelter that the persons adopting dogs through their efforts have purchased licenses for such dogs.
- (d) *Sales of licenses authorized.* Licenses may be sold by the Department in any manner that is not prohibited by law. The Department may authorize other persons to sell such licenses, upon such terms and conditions as it deems necessary to promote the sales of licenses. The Department may accept license applications and sell licenses electronically, and may impose a surcharge to cover the actual additional costs of selling licenses electronically, if any, including costs imposed by credit card issuers.
- (e) *Enforcement.* Notices of violation for failure to comply with this section may be issued by any authorized employee, officer or agent of the Department, the Department of Sanitation, the Department of Parks and Recreation, or successor agencies, or by special patrolmen or patrolwomen who have been delegated such duties by their employers.

§161.05 Dogs to be restrained.

- (a) Except as specified in subdivision (b) of this section, a person who owns, possesses or controls a dog shall not permit it to be in any public place or in any open or unfenced area

abutting on a public place unless the dog is effectively restrained by a leash or other restraint not more than six feet long.

- (b) (1) Dogs within areas and facilities under the jurisdiction and control of the Department of Parks and Recreation ("DOPR"), or successor agency, shall be restrained except as otherwise permitted in accordance with the rules of the DOPR. Such rules shall include provisions that prohibit unrestrained dogs in unenclosed DOPR controlled areas and facilities except during a specified range of time, that shall not begin earlier than 9:00 P.M. and not extend past 9:00 A.M. Such rules shall also specify that persons in control of dogs allowed to be off the leash in such areas and facilities maintain and provide, on demand, proof of current dog licensure and current rabies vaccination when dogs are allowed to be off the leash. In addition, DOPR shall make available to the public, in a manner acceptable to the Department, information concerning rabies vaccination and dog licensure requirements, and the specific locations where and times when dogs may be allowed off the leash in DOPR areas and facilities.
- (2) Notwithstanding the provisions of paragraph (1) of this subdivision, the Department may, based on epidemiologic evidence indicating an increase in preventable off leash dog bites during off leash hours in areas open to off leash use, or a risk of zoonotic disease transmission, limit or eliminate the use of or access to specific areas or facilities, or parts thereof, under DOPR jurisdiction, by unrestrained dogs.
- (c) Notices of violation for failure to comply with subdivision (a) of this section may be issued by any authorized employee, officer or agent of the Department, the Department of Sanitation, the Department of Parks and Recreation, or successor agencies, or by special patrolmen or patrolwomen who have been delegated such duties by their employers.

§161.06 Dogs and cats to be vaccinated and treated prior to change in ownership.

No person shall offer for sale, sell or give away any dog or cat unless such animal has been vaccinated against rabies in accordance with §11.29 of this Code, and treated for parasites or certified in writing by a duly licensed veterinarian to have been tested and found to be free of parasites.

§161.07 Dangerous dogs.

- (a) *Policy and scope.* When the Department receives a report of a dangerous dog, the Department may, in any case where it deems it necessary, investigate the circumstances giving rise to the report and, if the Department determines that the dog is a dangerous dog, it may take any action authorized by applicable law, including this Code, that it deems necessary to protect the public health and safety.
- (b) *Dogs brought into a shelter.* When a dangerous dog is brought into an animal shelter, or when a dog held in an animal shelter injures a person, the operator of the shelter shall, no later than the first business day after the dog is admitted to the shelter or after the dog in the shelter injures a person, report the injury to the Department. The shelter shall obtain from the person owning or presenting the dog, and the report shall, to the extent that the shelter operator has such information, include a description of the circumstances in which injury was caused by the dog; the names, addresses and other contact information for the injured person(s), the dog's owner, and any witnesses to the incident; the types of injuries inflicted by the dog; and any other information required by the Department. The shelter

operator shall thereafter immediately provide the Department with any additional information received about the incident.

