

# Gilmer County Code

## Chapter 14

### ANIMALS

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*Editor's note: Res. No. 06-176, Exh. A, adopted Oct. 12, 2006, amended the former Ch. 14, §§ 14-1, 14-2, and enacted a new Ch. 14 as set out herein. The former Ch. 14 pertained to similar subject matter and derived from Ord. of June 14, 2001, §§ 1, 2.*

*Cross references: Health and sanitation, ch. 34; environment, ch. 70.*

*State constitution reference--Power of county to provide animal control services, Ga. Const. art. IX, § II, ¶ III.*

*State law references: Dogs, O.C.G.A. § 4-8-1 et seq.; removal of identifying item from animal, O.C.G.A. § 16-9-71; destroying or injuring police dog or police horse, O.C.G.A. § 16-11-107; cruelty to animals, O.C.G.A. § 16-12-4; inspection of animals, carcasses, meat, and meat food products, O.C.G.A. § 26-2-100 et seq.; game and fish, O.C.G.A. title 27; technical assistance for control of elimination of wild or abandoned dogs, O.C.G.A. § 27-1-7; hunting with dogs, O.C.G.A. § 27-3-16 et seq.; killing of dogs pursuing or killing deer, O.C.G.A. § 27-3-49; guide dogs and service for persons with disabilities, O.C.G.A. § 30-4-1 et seq.; control of rabies, O.C.G.A. § 31-19-1 et seq.; civil liability for damage done by animals, O.C.G.A. § 51-2-6 et seq.*

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## **Article II. Animal Control**

### **Sec. 14-26. Definitions.**

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

**Domesticated animal** means any animal raised so as to live in close proximity to man. Such animals shall include dogs and cats as well as varieties of poultry, livestock, or reptiles not meant for consumption.

**Domesticated animals at large** means any domesticated animal not under the restraint of a person capable of controlling it on or off the premises of the owner.

**Owner** means any person who owns, possesses, harbors, or keeps or knowingly permits an animal to be harbored or kept or has an animal in his care or who permits an animal to remain on or about his premises for more than three days.

**Public nuisance** means any animal that unreasonably annoys humans, endangers the life or health of other animals or persons, or substantially interferes with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance" shall mean and include, but is not limited to, any animal that:

- (1) Is found at large.
- (2) Damages the property of anyone other than its owner.
- (3) Chases vehicles.
- (4) Attacks other domestic animals.
- (5) Unprovoked, attacks pedestrians or passersby.
- (6) Has been found by an officer of the department of animal control to be a public nuisance animal by virtue of being a menace to the public health, welfare, or safety.
- (7) Is found sick, dead, or injured on public property.

**Vaccination** means a protection against rabies by inoculation with anti-rabies vaccine given in an amount sufficient to provide immunity from rabies for a minimum or one year.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-27. Penalties.**

Any owner whose animal is found to be in violation of any of the provisions herein may be cited by an animal control officer or through a sworn complaint alleging any violation by a person who has knowledge of such violation and who can identify the owner of the animal involved or other premises where the animal is located. Any owner found guilty of violating this article shall be fined as provided for in section 1-9.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-28. Department of animal control.**

(a) There is hereby created the department of animal control, which department shall enforce the provisions of this article.

(b) The animal control shall assume all responsibilities of dangerous dog control as set forth in article III of this chapter.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-29. Enforcement contract.**

The board of commissioners is hereby authorized to negotiate and execute a contract with the board of health of the county to effectuate an identical plan for animal control of the county and further to provide that the department of animal control shall enforce the animal control ordinance in other municipalities within the county. The department agent shall be authorized to issue citations for violations of this article.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-30. Vaccinations.**

All dogs and cats within the county must be vaccinated against rabies with the vaccine and in the manner prescribed by the state veterinarian and the board of health of the state. Vaccinated dogs and cats shall be provided with a proper tag. The owner of every dog or cat vaccinated shall obtain from a veterinarian a certificate of such information.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-31. Animals running at large.**

It is unlawful for any owner to cause or allow an animal to run at large in or on any public property, vacant lot or private property without consent of the property owner.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-32. Animals disturbing the peace.**

