

ORDINANCE NO. _____

An ordinance amending Sections 7-1.1, 7-2.6, 7-2.7, 7-3.1, 7-4.2, 7-4.6, 7-4.7, 7-8.1, and Article V (composed of Sections 7-5.1 through 7-5.10) of and adding Sections 7-3.4, 7-4.9, 7-4.10, 7-4.11, 7-4.12, and 7-7.6 to CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended; defining terms; requiring impounded dogs and cats to be spayed or neutered, at the owner’s expense, before redemption, with certain defenses; providing that ownership of an adopted dog or cat reverts to the city if it is not spayed or neutered in compliance with an adoption agreement; prohibiting tethering, except under limited circumstances and conditions; prohibiting the placement of a poisonous substance so that it is accessible to a domestic animal, with certain defenses; establishing a late fee to register a dog or cat after the date registration is required; limiting the number of dogs and cats in a dwelling unit without common walls, with certain defenses; establishing minimum confinement requirements for dogs kept outdoors; requiring all dogs and cats to be spayed or neutered, with certain defenses; providing qualifications, requirements, restrictions, and fees for the permitting of dog and cat breeders, including limiting the number of litters per year; requiring all dogs and cats to have a microchip implant, with certain defenses; authorizing the director to impound a dangerous dog and order it permanently removed from the city; providing for appeals from removal orders; authorizing actions, including humane destruction, against previously determined dangerous dogs that attack or do not comply with orders of the director or the municipal court; requiring surrender of a dog ordered seized or impounded; prohibiting a person from owning a dog that has been determined dangerous in another jurisdiction, with certain defenses; prohibiting the use of a live animal as a prize,

promotion, or novelty; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 7-1.1, "Definitions," of Article I, "General," of CHAPTER 7, "ANIMALS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 7-1.1. DEFINITIONS.

In this chapter:

(1) ADOPTER means a person who adopts an animal from an animal shelter or an animal adoption agency.

(2) ADOPTION AGENCY means an animal welfare organization or animal placement group approved by the director to take impounded dogs and cats from animal services for adoption to the public.

(3) ANIMAL means any nonhuman vertebrate.

(4) ANIMAL SERVICES means the division of the department so designated by the director for the purpose of animal care and control and enforcement of this chapter.

(5) ANIMAL SERVICES OFFICER means an employee of animal services whose duty it is to enforce the provisions of this chapter.

(6) ANIMAL SHELTER means a city-owned and operated animal shelter facility established for the impoundment, quarantine, care, adoption, euthanasia, and other disposition of unwanted, stray, diseased, or vicious animals.

(7) ANIMAL WELFARE ORGANIZATION means a non-profit organization incorporated under state law and exempt from federal taxation under Section 501(c)(3) of the federal Internal Revenue Code, as amended, and whose principal purpose is the prevention of cruelty to animals and whose principal activity is to rescue sick, injured, abused, neglected, unwanted, abandoned, orphaned, lost, or displaced animals and to adopt them to good homes.

(8) AUTHORIZED REGISTRAR means a person issued written permission by the director to register dogs and cats in compliance with this chapter.

(9) CHIEF OF POLICE means the head of the police department of the city of Dallas or a designated representative.

(10) COMPETITION CAT means a pedigreed cat not used for breeding that:

(A) is of a breed recognized by and registered with an approved cat breed registry, such as the American Cat Fanciers Association, the Cat Fanciers' Association, the International Cat Association, or any other cat breed registry approved by the director; and

(B) competes in cat shows or other competition events sponsored by an approved cat breed registry.

(11) COMPETITION DOG means a pedigreed dog not used for breeding that:

(A) is of a breed recognized by and registered with an approved dog breed registry, such as the American Kennel Club, the United Kennel Club, the American Dog Breeders Association, or any other dog breed registry approved by the director; and

(B) shows or competes in a confirmation, obedience, agility, carting, herding, protection, rally, sporting, working, or other event sponsored by an approved dog breed registry.

(12) CONVICTION means a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. "Conviction" includes disposition of charges against a person by probation or deferred adjudication.