- (c) *Rabies observation period.* Any dog that is brought to a shelter after causing an injury to a person or that is involved in any incident that creates a possible exposure to rabies shall be held by the shelter for ten days, over which time such dog shall be observed by a veterinarian to determine whether it has developed signs and symptoms of rabies.
- (1) A dog held for rabies observation that is subsequently involved in any other incident potentially exposing any person or animal at the shelter to rabies shall, commencing on the date of the most recent incident, be held by the shelter for an additional ten days to be observed for signs and symptoms of rabies.
 - (2) If a licensed veterinarian determines that a dog has signs or symptoms consistent with rabies, the dog shall be humanely euthanized and its remains shall be tested for rabies.
 - (3) The Department may authorize release of a dog to its owner before the expiration of the ten days rabies observation period if the Department determines that the dog is not a dangerous dog, and the owner agrees to continue to observe the dog for signs and symptoms of rabies over the remainder of the observation period and to make daily reports of his or her observations to the Department in accordance with §11.27 (e) of this Code.
- (d) *Determination of a dangerous dog.*
- (1) *Evaluation of a dog in a shelter.* The Department shall make a preliminary determination as to whether any dog being held in a shelter after causing injury to a person is a dangerous dog. In making such determination, the Department shall consider the circumstances of the incident resulting in the dog's placement in the shelter, the nature and severity of the injuries reportedly inflicted by the dog, and the dog's prior history of biting and/or causing injury. When deemed necessary by the Department, an assessment by an animal behaviorist may also be considered.
 - (2) *If dog is determined to be dangerous.* If the Department determines that a dog being held at a shelter is dangerous, it shall notify the owner of the dog of such determination in writing, prior to expiration of the ten day rabies observation period. The notification shall include the Department's recommendations for the disposition of the dog, including any control measures authorized by subdivision (g) of this section that the Department deems necessary as conditions for the owner's continued possession of the dog.
 - (3) *If a dog is not determined to be dangerous.* If the Department determines that a dog being held at a shelter is not dangerous, it shall notify the shelter that the dog may be returned to its owner at the end of the rabies observation period, provided the dog has been vaccinated against rabies, licensed, and surgically sterilized in accordance with applicable law.
 - (4) *Other disposition.* A dog surrendered to a shelter by its owner for any reason shall be made available for adoption or humanely euthanized, in accordance with applicable law. However, a dog that is surrendered by its owner as a dangerous dog or a dog trained for dog fighting shall not be made available for adoption by any person unless the shelter operator has completed a behavioral evaluation of the dog showing that the dog is not a dangerous dog, provided the results of the evaluation to the Department, and the Department has approved the release of the dog for adoption.
- (e) *Dogs that are not brought to a shelter.* If the Department receives a report that a dog not being held by a shelter to be observed for symptoms and signs of rabies is dangerous, the

Department may order the dog's owner to make the dog available for examination by an animal behaviorist, or may order any other control measures authorized by subdivision (g) of this section for protection of public health and safety.

(1) *Place of examination.* The Department may arrange for the examination to be conducted at a shelter or other place where the Department determines the public will be adequately protected. If a dog is brought by its owner to a shelter for examination pursuant to this section, the dog shall not be deemed a homeless or abandoned dog, and the shelter shall not be required to surgically sterilize the dog prior to releasing it to its owner. However, such dog shall not be released unless it is currently vaccinated against rabies in accordance with Health Code §11.29, and has been licensed in accordance with §161.04 of this Article.

(2) *Failure to present dog for examination.* If an owner fails to comply with an order of the Department to make his or her dog available for examination by an animal behaviorist, the owner's failure to comply with such order shall be evidence in any hearing commenced by the Department that the dog is dangerous and that its owner is perpetuating a nuisance in violation of §3.07 of this Code.

(f) *Hearings.*

(1) *Owner objections.* The Department shall notify the owner of a dog of its preliminary determination that the dog is dangerous and of any control measures authorized by subdivision (g) of this section that it deems necessary to protect public health and safety. If the owner does not agree with the Department's preliminary determination or that the proposed control measures are necessary, the Department shall serve the owner with a petition and notice of hearing to show cause at a hearing to be held at the City's Office of Administrative Trials and Hearings (OATH) why the dog should not be found to be a dangerous dog and why conditions should not be imposed on the dog and owner to protect the public's health and safety.

(2) *Scheduling hearings.*

(A) An OATH hearing shall be scheduled by the Department for a date and time that is no more than twenty days after the petition is mailed to the owner, and the petition and notice of hearing shall be mailed to owner no later than fifteen days after the dog's entry into the shelter, unless the owner of the dog and the Department agree to a later date. If the last dates for mailing and scheduling a hearing fall on a Saturday, Sunday or City holiday, the date of mailing the petition and scheduling the hearing shall be the next business day.

