

**CHAPTER 6
DOG CONTROL**

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5-6-1: **DEFINITIONS:** Whenever the following words or terms are used in this Code, they shall have the meanings scribed below:

- (A) **ALTERED:** Rendered permanently incapable of reproduction.
- (B) **ANIMAL CONTROL SHELTER:** Any animal shelter, lot, premises or building maintained by the City for the confinement and care of animals.
- (C) **AT LARGE:** A dog shall be deemed to be at large when off the property of the owner, and not under restraint or control.
- (D) **CAT:** A cat of an age four (4) months or older that is kept as a household pet.
- (E) **DOG:** A dog of an age four (4) months or older that is kept as a household pet.
- (F) **ENCLOSURE:** A fence or structure suitable to prevent the escape of an animal or the entry of young children.
- (G) **NEUTERED:** Rendered permanently incapable of reproduction.
- (H) **NUISANCE ANIMAL:** A nuisance animal, including a dog or cat, is one that:
 - 1. Frequently runs at large;
 - 2. Damages, soils, or defecates on private property other than property owned or controlled by the animal owner or on public property, including walks and

recreation areas, unless such waste is immediately removed and properly disposed of by the animal owner or handler;

3. Causes unsanitary or dangerous conditions;
4. Causes a disturbance by excessive barking or other noise making
5. Creates a general public nuisance; and/or
6. Chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

(I) RESTRAINT: A dog shall be considered under restraint if it is confined within a structure or fenced yard, is secured by a leash, lead or chain or is confined within a vehicle in a manner that prevents escape.

(J) UNLICENSED DOG: A dog for which a license has not been issued for the current year, or to which the tag provided for in this Chapter is not attached.

(K) VACCINATION: The inoculation of an animal against rabies in accordance with state law and the "Compendium of Animal Rabies Prevention and Control" published by the National Association of the State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association. (Ord. 3078, 6-28-16; Ord. 3234, 12-20-18; Ord. 3332, 09-10-20)

5-6-2 LICENSE REQUIRED.

(A) It shall be unlawful for any person to keep or harbor any dog or cat within the City without paying a license fee as herein provided. Altered cats that have a current registered microchip need not be licensed. This Section shall not apply to any person owning or possessing a dog or cat currently licensed and bearing the license issued by another licensing authority, nor shall it apply to any dog which has strayed into the City but is duly licensed by, and wearing the tag of, another licensing authority. (Ord. 3234, 12-20-18)

(B) All dogs and cats over the age of four (4) months must be vaccinated for rabies, and a copy of the vaccination certificate must be present with the license application. (Ord. 3234, 12-20-18)

5-6-3 LICENSE FEES.

(A) Each license for a cat or dog shall be issued for a term of one (1) year. It shall expire on December 31st of the year the license was issued. The annual fee for licensing all unaltered dogs or cats, and the annual fee for the licensing of all altered dogs and cats shall be in an amount set from time to time by Resolution of the Council, respectively. Each license shall be valid only for the dog or cat for which it was issued and shall not be transferred or used for any other animal. Upon payment of such fee, the Clerk or other authorized representative shall issue a license and a metal tag bearing the year of expiration and a number corresponding to the number on the license. The license shall state the date of issuance, the date of expiration, the amount paid, the name and address of the person to whom issued and the breed and sex of the dog or cat.

(B) License fees shall be waived for:

1. Any altered dog used primarily as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 *et seq.*
2. Any altered dog in training as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 *et seq.*
3. Any altered dog used by a public agency or a private organization under contract to a public agency as a police dog, tracking dog, search and rescue dog, arson or drug sniffing dog, or for any other job that furthers in the mission of the agency to protect and serve the public interest. (Ord. 2964, 8-14-14; Ord. 3234, 12-20-18)

5-6-4 TAGS TO BE PLACED ON COLLAR.

It shall be unlawful for any person to own or keep a licensed dog within the City which does not have a tag affixed to its neck. If the metal tag is lost, a duplicate tag may be obtained from the Clerk, or other authorized representative, upon payment in an amount set from time to time by Resolution of Council. (Ord. 2964, 8-14-14)

5-6-5 RECORD OF LICENSE.