(13) [(44)] CURRENTLY VACCINATED means vaccinated against rabies by a licensed veterinarian, with a rabies vaccine licensed by the U. S. Department of Agriculture, and:

(A) not more than 12 months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a one-year rabies vaccine or was the animal's initial vaccination; or

(B) not more than 36 months have elapsed since the animal's most recent vaccination date, if the most recent vaccination was with a three-year rabies vaccine and the animal is a dog or cat that has received at least two vaccinations.

(14) [(42)] DIRECTOR means the director of the department designated by the city manager to perform the duties assigned in this chapter or the director's authorized representative.

(15) [(43)] DOMESTIC ANIMAL means:

(A) livestock;

(B) a dog;

(C) a cat;

(D) a ferret;

(E) any bird, other than one in the Falconiforms or Strigiforms Order, that is commonly kept as a human's companion;

(F) any "pocket pet," such as a mouse, hamster, gerbil, guinea pig, or rabbit, that is commonly kept as a human's companion;

(G) any fish, such as a goldfish or tropical fish, that is commonly kept as a human's companion; and

(H) any non-venomous and non-constrictor reptile or amphibian that is commonly kept as a human's companion.

(16) [~~(14)~~] EUTHANASIA means to put an animal to death in a humane manner.

(17) [~~(15)~~] FENCED YARD means an area that is completely surrounded by a substantial fence of sufficient strength, height, construction, materials, and design as to prevent:

(A) any animal confined within from escaping; or

(B) the head of a dog confined within from extending over, under, or through the fence.

(18) [~~(16)~~] FERAL CAT means any homeless, wild, or untamed cat.

(19) [~~(17)~~] LICENSED VETERINARIAN means a person licensed to practice veterinary medicine within the United States, or an authorized representative under that person's direct supervision.

(20) [~~(18)~~] LIVESTOCK means any fowl, horse, mule, burro, ass, cattle, sheep, swine, goat, llama, emu, ostrich, or other common farm animal.

(21) [~~(19)~~] MICROCHIP IMPLANT means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification and/or the recovery of the animal by its owner.

(22) [~~(20)~~] ONE-YEAR RABIES VACCINE means a rabies vaccine labeled and licensed by the U. S. Department of Agriculture as immunizing a dog, cat, or ferret against rabies for one year.

(23) [~~(21)~~] OWN means to have legal right of possession or to otherwise have care, custody, possession, or control of an animal.

(24) [~~(22)~~] OWNER means any person owning or having care, custody, possession, or control of an animal.

(25) PERMITTEE means a person issued a breeder permit under Section 7-4.11 of this chapter.

(26) [~~(23)~~] PERSON means an individual or group of individuals acting in concert, a firm, partnership, association, corporation, or other legal entity.

(27) [~~(24)~~] PET means a domestic animal to be kept as a human's companion.

(28) [~~(25)~~] PROHIBITED ANIMAL means:

(A) a "dangerous wild animal" as that term is defined in Section 822.101 of the Texas Health and Safety Code, as amended;

(B) a margay, badger, wolf, dingo, elephant, hippopotamus, rhinoceros, non-human primate (other than a spider monkey or capuchin), crocodile, alligator, caiman, gavial, venomous amphibian or reptile, racer, boa (other than a red-tail boa), water snake, python (other than a ball python), hawk, eagle, vulture, and owl; and

(C) any hybrid of an animal listed in Paragraph (A) or (B) of this subsection (other than a dog-wolf hybrid).

(29) [~~(26)~~] PROTECTIVE CUSTODY means the holding of an animal in a city animal shelter:

(A) due to the arrest, eviction, hospitalization, or death of the animal's owner;

(B) pursuant to a court order; or

(C) at the request of a law enforcement agency.

(30) [~~(27)~~] REGULATED ANIMAL means any non-human animal other than a prohibited animal or domestic animal.

(31) [~~(28)~~] RETAIL PET STORE means a business that regularly sells animals for pet purposes to an ultimate owner. The term includes any owner, operator, agent, or employee of the business.

(32) [~~(29)~~] SERVICE ANIMAL means:

(A) any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, and assisting non-ambulatory persons by pulling a wheelchair or fetching dropped items; and

(B) any trained animal used by a governmental agency in police and rescue work.

(33) [~~(30)~~] STRAY means an unrestrained domestic animal that is outside the boundaries of the premises owned, leased, or legally occupied by the animal's owner.