(B) Such time periods shall not apply when the owner's identity and address are not known when a dog is first admitted to a shelter. In such cases, when the Department subsequently learns the owner's identity and address, and if the time for reclaiming a dog from a shelter has not expired, the time period to schedule a hearing set forth in paragraph (2) above shall start to run on the date the Department learns the owner's identity and address.

(3) *Severe injuries.* A dog that has caused a severe injury to any person, or a dog that the Department determines, based on the circumstances that prompted the Department's investigation, was prevented from inflicting severe injury by the action of a third party or other circumstance, shall continue to be held in a shelter until and unless the Commissioner has received a report and recommendation of an OATH administrative law judge finding that the dog is not a dangerous dog.

- (4) *Other injuries.* A dog that does not meet the criteria in paragraph (3) above, may remain with its owner or, if held in a shelter, shall be returned to its owner, at the completion of the rabies observation period, to remain with its owner pending an OATH hearing.
- (5) *Abandonment.* If an owner of a dog that is preliminarily determined to be dangerous and that is being held at a shelter fails to appear at an OATH hearing and is found in default, or if the identity or address of a dog's owner is unknown, such dog shall be deemed abandoned and shall be disposed of in accordance with applicable law.
- (g) *Control measures authorized.* The Commissioner may order any action deemed necessary to control a dangerous dog and prevent injuries to persons, including, but not limited to, ordering that a dangerous dog be:
- (1) Surrendered for the purpose of humane euthanasia;
 - (2) Permanently removed from the City;
 - (3) Muzzled whenever it is in a public place or in any open or unfenced area abutting on a public place;
 - (4) Evaluated, at the owners' expense, by an animal behaviorist to determine whether the animal and any persons handling the animal may be trained in the safe management of the animal, and be trained when indicated;
 - (5) Spayed or neutered, if the owner does not maintain proof satisfactory to the Department that the animal was previously altered;
 - (6) Microchipped to enable identification of the dog if it inflicts further injury; or
 - (7) Confined in a place where there are sufficient barriers between the dog and passersby lawfully on public streets and areas abutting the owner's property.
- (h) *Guard dogs.* Any dog owned, kept, engaged in or trained to attack persons that is not currently registered with the Department as a guard dog pursuant to §161.09(g) shall be deemed to be a dangerous dog and shall be surrendered to the Department, upon the request of the Department, by the person who owns, possesses or controls it, for the purpose of performing an examination and for such other disposition as the Department may order in accordance with this section.
- (i) *Dogs kept for dog fighting.* Any dog owned, kept, engaged in or trained for dog fighting, or any dog owned, kept or trained to attack persons and not properly registered as a guard dog pursuant to §161.09 (g), shall be deemed to be a dangerous dog and shall be surrendered to the Department by the person who owns, possesses or controls it, for the purpose of performing an examination and for such other disposition as the Department may order in accordance with subdivision (g) of this section.
- (j) *Dangerous dogs presumed to be a nuisance.* When the Department determines that a dog is dangerous in accordance with this section, it shall be presumed that the owner or other person who harbored the dog trained, caused or permitted the dog to be dangerous, so as to establish a prima facie maintenance of a nuisance in violation of §3.09 of this Code.
- (k) *Impoundment.* A dog that is in a public area and that is menacing persons, or a dog that has caused a severe injury to a person, or a dangerous dog owned by a person who has violated an order of the Commissioner issued pursuant to this section, may be impounded by the Department or by a police or other peace officer, or killed by a police or other peace officer, if capture is dangerous.
- (l) *Disclosure of medical information.* In addition to submitting the reports of animal bites required by Article 11 of this Code, upon receipt of a written request from the Department, a medical or other health care provider shall forward to the Department copies of medical

records concerning diagnosis and treatment of bites or other injuries to persons that were inflicted by, or resulted from attacks by dogs or other animals.

(m) *Public information relating to dangerous dogs.*

- (1) Copies of records and reports maintained by the Department concerning dangerous dogs may be made available in accordance with the Public Officers Law, provided that, if the persons injured who are the subjects of such records are not the persons requesting such reports, such reports shall be redacted of all identifying information about the subjects, complainants and person(s) injured or menaced.
- (2) Information about injuries caused by dangerous dogs contained in medical and other records obtained by the Department may be disclosed in the course of OATH proceedings to owners of dogs, their attorneys, and to administrative law judges at OATH if such information is relevant to a determination as to whether a dog is dangerous or has caused severe injury to a person. Such information shall not be further disclosed without authorization of the person to whom the records pertain except when disclosure may be necessary in further proceedings related to the OATH matter.