It is unlawful for any person to allow any animal in his possession or control to persistently or continuously bark, howl, or make noise common to their species or otherwise to disturb the peace and quiet of the surrounding neighborhood. It shall likewise be unlawful to keep or maintain such animals in such a manner as to produce noxious or offensive odors or to otherwise endanger the health and welfare of surrounding inhabitants.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-33. Animal control.**

No person owning or otherwise having an animal in his care, charge, control, custody, or possession shall cause, permit, or allow such animal to be in or upon any public area unless such animal is under restraint by leash or other means. Animals are prohibited in those areas so designated and posted by the county.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-34. Reserved.****Sec. 14-35. Cleanup requirement.**

The owner of any animal shall be responsible for the removal of any excrete deposited by such animal on public or private property.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-36. Keeping of sick or diseased animals.**

It is unlawful for any person to own any animal which is seriously sick or injured without providing proper veterinary care for such animal. This section shall not be construed to include animals under active veterinary care or veterinary hospitals.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-37. Shelter requirements.**

Animals may be confined by a chain so long as it is no less than 12 feet in length and permits the animal to reach shade, shelter, and a supply of fresh water and food. Animals confined by chain or fenced area shall be provided shelter which shall meet the following minimum requirements:

(1) The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury, to contain the animal, and to protect the animal from cold weather and rain.

(2) Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement.

(3) Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleaning to remove excretions and other waste materials, dirt and trash to minimize health hazards.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-38. Cruelty.**

It shall be unlawful to abandon any animal or fail to provide it with sufficient, wholesome, and nutritious food and water in sufficient quantities, proper air, shelter space, and protection from the weather. No person shall kill, beat, cruelly treat, torment or otherwise abuse an animal or improperly use chains or restraints less than 12 feet in length.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-39. Animal fights.**

Except for lawful hunting activity, it is unlawful for any person to promote, stage, hold, manage, conduct, carry on, train for, attend, or own any animal for the purpose of participating in any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-40. Animals in heat.**

It shall be unlawful for the owner of any animal to allow the animal to run at large while in heat. Such animals must be confined so as to prevent access by intact males.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-41. Proof of vaccination required.**

Any animal requiring vaccination shall wear proper tags evidencing vaccination as defined in section 14-26.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-42. Destruction of property.**

No animal shall destroy or damage private or public property.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-43. Impoundment.**

(a) Length of time prescribed. Any nonbiting animal seized and impounded under any of the provisions of this article shall be detained for a period of five working days, ten days for biting animals, and if the ownership of the animal is not determined within that period, the animal shall be disposed of in such a manner as the animal control department may designate. Any animal seized that is wearing identification tags shall be kept for five days, ten days for biting animals, and the animal control department shall attempt to notify the owner in writing or by phone if possible.

(b) Waiver of time for health animals. If at any time during the required waiting period set forth above the owner indicates to the animal control department his intention to not reclaim the animal, the balance of the waiting period shall be waived and the animal shall be disposed of pursuant to this section.

(c) Waiver of time for sick and threatening animals. If at any time during the required waiting period, an examination of the animal by the animal control department indicates the animal to be severely sick and/or to be a threat to the health of other animals detained in the impoundment, the balance of the waiting period shall be waived and the animal shall be disposed of pursuant to this section.

(d) Authority to kill menacing animals. Nothing in this section shall prevent the animal control department from killing an animal when it determines that it is a menace to public safety or to other animals and cannot be impounded with reasonable effort.

(e) Certificate for sterilization. Any animal not heretofore sterilized which is released for purposes of adoption rather than to its owner for redemption shall be required to have a certificate purchased from the animal control department in the nonrefundable amount as set forth by the animal control department. This certificate shall be redeemable by any participating veterinarian in the county once

the animal has been sterilized by the veterinarian from the county treasurer for the sum as set forth by the animal control department.

(f) Seizure and quarantining of animals that have been deemed harmful by the department of animal control. If an animal has harmed any person to the extent to where the skin is either scratched or punctured, that animal shall be seized and impounded in quarantine for a period of ten working days regardless of the knowledge of the ownership of that animal and the desire of such owner to release the animal.