(34) [~~(31)~~] THREE-YEAR RABIES VACCINE means a rabies vaccine labeled and licensed by the U.S. Department of Agriculture as immunizing a dog or cat against rabies for three years.”

SECTION 2. That Subsection (a) of Section 7-2.6, “Redemption of Impounded Animals,” of Article II, “Animal Services; City Animal Shelters,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“(a) To redeem an impounded animal from a city animal shelter, the owner of the animal must provide proof of ownership and pay to the director the following fees:

(1) a redemption fee of:

(A) \$7 for an animal delivered for impoundment to a city animal shelter by a person other than a city employee in the performance of official duties; or

(B) \$27 for an animal delivered for impoundment to a city animal shelter by a city employee in the performance of official duties;

(2) \$10 for each night the animal is housed in a city animal shelter;

(3) \$10 for a rabies vaccination of a dog, cat, or ferret if the owner cannot show either:

(A) a current certificate of vaccination for the animal; or

(B) proof that the animal was not vaccinated due to health reasons as verified by a licensed veterinarian;

(4) the applicable registration fee for a dog or cat under Section 7-4.2, if the owner cannot show proof of current registration; [~~and~~]

(5) \$15 for a microchip implant and initial national registration of a dog or cat, unless:

(A) the animal was injected with a microchip implant prior to impoundment; or

(B) a licensed veterinarian certifies that the animal should not be injected with a microchip implant for health reasons; and

(6) \$60 for the sterilization of a dog or \$40 for the sterilization of a cat, unless:

(A) the animal was spayed or neutered prior to impoundment;

(B) the animal is under six months of age;

(C) a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile;

(D) the animal is being held for sale by a retail pet store or for adoption by animal services or an animal welfare organization;

(E) the animal is a competition cat or competition dog;

(F) the animal is a service animal; or

(G) the owner of the animal has, or obtains at the time of redemption, a valid breeder permit for the animal under Section 7-4.11 of this chapter.”

SECTION 3. That Section 7-2.7, “Adoption of Animals,” of Article II, “Animal Services; City Animal Shelters,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-2.7. ADOPTION OF ANIMALS.

(a) To adopt a dog or cat from animal services, the adopter shall:

(1) complete and sign an adoption application on a form provided by the director for that purpose;

(2) sign an adoption contract on a form provided by the director for that purpose, which shall include a statement that the adopter agrees that if the adopter fails to comply with a sterilization agreement under Subsection (c), the animal may be seized and impounded by the director and ownership will automatically revert to the city; and

(3) pay to the director the following fees:

(A) a non-refundable adoption fee of \$85 for a dog and \$55 for a cat (which includes, but is not limited to, the costs of any required vaccination, microchip implant, initial national registration, and sterilization); and

(B) the applicable registration fee for the dog or cat under Section 7-4.2, if the dog or cat is at least four months of age and the adopter resides in the city.

(b) Each dog or cat adopted from animal services will be spayed or neutered prior to release of the animal to the adopter, unless:

(1) the dog or cat is under six [~~two~~] months of age; or

(2) a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile.

(c) Before an unsterilized dog or cat under the age of six [~~two~~] months will be released from animal services for adoption, the adopter must sign a sterilization agreement with the director, complying with Section 828.003 of the Texas Health and Safety Code, as amended, agreeing to:

(1) have the dog or cat spayed or neutered within 30 days after the date of adoption or the date the animal attains six [~~three~~] months of age, whichever occurs last; and

(2) furnish to the director, within seven days after the date of sterilization, confirmation complying with Section 828.005 of the Texas Health and Safety Code, as amended, that the animal was spayed or neutered by the completion date required in Paragraph (1) of this subsection.

(d) An adopter who signs a sterilization agreement under Subsection (c) commits an offense if he fails to:

(1) have the adopted dog or cat spayed or neutered within the time period required under Subsection (c)(1); or

(2) furnish confirmation of sterilization as required under Subsection (c)(2).