The Animal Services Manager shall keep a record of the licenses issued under this Chapter, and shall record all of the facts required to be stated in the license. (Ord. 3234, 12-20-18)

5-6-6: IMPOUNDING OF DOGS:

Any nuisance animal may be impounded in the Animal Control Shelter. All dogs found at large are declared to be public nuisances and all City police or animal control officers shall impound them in the Animal Control Shelter. The impoundment, redemption, sale or other disposal of impounded dogs shall be as follows:

- (A) Impoundment of Unlicensed Dogs. All impounded dogs not licensed or not identified by tag or microchip shall be retained in the Animal Control Shelter for a minimum of three (3) business days. At any time during this period, the owner or keeper of such dog may redeem it by procuring a license, a microchip and by paying an impound fee plus a boarding fee as set forth in this Chapter.
- (B) Impoundment of Licensed Dogs. All impounded dogs which are licensed or otherwise identified with a tag or microchip or whose owner is known shall be retained in the Animal Control Shelter for a minimum period of five (5) days after the owner is notified of the impoundment. As soon as reasonably possible following impoundment of such dog, the Animal Services Manager shall give notice of the impoundment to the owner of the dog, either in writing, by telephone

or by personal notification. The Animal Services Manager shall keep a record of the date, time and manner of giving notice, with respect to each impounded dog. At any time during the said five (5) day period the owner may redeem the dog by procuring a microchip and paying an impound fee plus a boarding fee as set forth in this Chapter. The five (5) day period shall commence to run at noon on the day following the date notice is given.

- (C) Spaying and Neutering. Any dog adopted from the Animal Control Shelter shall be spayed or neutered by a licensed veterinarian either prior to adoption, or within thirty (30) days of adoption, or as soon after the dog is old enough to be spayed or neutered. If the dog is not already spayed or neutered, the adopter shall agree to provide evidence of spaying or neutering to the Animal Control Shelter within thirty (30) days. For dogs determined by a licensed veterinarian to be too young to be spayed or neutered within thirty (30) days of adoption, proof of spaying or neutering shall be provided by the dog's owner within thirty (30) days of the age the dog became eligible for spaying or neutering, which date shall be designated on the adoption paperwork.
- (D) An unneutered dog that has been impounded at the Animal Control Shelter on two (2) previous occasions during the previous one (1) year period shall be required to be spayed or neutered prior to the owner redeeming the animal. The impound, and boarding fees, shall be applied toward the cost of the spay or neuter.
- (E) Unclaimed Dogs. The ownership of any dog not redeemed within the periods of time herein stated shall be forfeited and the dog may be sold thereafter by the Animal Services Manager to any person.
- (F) No dog shall be released from the Animal Control Shelter unless the dog is licensed and microchipped under this Chapter and wearing a tag.
- (G) Disposal of Dogs: If any dog is not redeemed or sold, the dog may be humanely destroyed and the carcass disposed of in any lawful manner. (Ord. No. 2961, June 26, 2014).

5-6-7: OWNERSHIP OF DOGS LIMITED.

- (A) It shall be unlawful to maintain upon the premises of any one (1) dwelling or upon the premises of any one (1) business property more than two (2) dogs except, where accommodation or variation from these requirements is appropriate under current Idaho or federal law or where allowed by the Zoning Code or by this Chapter.
- (B) Annual Additional Dog Permit.
 - 1. Application. An application to have up to three (3) dogs in addition to the two (2) dogs allowed by this Chapter (for a total number of dogs not to exceed five (5)) shall be made to the Clerk. The application shall be accompanied by the following: (a) the annual non-

refundable fee for the additional dog permit; (b) the name, address, and other contact information for the Owner of each dog and for the property on which the dog(s) will be kept; (c) identification of each dog (their breed(s), name and license number); (d) verification of spaying or neutering, where applicable; (e) a depiction of the outside area showing all fencing, kennel(s), and dog run(s) which are capable of confining dogs; (f) a statement signed by the person owning or controlling the property that permission has been granted to have more than two (2) dogs on such premises; and (g) a signed agreement that allows the City and its agents, to enter onto the property (including the dwelling and interior parts of the property) at any time 8:00 a.m. to 5:00 p.m., on any day, to conduct an inspection of the property for the purposes of verifying that the permittee is in compliance with the permit.