(g) Destruction of animals seized three or more times. If any animal is seized and/or impounded under any of the provisions of this chapter on three or more occasions, the animal shall be destroyed at the discretion of the animal control department. *(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-44. Unlawful interference by third parties.**

(a) Holding animal without consent of owner. No person shall, without the knowledge or consent of the owner, hold or retain possession of any animal which he does not own for more than 72 hours without first reporting the possession of such animal to the animal control department. This section shall not apply to those nonprofit organizations whose purpose is the protection of animals.

(b) Causing animals to be in violation of article. No person shall willfully cause an animal to be in violation of any portion of this article.

(c) Attack, assault, or interfere with an officer of the animal control department. It shall be unlawful for any person to attack, assault, or in any way physically or verbally threaten or interfere with an animal control officer in the performance of those duties required to enforce this article.

(d) Motorist to notify animal control department and render assistance. Any motor vehicle operator who strikes or runs down any animal shall immediately give notice to the animal control department or appropriate law enforcement agency if unable to identify the owner immediately. If the animal needs veterinarian assistance, the owner shall be responsible for any veterinary bills under the circumstances.

(e) Cruelty to animals prohibited; defense allowed. No person shall perform a cruel act on any animal nor shall any person harm, maim, or kill any animal except for the animal control department as provided under section 14-38 or attempt to do so, except that a person may:

- (1) Defend his person or property, or the person or property of another, from injury or damage being caused by an animal; or
- (2) Kill any animal causing injury or damage to any livestock or poultry.

The method used for killing the animals shall be designed to be as humane as is possible under the circumstances. A person who humanely kills an animal under the circumstances described herein shall incur no liability for such death.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-45. Magistrate jurisdiction.**

The magistrate court of the county shall have jurisdiction over all alleged violations of any portion of this article and shall have all powers granted to it which are necessary and incident to the hearing and disposition of the matters brought before the court, such powers to include the authority to issue citations and summons for witnesses. The following persons have standing to file complaints for violations herein:

- (1) Animal control officers.
- (2) Other law enforcement officers.
- (3) Public health officials.
- (4) Individuals with personal knowledge of the violation upon filing a sworn complaint with the magistrate court.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-46. Trapping.**

(a) Upon written request by a resident of the county that a trap is needed to be placed on the resident's property to aid in the seizure of an animal, if the animal control department determines that such request is in the best interest of public safety, the animal control department may provide the resident with a trap for placement on the resident's property. If a trap is provided to the resident requesting a trap, the resident shall deposit a fee as set forth in the schedule of fees and charges on file in the of-

file of the county clerk. The allotted time a resident will be allowed to retain the trap shall be limited to either such time as the animal is caught or two weeks, whichever comes first.

(b) The resident shall also agree in writing that after the issuance of a trap and the trap is subsequently stolen, destroyed, unable to be located, or is damaged or misused in any manner, the resident shall be responsible for the replacement of such trap up to but not exceeding \$300.00.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-47. Sterilization requirement.**

Every person who adopts an animal through the animal control department shall be responsible for the sterilization of such animal within the prescribed timeframe as set forth by the animal control department.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-48. Maximum limits.**

No person or household shall own, possess, harbor or keep more than ten domesticated animals, unless such person is a licensed pet dealer as defined under O.C.G.A. § 4-11-2. An exception, not to exceed 70 days, will be granted for weaning and placement of new litters. No person or household shall be granted more than two exceptions within a 12-month period, unless otherwise exempted or prohibited by state law.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

*Secs. 14-49--14-76. Reserved.*

## ARTICLE III. DANGEROUS DOG CONTROL

### Sec. 14-77. Definitions.

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

Dangerous dog means any dog that, according to the records of an appropriate authority:

(1) Inflicts a severe injury on a human being without provocation on public or private property at any time after March 31, 1989.

(2) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.