(e) It is a defense to prosecution under Subsection (d) if, by the seventh day after the sterilization completion date required in Subsection (c)(1), the director receives from the adopter [~~either~~]:

(1) a letter complying with Section 828.006 of the Texas Health and Safety Code, as amended, stating that the animal is dead; [~~or~~]

(2) a letter complying with Section 828.007 of the Texas Health and Safety Code, as amended, stating that the animal is lost or stolen;

(3) proof that the dog or cat is a service animal;

(4) proof that the animal is a competition cat or competition dog; or

(5) a copy of a valid breeder permit issued under Section 7-4.11 of this chapter for the adopted animal.

(f) The director may refuse to release a dog or cat for adoption under any circumstances, including, but not limited to:

(1) the prospective adopter or adoption agency has previously violated a provision of this chapter or has been convicted of an animal-related crime;

(2) the prospective adopter or adoption agency has inadequate or inappropriate facilities for confining the animal and for providing proper care to the animal as required by this chapter;

(3) the prospective adoption agency has failed to sign or comply with a transfer agreement with animal services that requires the sterilization of adopted animals or other conditions imposed by the director; or

(4) the director determines that the health, safety, or welfare of the animal or of the public would be endangered.

(g) If an adopter of a dog or cat violates Subsection (d), the director may seize and impound the animal, and ownership of the animal will automatically revert to the city.”

SECTION 4. That Section 7-3.1, “Proper Restraint,” of Article III, “Care and Treatment of Animals,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-3.1. PROPER RESTRAINT.

(a) An owner of an animal commits an offense if he fails to restrain the animal at all times in a fenced yard, in an enclosed pen or structure, or by a tether or leash.

(b) No animal may be restrained by a tether or leash unless the animal is in the immediate possession of and accompanied by the animal's owner.

(c) It is a defense to prosecution under Subsection (a) that the animal was:

(1) a dog in an off-leash site established under Section 32-6.1 of this code; or

(2) a feral cat participating in a trap, neuter, and return program approved by the director.

(d) It is a defense to prosecution under Subsection (b) that the animal was a dog and was tethered:

(1) in a manner complying with Section 7-4.7 of this chapter; and

(2) for a reasonable period of time, not to exceed three hours in a 24-hour period, and no longer than necessary for the owner to complete a temporary task that required the dog to be restrained.”

SECTION 5. That Section 7-3.4, “Reserved,” of Article III, “Care and Treatment of Animals,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 7-3.4. UNLAWFUL PLACEMENT OF POISONOUS SUBSTANCES
[RESERVED].”**

(a) In this section, POISONOUS SUBSTANCE means any chemical or synthetic substance or bait, including but not limited to antifreeze, that is deemed harmful to domestic animals.

(b) A person commits an offense if he knowingly places a poisonous substance so that it is accessible to a domestic animal.

(c) It is a defense to prosecution under Subsection (b) that the poisonous substance was placed:

(1) pursuant to an animal control program under the direction of the director, the city public health officer, or the city environmental health officer; or

(2) to control common rodents such as rats and mice.”

SECTION 6. That Section 7-4.2, “Registration of Dogs and Cats,” of Article IV, “Specific Requirements for Dogs and Cats,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-4.2. REGISTRATION OF DOGS AND CATS.”

(a) An owner of a dog or cat commits an offense if:

(1) the dog or cat is not currently registered with the city under this article;

(2) the dog or cat is not wearing a collar or harness with a current registration tag issued by the director or an authorized registrar securely attached to it; or

(3) the owner fails to show a current registration receipt and registration tag for the dog or cat upon request by the director or a peace officer.

(b) It is a defense to prosecution under Subsection (a) that:

(1) the dog or cat was under four months of age;

(2) the dog or cat was being held for sale by a retail pet store or for adoption by animal services or an animal welfare organization; or

(3) the owner of the dog or cat has resided in the city less than 30 days.

(c) To obtain a registration receipt and registration tag for a dog or cat, the owner must present the dog's or cat's current certificate of vaccination (or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian) to the director or an authorized registrar and pay to the director or authorized registrar the annual registration fee. No refund of the annual registration fee will be made.

(d) The annual registration fee is:

(1) \$7 for a spayed or neutered dog or cat; and

(2) \$30 for an unspayed or unneutered dog or cat; only an animal described in Section 7-4.10(b) may be registered as an unspayed or unneutered dog or cat.