§161.08 [Regulated Pit Bull Dogs. See Ad Code §§17-342 et seq.] [Repealed]

§161.09 Permits to keep certain animals.

(a) *Permit required.*

- (1) No person shall operate a pet shop, grooming parlor, boarding kennel or training establishment for small animals whose possession is not prohibited by §161.01 of this Article, without a permit issued by the Commissioner except that a pet shop that exclusively sells dogs and cats and is regulated by Article 26-A of the Agriculture and Markets Law, or successor law, shall not require a permit issued by the Commissioner.
 - (2) *Workers' compensation and disability benefits insurance.* No permit required by this Article shall be issued to any person unless such person produces proof satisfactory to the Department that policies for workers' compensation insurance and disability benefits have been secured in accordance with Workers' Compensation Law §56, or successor statute.
- (b) *Animal shelter.* No person shall construct or operate a shelter for homeless animals without a permit issued by the Commissioner.
 - (c) *Keeping and yarding of cattle, swine, sheep and goats prohibited.* Except as provided in §161.01(a) of this Article, no person shall keep or yard cattle, swine, sheep or goats.
 - (d) *Permits for horse stables required.* No person shall maintain or operate a stable for horses without a permit issued by the Commissioner except that no permit shall be required where a natural person or family owns a horse stable solely for housing and maintaining horses owned and used by the person or family for its exclusive recreational, non-commercial purposes.
 - (e) *Selling of certain animals prohibited.* No person shall engage in the business of or hold herself or himself out as engaging in the business of importing, or selling, or offering for sale any animal of a species whose possession is prohibited pursuant to §161.01 of this Article and no person shall operate a facility for the preparation or manufacturing of snake or arachnid anti-venom without a permit issued by the Commissioner.
 - (f) *Small animal handling course required.* No person who is charged with the supervision of a pet shop or business for the sale or offer for sale of dogs, cats or other small animals, or the boarding or grooming of small animals, or animal training, or similar type of

operations, shall engage or be employed in such capacity unless he or she obtains a certificate indicating the successful completion of a course, acceptable to the Department, in the care and handling of such animals. Such certificate shall not be required for persons who are pet dealers who exclusively sell dogs and cats, in accordance with Article 26-A of the Agriculture and Markets Law.

- (1) Such certificate shall be placed in a clean, transparent cover or frame and displayed on the premises where the holder thereof is so engaged or employed in such a manner as to be clearly visible to the public. It shall be available for inspection at all times by the Department. No person shall mutilate, obstruct or tear down such certificate.
 - (2) The holder of such certificate shall successfully complete a refresher course in the care and handling of such animals when deemed necessary by the Department. The Department may require the holder of such certificate to complete a refresher course acceptable to the Department when the Department finds continuing violations of the Code, or when a zoonotic outbreak implicates animals cared for, treated or held in the establishment she or he supervises, or when the Department requires such course to acquaint him or her with current developments in animal care and handling principles.
 - (3) The Department may conduct such courses or approve courses conducted by educational institutions. Persons electing to enroll in such courses conducted by the Department may be charged a reasonable enrollment fee to defray all or part of the costs incurred by the Department in their administration.
- (g) *Guard dogs.* No person shall own a trained guard dog for use within the City unless she or he has licensed and registered such animal with the Department. Any case of loss, theft or transfer of ownership of a trained guard dog shall be reported by the owner to the Department within five (5) days of any such loss, theft or transfer. The Department may charge a reasonable fee to defray all or part of the cost incurred by the Department in the administration of this subdivision.
- (1) *Microchipping required.* The owner of a trained guard dog shall have such dog implanted with a microchip as a permanent identification, and supply the identification number to the Department, and provide and see to it that such animal wears at all times a tag issued by the Department. Such tag shall have printed or stamped thereon, in clear and legible type, the words: "GUARD DOG". Such tag shall be suspended at least three quarters of an inch and not more than one and one half inches from a collar worn by such animal. Lost, stolen or damaged tags shall be reported to the Department and may be replaced by the Department at reasonable cost.
 - (2) *Signs to be posted.* Owners or other persons in control of any premises in which a trained guard dog is kept shall post a durable sign or notice, printed in clear and legible type, warning the public of the presence of such trained guard dog. The sign shall include the name and other contact information for the owner of the guard dog.
 - (3) *Notice required.* All persons who train, sell or rent guard dogs shall post a durable sign or notice, printed in clear and legible type stating that a copy of this section shall be provided by the trainer, seller or renter of a guard dog to any person who uses such dogs, warning that all users shall comply with licensing, tagging, microchipping and signage requirements.