2. Annual Permit. The additional dog permit allowed by this Chapter shall be for a term of not more than one (1) calendar year and shall expire annually at midnight December 31 of every year.
3. Fee. A fee established from time to time by Resolution of the Council shall be charged for each additional dog permit allowed by this Chapter. Such fee shall be annual, non-refundable, and not pro-rated.
4. Inspection. Prior to approval of the additional dog permit, the location where additional dog(s) shall be kept will be inspected by a City animal control officer who will verify that the planned location for the additional dog(s) is sanitary, safe, and that dog escape or nuisance is not likely.
5. Standards for Permit Approval. Upon receipt of the permit fee and a complete application, and following inspection, a permit shall be issued where approval of the permit is not reasonably likely to comprise a public nuisance.
6. When a City animal control officer or peace officer certifies to the Clerk in writing that there is an immediate danger to life or health of a person because of additional dogs, the application or license may be immediately and summarily denied or revoked. Under such conditions, notice of such denial or revocation will be given as soon as practicable thereafter.
7. Permit Denial or Revocation. Prior to the denial or revocation of the additional dog permit, the City shall provide written notice of the denial or revocation to the applicant or permittee. Such written notice shall be sent by mail or hand delivery to the address provided in the application. The written notice shall state the reason(s) for such revocation or denial and shall state that such applicant or permittee may appeal the decision to the Animal Control Review Board hearing, as provided herein. Notice of denial or revocation is effective on the date the notice is placed in the mailbox maintained by the U.S. Postal Service, or is hand delivered to the applicant or permittee.
8. Failure by the City to give notice as provided in this Chapter, shall not establish a right to the additional dog permit under this Chapter.

(C) Appeals.

1. Appeal to the City Animal Control Review Board. If an application for the additional dog permit is denied or revoked, the applicant or permittee may give written notice of appeal of such denial or the permit is revocation to the Clerk. The Animal Control Review Board shall consist of the City Animal Service Manager, the Idaho Falls Police Department Services Captain, and currently licensed Idaho veterinarian. The Animal Control Review Board shall then set a time and a place for such hearing and the Clerk shall inform the applicant or permittee of the hearing date in writing, at least five (5) business days prior to such Board hearing. The Animal Control Review Board will review the application and any relevant testimony and materials submitted by the applicant, permittee, and City and will make a determination regarding issuance or revocation of the permit within twenty-one (21) calendar days following the date of the Board hearing.
2. Appeal to City Council. An applicant, permittee, or City Department(s) adversely affected by a decision made by the Animal Control Review Board may appeal the Board's decision to the Council by filing a notice of appeal in writing to the Clerk. A time and a place for such hearing shall be set within thirty (30) days following the receipt of the notice of appeal, and the Clerk shall inform the applicant or permittee and relevant City Department(s) of the hearing date in writing at least five (5) business days prior to such Council hearing. At or following the hearing, the Council may uphold the decision to deny or revoke or may direct the Clerk to issue a permit which has been denied or revoked, upon finding of good cause for the issuance of such permit.
3. Failure by person appealing (or their representative), to appear before the Council at the time scheduled to consider the appeal shall result in the automatic denial of the appeal.
4. Fee for appeal. A non-refundable fee for an appeal to the Animal Control Review Board or to the Council, shall be in an amount set from time-to-time by Resolution of Council. (Ord. 2964, 8-14-14; Ord. 3078, 6-28-16)

5-6-8 RABIES.

(A) Rabies Vaccination. It shall be unlawful for the owner of any dog or cat to not have a current rabies vaccination. Vaccinations must begin when the animal has reached the age of four (4) months. Every owner must, upon request of a City Police or Animal Services Officer produce proof of such vaccination(s).