(e) No fee is required for the registration of a dog or cat that is:

(1) used as a service animal; or

(2) spayed or neutered and owned by and residing with a person who is over 65 years of age, except that no more than three dogs, cats, or combination of dogs and cats may be registered under this paragraph.

(f) Upon presentation of a current certificate of vaccination and proof that the dog or cat has been injected with a microchip implant (or proof that the dog or cat was not vaccinated or injected with a microchip implant due to health reasons as verified by a licensed veterinarian) and upon payment of the appropriate registration fee or submission of proof of exemption from the fee under Subsection (e), the director or authorized registrar will issue a registration receipt and registration tag to the owner that will be valid for one year after the date of issuance. The registration tag must indicate the year of registration, whether the animal is sterilized or unsterilized, and such other information as determined by the director. [~~If the director does not receive an application for renewal of a registration within 45 days after the expiration of the registration, a \$10 late fee will be added to the registration fee.~~]

(g) If the director does not receive payment of the initial registration fee for a dog or cat within 45 days after notifying the owner to register the dog or cat, a \$10 late fee will be added to the registration fee. If the director does not receive an application for renewal of a registration within 45 days after the expiration of the registration, a \$10 late fee will be added to the registration fee.

(h) The registration receipt and registration tag are specific to the animal for which they were issued and are not transferable to another animal.

(i) ~~(h)~~ If a registration tag is lost or mutilated, a duplicate registration tag may be purchased from the director or an authorized registrar for a fee of \$5.”

SECTION 7. That Section 7-4.6, “Limitation on the Number of Dogs and Cats in Dwelling Units with Common Walls,” of Article IV, “Specific Requirements for Dogs and Cats,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-4.6. LIMITATION ON THE NUMBER OF DOGS AND CATS IN DWELLING UNITS ~~[WITH COMMON WALLS]~~.

(a) In this section, DWELLING UNIT has the meaning given it in Section 51A-2.102 of the Dallas Development Code, as amended.

(b) A person commits an offense if he harbors more than four dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares a common wall with another dwelling unit.

~~[(b) — In this section, DWELLING UNIT has the meaning given it in Section 51A-2.102 of the Dallas Development Code, as amended.]~~

(c) A person commits an offense if he harbors more than:

(1) six dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on not more than one-half acre of land; or

(2) eight dogs, cats, or any combination of dogs and cats on the premises of a dwelling unit that shares no common wall with another dwelling unit and that is located on more than one-half acre of land.

(d) In determining the number of dogs or cats harbored on the premises of a dwelling unit under Subsections (b) and (c) of this section, the director shall not count any dog or cat under six months of age or any feral cat participating in a trap, neuter, and return program approved by the director.

(e) It is a defense to prosecution under Subsection (c) that:

(1) the person:

(A) was approved by the director as a foster care provider under a foster care program sponsored by animal services or an animal welfare organization;

(B) was not fostering more dogs, cats, or any combination of dogs and cats on the premises than approved by the director based on the type and size of the animals, the size of the premises, the location of the premises, the facilities located on the premises, and other factors established by the director; and

(C) had on file with the director a written document (on a form provided by the director for that purpose) authorizing the director to conduct unannounced inspections of the premises and all animals located on the premises to ensure that the person was complying with all applicable provisions of this chapter, which document must be signed and acknowledged before a notary public by the legal owner of the dwelling unit and at least one occupant of the dwelling unit who is 18 years of age or older; or

(2) the person:

(A) on June 25, 2008, was the owner of, and was harboring on the premises of the dwelling unit, more than six dogs, cats, or any combination of dogs and cats;

(B) before September 25, 2008, provided information to the director (on a form provided by the director for that purpose) relating to each dog or cat harbored on the premises of the dwelling unit;

(C) harbored no additional dogs or cats on the premises of the dwelling unit on or after June 25, 2008; and

(D) was in compliance with all other requirements of this chapter applicable to dogs and cats.”

SECTION 8. That Section 7-4.7, “Tethered Dogs,” of Article IV, “Specific Requirements for Dogs and Cats,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-4.7. TETHERED DOGS.