Dangerous dog control officer means the director of animal control as selected by the board of commissioners to aid in the administration and enforcement of this article. The dangerous dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

Owner means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm or trust owning, possessing, harboring, keeping or having custody of a dangerous dog or potentially dangerous dog within this county. Potentially dangerous dog means any dog that without provocation bites a human being on public or private property at any time after March 31, 1989. Proper enclosure means an enclosure for keeping a dangerous dog or potentially dangerous dog while on the owner's property securely confined indoors or in a securely enclosed and locked pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. Any such pen or structure shall have secure sides and top, shall be of sufficient height, and the bottom of the fence shall be constructed or secured in such a manner as to prevent the dog's escape either from over or under the fence. Any such enclosure shall also provide protection from the elements for the dog.

Records mean records of any state or county agency; records of any county board of health; records of any federal, state or local court; or records of the dangerous dog control officer provided for in this article.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### Sec. 14-78. Violations; penalties.

(a) Violations of the provisions of this article shall be punished as provided in section 1-19 of this Code.

(b) In addition to any penalties which may be imposed under this section, the dangerous dog involved shall be immediately confiscated by the dangerous dog control officer or by a law enforcement officer or another person authorized by the dangerous dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous dog shall be destroyed in an expeditious and humane manner.

(c) No owner of a dangerous dog shall be held criminally liable under this article for injuries inflicted by such owner's dog to any human being while on the owner's property.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### Sec. 14-79. Exemption.

A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or potentially dangerous dog within the meaning of this article. A dog shall not be a dangerous dog or potentially dangerous dog within the meaning of this article if the injury inflicted by the dog was sustained by a person who at the time was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had in the past been reported to have tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### Sec. 14-80. Investigations, notice of classification.

(a) Upon receiving a report of a dangerous dog within a dog control officer's jurisdiction from a law enforcement agency, animal control agency, rabies control officer, or county board of health,

the dog control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article.

(b) When the dangerous dog control officer classifies a dog as a dangerous dog or reclassifies a potentially dangerous dog as a dangerous dog, the dangerous dog control officer shall notify the dog's owner in writing by certified mail to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

#### **Sec. 14-81. Procedures for classification; notice; hearing.**

(a) As applied to the owners of potentially dangerous dogs, the procedures provided for in this section shall be carried out as a necessary condition for the enforcement of the provisions of this article against such owners. As applied to the owners of dangerous dogs, the procedures provided for in this section shall not be an essential element of any crime provided for in this article.

(b) When a dangerous dog or potentially dangerous dog is classified as such, the dog control officer shall notify the dog's owner of such classification.

(c) The notice to the owner shall meet the following requirements:

(1) The notice shall be in writing and mailed by certified mail to the owner's last known address;

(2) The notice shall include a summary of the dangerous dog control officer's findings that form the basis for the dog's classification as a dangerous dog or potentially dangerous dog;

(3) The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or potentially dangerous dog;

(4) The notice shall state that the hearing, if requested, shall be before the board of commissioners;

(5) The notice shall state that if a hearing is not requested, the dangerous dog control officer's determination that a dog is a dangerous dog or potentially dangerous dog will become effective for all

purposes under this article on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

(6) The notice shall include a form to request a hearing before the board of commissioners and shall provide specific instructions on mailing or delivering such request to the board of commissioners.

(d) When the board of commissioners receives a request for a hearing as provided in subsection (c) in this section, it shall schedule such hearing within 30 days after receiving the request. The board of commissioners shall notify the dog owner in writing by certified mail of the date, time and place of the hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and present evidence, and in addition thereto, the board of commissioners shall receive such other evidence and hear such other testimony he may find reasonably necessary to make a determination either to sustain, modify, or overrule the dangerous dog control officer's classification of the dog.

(e) Within ten days after the date of the hearing, the board of commissioners shall notify the dog owner in writing by certified mail of its determination on the matter. If such determination is that the dog is a dangerous dog or potentially dangerous dog, the notice shall specify the date upon which that determination is effective.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

#### **Sec. 14-82. Requirements for possession; registration; insurance; notice; enforcement of article.**

(a) Certificate of registration required. It is unlawful for an owner to have or possess within this county a dangerous dog or potentially dangerous dog without a certificate of registration issued in accordance with the provisions of this section.