§161.11 Prevention of nuisances; cleaning.

- (a) A permit required by §161.09 shall not be issued unless the applicant proves to the satisfaction of the Commissioner that the place for which the application is made does not constitute a nuisance because of its proximity to a residential, business, commercial or public building, and that the place will be maintained so as not to become a nuisance.
- (b) The owner, lessee or person in charge of any place where animals are kept pursuant to a permit required by §161.09, shall take all measures necessary for integrated pest management of insect, rodent and other vermin required by Article 151 of this Code, and shall conduct such place so as not to create an animal nuisance as defined in this Article.
- (c) Every place where animals are kept pursuant to a permit required by §161.09 shall be equipped with and shall maintain supplies of implements and materials, such as brooms, hoses, hose connections, vacuum cleaners where dusty conditions are found, covered metal receptacles, brushes, disinfectants and detergents, as may be required to maintain sanitary conditions. Such places shall have regularly assigned personnel to maintain sanitary conditions.

§161.13 Self inspection.

The holder of a permit issued pursuant to §161.09 or the person in charge of the place for which the permit is issued shall inspect or designate a qualified or trained employee to inspect the premises at least once every two months and record the results of the inspection on a form furnished by the Department. Such records shall be kept on file for one year. If an inspection shows a violation of any provisions of this Code, the permittee or person in charge shall promptly correct such condition. A record of self inspection shall be available for inspection by the Department, but shall not be subject to inspection by others, or to subpoena, and shall not be used in, or as the basis for prosecution.

§161.15 Keeping of small animals for sale, boarding, grooming, or training.

- (a) *Dwellings and food service establishments.* Animals shall not be sold, held for sale, or boarded, groomed or trained in exchange for a fee in a dwelling in which a person lives. Aquatic animals, as defined in Article 81 of this Code, shall not be sold, held for sale or kept in the same place where food or drink is sold for human consumption. This subdivision shall not prevent a food service establishment from keeping live fish species intended for human consumption and obtained from a legal food source or from displaying live fish in an ornamental aquarium.
- (b) *Providing and submitting dog license applications.*
 - (1) An entity permitted pursuant to section 161.09 must provide a dog license application to any person seeking to purchase, adopt, reclaim, or take custody of a dog, unless the person demonstrates that the dog is already licensed or signs a sworn statement that the dog will live outside the City. The person seeking to purchase, adopt, reclaim, or take custody of the dog must complete the application and return it, along with any fees due, to the permitted entity. Such entity must forward the completed application along with any fees to the Department within five (5) business days, and the Department will issue the license and send it to the dog's owner.
 - (2) Whenever a dog receives training, grooming, or boarding services from an entity permitted pursuant to section 161.09 to provide only those services, the entity must provide the dog owner with a dog license application, unless either the dog owner

provides proof that the dog has a Department-issued license, or the dog lives outside of the city.