(B) Suspected Rabies – Quarantine Procedures. Any owner of any animal which shows symptoms of rabies, or which has bitten any person causing an abrasion to the skin, shall surrender the animal for quarantine at the Animal Services Shelter or to a licensed veterinarian for a period of ten (10) days or shall securely quarantine the animal on their premises for said period of time. The choice of place of quarantine shall be at the discretion of the Animal Services Manager. All costs for the quarantine shall be borne by the owner. If an owner refuses to surrender or confine the animal, Animal Services Officers are hereby authorized to seize the

animal and transport it to the Animal Services Shelter or a licensed veterinarian for quarantine. City Police or Animal Services Officers are hereby authorized to immediately impound any quarantined animal found outside the quarantine area and arrange for its confinement in accordance with this section. If the animal has been quarantined by the owner, on the next working day following the ten (10) day quarantine, the owner shall take the animal to a licensed veterinarian for examination and to obtain a rabies vaccination if the owner has not provided a current valid rabies vaccination certificate. A copy of the examination results and a current certificate of rabies vaccination must be provided to Animal Services no later than the following day. If an animal quarantined at the Animal Services Shelter is determined to be free of rabies, it shall be returned to the owner upon payment of all costs for confinement, examination and vaccination and if such fees are not paid, the animal may be disposed of as herein provided. If the animal is determined to be rabid, it shall be humanely destroyed and the owner shall be responsible to pay the boarding fees as set forth in this Chapter.

5-6-9: UNLAWFUL DISPOSAL OF RABID DOG:

It shall be unlawful for any person to kill or cause to be killed any rabid dog, or dog suspected of having rabies, or any dog who has bitten or attacked a person, without having given the notice required by this Chapter, or having given such notice, to kill such dog before the expiration of the ten (10) days quarantine period.

5-6-10: CONTROL OF DOGS:

(A) It shall be unlawful for any person to harbor or keep on their premises, or in their control any dog which, by loud and prolonged barking or howling, disturbs the peace and quiet of the neighborhood, or of the occupants of adjacent premises.

(B) It shall be unlawful for any person to have or keep on their premises or in their control a nuisance animal.

(C) Any owner or keeper of a dog whose dog is determined to be at large on or in any public street, alley, sidewalk, park or place, or upon private property without the permission of the owner or occupant thereof, is guilty of a misdemeanor. Notwithstanding the foregoing, the Mayor may, upon application of any person, authorize dog shows, exhibitions and dog training courses to be held upon public property and where the dogs participating therein are controlled by competent attendants and the Council may designate public areas within the City which may be used, subject to such rules and regulations as may be prescribed, for the training or exercise of dogs. Dogs within such areas need not be controlled by leash, but shall be under the control of a responsible person and controlled by whistle, voice or other effective command. Notwithstanding the foregoing, it shall be unlawful for any person to allow a dog under leash to be in any public park or recreation area designated by the Council as a public area in which dogs are not allowed, unless the dog is a service dog or is a participant in an approved dog show, exhibition or dog training course, or is otherwise allowed by law or regulation in such an area. Such areas shall be specifically designated by resolution of the Council and a sign giving notice of such prohibition shall be posted at each vehicular entrance to such public area.

(D) It shall be unlawful for any owner or keeper of any female dog in heat to allow such dog to be at large. It shall be unlawful for the owner or keeper of such a dog to fail to confine or enclose such dog in a manner that precludes other dogs from breeding the female dog.

(E) It shall be unlawful for any person to let to the owner or keeper of a female dog any dog, except within an enclosure so arranged as to obstruct such animal completely from the view of all persons who have no proprietary interest in the breeding of such animals.

5-6-11 CONTROL OF CATS:

(A) Cat nuisances include but are not limited to excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors or unsanitary conditions caused by failure to clean the cat's resident property.

(B) Cats must be prevented from causing a nuisance by howling in a habitual, consistent, or persistent manner that repeatedly disturbs the peace of the neighborhood.

(C) Owners must take steps to prevent feces deposits by their cats on public property, public and private rights-of-way, and private property not owned or rented by the animal owner and prevent them from continually spraying or depositing urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, etc.

(D) Animal Services shall investigate each complaint and issue a warning letter to the cat owner on the first offense. A citation may be issued on subsequent offenses.

(E) Impoundment of Unlicensed Cats. All impounded cats not licensed or not identified by tag or microchip, shall be retained in the Animal Services Shelter for a minimum of three (3) business days. At any time during this period, the owner or keeper of such cat may redeem it by procuring a microchip, applicable license, and by paying an impound fee plus a boarding fee as set forth in this Chapter. Any cat that is identified by a shelter personnel as "feral" or "wild" shall not be required to be held for the three (3) day period.