(b) Evidence of proper confinement and posting of property. Subject to the additional requirements of subsection (c) of this section for dangerous dogs, the dangerous dog control officer shall issue a certificate of registration to the owner of a dangerous or potentially dangerous dog in this county if the owner presents to the dangerous dog control officer or the dangerous dog control officer finds sufficient evidence of:

(1) A proper enclosure to confine the dangerous

dog or potentially dangerous dog; and

(2) The posting on the premises where the dangerous dog or potentially dangerous dog is located with a clearly visible sign warning that there is a dangerous dog on the property and containing a symbol designed to inform children of the presence of a dangerous dog. Such sign shall conform substantially to the design provided by the department of natural resources.

a. The sign shall be in the shape of a diamond, similar to a standard highway warning sign, made of 0.08 gauge aluminum sheeting and measuring 12 inches by 12 inches.

b. The circle shall measure 10 3/4 inches in diameter. The figure of the person shall measure five inches from the top of its finger to the bottom of its feet. The top of the dog's tail to the person's elbow shall measure 6 3/4 inches. The word "DANGER!" shall measure one and one-sixth inches by six inches.

c. The sign shall be in two colors: standard highway yellow and black. The circle, the figures of the person and the dog, and the word "DANGER" shall be in black. The background and remainder of the sign shall be in yellow.

d. An original sign shall be assigned to the owner at the time of registration of a dangerous dog or potentially dangerous dog. The owner will be charged the full cost for a replacement sign if the original sign is lost, destroyed or damaged.

(c) Evidence of insurance or surety bond. In addition to the requirements of subsection (b) of this section, the owner of a dangerous dog shall present to the dangerous dog control officer evidence of:

(1) A policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in this state, insuring the owner of the dangerous dog against liability for any personal injuries inflicted by the dangerous dog; or

(2) A surety bond in the amount of at least \$15,000.00 or more issued by a surety company authorized to transact business in this state payable to any person or persons injured by the dangerous dog.

(d) When notification of officer required. The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer

within 24 hours if the dog is on the loose, is unconfined, has attacked a human, has died, or has been sold or donated. If the dog has been sold or donated, the owner shall also provide the name, address and telephone number of the new owner of the dog.

(e) Notification upon move. The owner of a dangerous dog or potentially dangerous dog shall notify the dangerous dog control officer if the owner is moving from the dog control officer's jurisdiction.

(f) Authority to make inquiries; cooperation of law enforcement agencies. The dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Law enforcement agencies shall cooperate with the dangerous dog control officer in enforcing the provisions of this article.

(g) Annual certificate renewals. Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, the dog control officer shall require evidence from the owner or make such investigations as may be necessary to verify that the dangerous dog or potentially dangerous dog is continuing to be confined in a property enclosure and that the owner is continuing to comply with other provisions of this article.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

### **Sec. 14-83. Restrictions on permitting dogs to be outside proper enclosure.**

(a) It is unlawful for an owner of a dangerous dog to permit the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and is under the physical restraint of a responsible person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person.

(b) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.

*(Res. No. 06-176, Exh. A, 10-12-2006)*

**Sec. 14-84. Confiscation of dog; grounds; disposition.**

(a) A dangerous dog shall be immediately confiscated by the dangerous dog control officer or by the law enforcement officer or by another person authorized by the dangerous dog control officer if:

(1) The owner of the dog does not secure the liability insurance or bond required by subsection 14-82(c);

(2) The dog is not validly registered as required by section 14-82;

(3) The dog is not maintained in a proper enclosure; or

(4) The dog is outside a proper enclosure in violation of subsection 14-83(a).

(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:

(1) Not validly registered as required by section 14-82;

(2) Not maintained in the proper enclosure; or

(3) Outside a proper enclosure in violation of subsection 14-83(b).

(b) Any dog that has been confiscated under the provisions of subsection (a) or (b) of this section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. If the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

*(Res. No. 06-176, Exh. A, 10-12-2006)*