- (c) An entity permitted pursuant to section 161.09 must maintain and keep for one year a record of purchases, sales, boarding, grooming, training, sheltering of homeless animals, and adoption services rendered. When a dog or cat is purchased, sold, adopted or kept, the permittee must make an entry in the record that includes (1) the name and address of the person from whom it was purchased, to whom it was sold or given for adoption, or who ordered boarding, grooming, or training services for such animals; and (2) a complete description of the animal, including its age, sex, and breed. On at least a monthly basis, the permittee must report to the Department, on a form furnished by the Department, all licensed and unlicensed dogs which have been sold, adopted, groomed, trained, boarded, sheltered, or otherwise served. Such form must include the name and address of the dog owner and license number of all licensed dogs as well as any other descriptive information regarding the dog as may be required by the Department.
- (d) A holder of a permit to keep small animals for sale, boarding, grooming or training shall not sell or hold any animal that is affected with or that has been exposed to a disease communicable among small animals unless such affected or exposed animal is under the care of a licensed veterinarian.
- (e) *Proof of vaccinations required.*
 - (1) *Proof of rabies vaccination.* Prior to providing boarding, grooming, or training services, an entity issued a permit pursuant to section 161.09 must obtain proof from the owner of each dog, cat, or other animal that the animal is currently vaccinated for rabies, unless there is no USDA-approved rabies vaccine for such animal, or that the animal has a medical condition for which rabies vaccination is contraindicated. Such proof must be either (i) a copy of a rabies vaccination certificate, or (ii) signed letter from a veterinarian verifying the animal's vaccination status or exemption from vaccination. Such proof must be maintained on the premises for at least one year and provided to the Department upon request.
 - (2) *Other vaccinations for dogs.*
 - (A) *Boarding kennels and training establishments.* Prior to providing boarding, grooming or training services, an entity issued a permit pursuant to section 161.09 of this Code must obtain proof from the owner of each dog provided services, that the dog is currently actively vaccinated against distemper, adenovirus, parainfluenza, parvovirus and Bordetella, or that the animal has a medical condition for which vaccination is contraindicated. Such proof may include, but is not limited to, (i) a receipt from a veterinary office for vaccines provided, (ii) a summary of a veterinary visit prepared by the veterinary office indicating such vaccines were administered, or (iii) a copy of a signed letter from a veterinarian stating that the dog has been so vaccinated or that the dog has a medical condition for which vaccination is contraindicated. The accepted proof must be maintained on the premises for at least one year and provided to the Department upon request.

- (B) *Entities providing grooming services only.* A holder of a permit to operate a grooming parlor where only grooming services are provided must obtain from the owner of each dog that is provided services either (i) a sworn statement of the owner that the dog is currently actively vaccinated against distemper, adenovirus, parainfluenza, parvovirus and Bordetella along with the name and contact information of the veterinarian who administered the vaccinations, or (ii) a receipt from a veterinary office for vaccines provided, or (iii) a summary of a veterinary visit prepared by the veterinary office indicating such vaccines were administered, or (iv) a copy of a signed letter from a veterinarian stating that the dog has been so vaccinated or that the dog has a medical condition for which vaccination is contraindicated. The accepted proof must be maintained on the premises for at least one year and provided to the Department upon request.
- (f) *Cage or box dryers prohibited.* Facilities that care for or provide services to small animals must not dry any such animal using a cage or box dryer or any other dryer that is equipped with a heating element that is not handheld.

§161.17 Small animals kept for sale, shelters, kennels and training establishments; physical facilities and maintenance.

A pet shop, boarding kennel, shelter, and any other place where animals are kept that is permitted pursuant to section 161.09 must meet the requirements of Articles 131 and 151 for maintaining facilities and eliminating conditions conducive to pests. The floors, walls, implements, and cages in such place must be kept clean and in good repair, and cages must be disinfected when necessary. An individual cage must be provided for the use of each dog or cat three months of age or over except when isolation in a separate cage is medically contraindicated or animals are caged together for a humane reason. In such cases, a veterinarian must provide a written statement and any other documentation required by the Department indicating the reasons more than one animal should be caged together. Such documentation must be maintained on the premises and be available for inspection. Nothing in this Code prohibits the establishment of dog or cat group socialization or play areas in boarding facilities regulated by this Code, provided that animals allowed in such areas are certified by a veterinarian as vaccinated against rabies and free of other diseases and parasites transmissible to humans or other animals.

§161.19 Keeping of livestock, live poultry and rabbits.

- (a) No person shall keep a live rooster, duck, goose or turkey in the City of New York except (1) in a slaughterhouse authorized by federal or state law that is subject to inspection by the New York State Department of Agriculture and Markets or the United States Department of Agriculture, or (2) as authorized by §161.01 (a) of this Article.
- (b) A person who is authorized by applicable law to keep for sale or sell livestock, live rabbits or poultry shall keep the premises in which such animals are held and slaughtered and the surrounding areas clean and free of animal nuisances.
- (c) *Live rabbit and poultry markets.* Live rabbits and poultry intended for sale shall not be kept on the same premises as a multiple dwelling as defined in section 4 of the Multiple

Dwelling Law, or other residence. Coops or runways of live rabbit and poultry markets shall be located at least 25 feet away from any building.