(F) Impoundment of Licensed Cats. All impounded cats which are licensed or otherwise identified with a tag or microchip or whose owner is known shall be retained in the Animal Control Shelter for a minimum period of five (5) days after the owner is notified of the impoundment. As soon as reasonably possible following impoundment of such cat, the Animal Services Manager shall give notice of the impoundment to the owner of the cat, either in writing, by telephone or by personal notification. The Animal Services Manager shall keep a record of the date, time and manner of giving notice, with respect to each impounded cat. At any time during the said five (5) day period the owner may redeem the cat by procuring a microchip, applicable license, and paying an impound fee plus a boarding fee as set forth in this Chapter. The five (5) day period shall commence to run at noon on the day following the date notice is given.

(G) Spaying and Neutering. Any cat adopted from the Animal Control Shelter shall be spayed or neutered by a licensed veterinarian either prior to adoption, or within thirty (30) days of adoption, or as soon after the cat is old enough to be spayed or neutered. If

the cat is not already spayed or neutered, the adopter shall agree to provide evidence of spaying or neutering to the Animal Control Shelter within thirty (30) days. For cats determined by a licensed veterinarian to be too young to be spayed or neutered within thirty (30) days of adoption, proof of spaying or neutering shall be provided by the cat's owner within thirty (30) days of the age the cat became eligible for spaying or neutering, which date shall be designated on the adoption paperwork.

- (H) An unaltered cat that has been impounded at the Animal Control Shelter on two (2) previous occasions during the previous one (1) year period shall be required to be spayed or neutered prior to the owner redeeming the animal. The impound, and boarding fees, shall be applied toward the cost of the spay or neuter.
- (I) Unclaimed Cats. The ownership of any cat not redeemed within the periods of time herein stated shall be forfeited and the cat may be sold thereafter by the Animal Services Manager to any person.
- (J) No cat shall be released from the Animal Services Shelter unless the cat is microchipped under this Chapter.
- (K) Disposal of Cats. If any cat is not redeemed or sold, the cat may be humanely destroyed and the carcass disposed of in any lawful manner. (Ord. 3234, 12-20-18)

5-6-12: UNLAWFUL INTERFERENCE:

It shall be unlawful for any person to hinder, or interfere with any City Police or Animal Services officer who is seizing any animal, euthanizing the same, or removing the carcass under this Chapter.

5-6-13 AT RISK DOGS.

(A) An *at risk* dog is one that:

- (1) Menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person.
- (2) Causes physical injury to any domestic animal while at large.
- (3) Repeatedly runs at large.

(B) Procedure for classifying a dog as *at risk*:

- (1) An Animal Services Officer shall investigate the circumstances of any complaint filed against a dog alleged to be at risk and notify the dog owner of the charge. The results of the investigation will be reported to the Animal Services Manager and to the dog owner. If the Animal Services Manager

deems the dog to be at risk, the dog owner has the option of filing an appeal with the courts. The dog owner shall file such appeal with the courts within thirty (30) days from the date of the designation.

(2) Notwithstanding the above, the Animal Services Manager or their representative shall have discretionary authority to refrain from classifying a dog as at risk (potentially dangerous), even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was:

- (a) The result of the victim abusing or tormenting the dog;
- (b) Was directed towards a trespasser or a person committing or attempting to commit a crime; or
- (c) Involved other similar mitigating or extenuating circumstances.

(C) Sanctions for owning an at risk dog:

(1) The owner must provide secure fencing to keep the dog confined on their own property. When off the owner's property, the dog must be kept on a secure leash of no more than four feet (4') in length and under control of a legally responsible person. The owner must also place photos of the dog on file with Animal Services, microchip the dog for identification and provide proof of liability insurance that covers injuries.

(D) Repeated violations of Section 5-6-13 (A)(1) or (2) will result in classifications of the dog as *dangerous*.

(E) If there have been no further incidents for a period of eighteen (18) months and the owner can provide proof of obedience training at a reputable club or business, they may appeal to Animal Services for removal of the designation.

5-6-14 DANGEROUS DOGS.

(A) A *dangerous* dog is one that:

- (1) Has previously been classified as at-risk and exhibits escalating aggressive behaviors that result in further complaint.
- (2) A dog that, without provocation, inflicts severe injury on a human being.
- (3) Menaces, maims, or kills domestic animals when off its owner's property.
- (4) Is used in the commission of a crime, including but not limited to animal fighting or guarding illegal operations.

(B) Procedure for classifying a dog as *dangerous*:

- (1) The animal control officer shall investigate the circumstances of any complaint filed against a dog alleged to be at risk and notify the dog owner of the charge. The results of the investigation will be reported to the Animal Services Manager and to the dog owner. If the Animal Services Manager deems the dog to be dangerous, the dog owner has the option of filing an appeal with the courts. Such appeal shall be within ten (10) days of the designation as a dangerous dog. Depending on the circumstances, the dog may be impounded pending disposition of the case.
- (2) Notwithstanding the above, the Animal Services Manager or their representative shall have discretionary authority to refrain from classifying a dog as dangerous, even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was:
 - (a) The result of the victim abusing or tormenting the dog.
 - (b) Was directed towards a trespasser or a person committing or attempting to commit a crime.
 - (c) Involved other similar mitigating or extenuating circumstances

(C) Sanctions for Owning a Dangerous Dog: A dangerous dog may be returned to the owner or may be destroyed depending on the outcome of the investigation. If the dog is returned to the owner, it must be microchipped, confined in a locked pen with a top when not in a home or other building, and restricted by a sturdy leash no longer than four feet long when in public. Photos of the dog must be filed with Animal Services and the owner must provide proof of at least one hundred thousand dollars (\$100,000) in liability insurance.

(D) Confinement of Dangerous Dogs: Dogs that have been classified as dangerous must be confined behind a locked fence of sufficient height and materials to securely contain the dog and prevent trespass. Confinement must be sufficient to prevent children from coming into contact with the dog. When off the owner's property, a dangerous dog must be restricted by a leash of no more than four (4) feet in length, must be under the control of a legally responsible person, and may be required to wear a muzzle.

(E) Transporting Dangerous Dogs: Dogs that have been classified as dangerous must be confined in a crate in a closed, locked vehicle to prevent opportunities for escape and in a manner sufficient to prevent children from coming into contact with the dog through an open window in a vehicle.

(F) Additional Incidents: Additional incidents sufficient to identify the dog as dangerous and will result in destruction of the dog.

(G) Penalties for Dangerous Dogs Running at Large:

- (1) If an owner is allowed to keep the dangerous dog as set forth in subsections (C), (D) and (E) above, if that dangerous dog then runs at large and repeats the behavior that earned the designation will be impounded and euthanized.
- (2) Dangerous dogs that run at large without repeating the behavior may be returned to their owners at the discretion of Animal Services after reviewing the case and inspection of the confinement facility.
- (3) It shall be unlawful for any person to fail to confine their dangerous dogs out of carelessness or neglect.

5-6-15 IMPOUND AND BOARDING FEES.

(A) For the purposes of this Chapter, the impound fee and board fee shall be in an amount set from time to time by Resolution of Council.

(B) It shall be unlawful for any owner of an animal to refuse to pay the impounding or boarding fees established by Council. (Ord. 2964, 8-14-14)

5-6-16 DOG DEFECATION TO BE REMOVED BY DOG OWNER.

(A) No person owning, keeping or having in their immediate care or custody any dog shall knowingly fail or neglect to clean up any feces of the dog immediately and dispose of it in a sanitary manner whenever the dog has defecated upon public or private property owned or within the control of another and without the consent of such public or private owner or person.

(B) The provisions of subsection A of this section shall not apply to a blind person being accompanied by a guide dog or signal dog, nor shall they be construed to require or countenance any act of trespass upon private property. Whenever the feces to be cleaned up cannot be reached without an unlawful trespass upon the private property on which the feces is located, the person having the duty pursuant to subsection A of this section to clean it up shall first obtain permission to do so from the owner or person in lawful possession or charge of the property. If a property owner does not consent to the owner of the dog cleaning up the feces, then subsection A of this Section will not apply to the dog owner.