§161.21 Stables for horses; physical facilities and maintenance; and rabies vaccination.

- (a) A stable for horses shall meet the requirements in Article 131 of this Code governing walls, floors, ventilation, lighting and plumbing and shall have rodent proofing when required by the Department because of evidence of rat infestation. The Department, under such appropriate conditions as it may require, may allow a stable for racing horses to have in the stalls an impacted earth floor with straw, hay or similar material used for bedding.
- (b) All exposed surfaces in a stable for horses shall be kept clean, and the walls, ceilings and exposed woodwork shall be whitewashed when necessary.
- (c) Straw, hay or other material used as bedding shall not be placed upon a street, sidewalk or roof of a building.
- (d) A horse-watering trough shall be maintained in a clean and sanitary condition and supplied with clean water.
- (e) Except in unimproved areas, a stable shall not have or use a manure vault, pit or bin.
- (f) All manure and other refuse shall be kept and treated within the stable in a manner satisfactory to the Department so as to minimize odors and prevent the breeding of flies or other annoying or unsanitary conditions. Manure shall either be removed daily or pressed into bales or barrels, adequately protected against flies and otherwise treated in a manner satisfactory to the Department. Manure or other stable refuse shall not be permitted to remain in a stable for more than four days.
- (g) Unless special facilities satisfactory to the Department are provided for outside loading, the vehicle in which manure is to be removed shall be completely inside the stable and the stable doors shall be closed when manure is loaded. When barrels are unloaded they shall be cleaned and deodorized inside the stable in a manner satisfactory to the Department so as to prevent the creation of a nuisance.
- (h) A stable yard or other area used by animals shall be kept clean, and the surface shall be graded so as to prevent the accumulation of liquids.
- (i) All horses owned, boarded, used or brought into the City of New York for any purpose shall have an annual rabies vaccination. Every person who owns a horse and every person who owns or maintains a stable for horses in the City of New York shall maintain records of rabies vaccinations and make such records available to officers, agents and employees of the Department for examination upon request. Requirements for rabies vaccination for horses shall apply to all horses housed or brought into any stable in the City of New York regardless of whether the stable is required to hold a permit issued pursuant to this Article.

§161.23 Sterilization of shelter animals.

- (a) *Sterilization required.* No animal shall be released from an animal shelter for adoption by or return to a resident of the city of New York without first being spayed or neutered, except if the animal is exempt from sterilization pursuant to §17-804 of the Administrative Code.
- (b) *Release to animal rescue groups.* Whenever practicable, animals shall not be released by a shelter to an animal rescue group without first being spayed or neutered when such animal is being taken by the animal rescue group to assist in its adoption by others, except if, in the judgment of the shelter veterinarian, the health of the animal would be compromised by sterilization surgery at the time of release to the rescue group. No dog

may be released by an animal rescue group to a person who resides in the City of New York unless the dog is sterilized and licensed pursuant to §161.04 of this Article.

(c) *Objections to sterilization.* Any resident of the City of New York seeking to redeem an animal from a shelter and objecting to its sterilization may bring a cause of action in a court of competent jurisdiction seeking a declaration that such animal need not be sterilized.

(1) Upon delivery to the shelter operator of a bond in the amount of \$20,000, the animal shall be returned to its owner.

(2) The bond amount shall be returned to the owner at the conclusion of the litigation, if the owner prevails in such litigation.

(3) The bond shall be forfeited if

(A) No cause of action is commenced within three months of the release of the animal to its owner, or

(B) The owner does not prevail in such litigation, and the animal either is (i) not returned to the shelter for sterilization or (ii) verifiable proof of sterilization is not submitted to the shelter.

(4) *Spay neuter fund established.* Sums collected from forfeited bonds shall be transmitted by the shelter operator to the Fund for Public Health in New York, Inc., or other not for profit agency approved by the Department, and placed in an animal spay neuter fund to be established by such fund or other agency. Expenditures of such collected sums shall be authorized by the Department to pay for free or low-cost animal sterilization services.

§161.25 Modification by the Commissioner.

When the strict application of any provision of this article presents practical difficulties or unusual hardship, the Commissioner in a specific instance may modify the application of such provision consistent with the general purpose of this article and upon such conditions as, in his or her opinion are necessary to protect public health.