(a) An owner of a dog commits an offense if he tethers the dog or allows the dog to be tethered in any manner or by any method that:

- (1) allows the dog to leave the premises owned, leased, or occupied by the dog's owner;
- (2) allows the dog to become entangled; [Ø]
- (3) does not allow the dog access to food, water, and appropriate shelter if outside; or
- (4) does not meet the requirements for tethering a dog under Subsection (b) of this section.

(b) The following requirements apply to a dog tethered within the city:

- (1) The dog must be properly fitted with and wearing a harness or collar made of leather or nylon.
- (2) The tether must be attached to the dog's harness or collar and not directly to the dog's neck.
- (3) The tether must be at least 10 feet long."

SECTION 9. That Article IV, "Specific Requirements for Dogs and Cats," of CHAPTER 7, "ANIMALS," of the Dallas City Code, as amended, is amended by adding Section 7-4.9, "Confinement Requirements for Dogs Kept Outdoors," to read as follows:

"SEC. 7-4.9. CONFINEMENT REQUIREMENTS FOR DOGS KEPT OUTDOORS.

(a) An owner of a dog commits an offense if the fenced yard, or other outdoor pen or structure, used as the primary living area for the dog or used as an area for the dog to regularly eat, sleep, drink, and eliminate is not:

- (1) at least 150 square feet for each dog six months of age or older;
- (2) designed, constructed, and composed of material sufficient to prevent the dog's escape; and
- (3) designed in a manner that provides the dog access to the inside of a doghouse, building, or shelter that meets all requirements of Subsection (b) of this section.

(b) A doghouse or other building or shelter for a dog must:

- (1) have a weatherproof top, bottom, and sides;

(2) have an opening on no more than one side that allows the dog to remain dry and provides adequate shade during daylight hours to prevent overheating or discomfort to the dog;

(3) have a floor that is level and dry;

(4) be free from cracks, depressions, and rough areas that might be conducive to insects, parasites, and other pests;

(5) be of adequate size to allow the dog to stand erect with the dog's head up, to turn around easily, and to sit and lie down in a comfortable and normal position;

(6) have sufficient clean and dry bedding material or other means of protection from the weather that will allow the dog to retain body heat when the weather is colder than what a dog of that breed and condition can comfortably tolerate;

(7) provide a suitable means for the prompt elimination of excess liquid;

(8) be structurally sound, maintained in good repair, and constructed with material that protects the dog from injury; and

(9) allow the dog easy access in and out.”

SECTION 10. That Article IV, “Specific Requirements for Dogs and Cats,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended by adding Section 7-4.10, “Restrictions on Unsterilized Dogs and Cats,” to read as follows:

“SEC. 7-4.10. RESTRICTIONS ON UNSTERILIZED DOGS AND CATS.

(a) An owner of a dog or cat commits an offense if the animal is not spayed or neutered.

(b) It is a defense to prosecution under Subsection (a) that:

(1) the animal is under six months of age;

(2) a licensed veterinarian certifies that the dog or cat should not be spayed or neutered for health reasons or is permanently non-fertile;

(3) the animal is being held for sale by a retail pet store or for adoption by animal services or an animal welfare organization;

(4) the animal is a competition cat or competition dog;

(5) the animal is a service animal; or

(6) the owner holds a valid breeder permit issued under Section 7-4.11 of this chapter for the animal.”

SECTION 11. That Article IV, “Specific Requirements for Dogs and Cats,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended by adding Section 7-4.11, “Breeding of Dogs and Cats; Permit Required,” to read as follows:

“SEC. 7-4.11. BREEDING OF DOGS AND CATS; PERMIT REQUIRED.

(a) A person commits an offense if he breeds a dog or cat without a valid breeder permit for the dog or cat. A separate permit is required for each dog or cat that the person breeds.

(b) A breeder permit may only be issued for a dog or cat:

(1) that is currently in compliance with the vaccination requirements of Section 7-4.1 of this chapter;

(2) that is currently in compliance with the registration requirements of Section 7-4.2 of this chapter;

(3) that is currently in compliance with the microchip implant requirements of Section 7-4.12 of this chapter; and

(4) whose owner:

(A) is a member of a purebred dog or cat club, approved by the director, that maintains and enforces a code of ethics for breeding that includes restrictions on breeding dogs and cats with genetic defects and life threatening health problems common to the breed; or

(B) has, at the owner’s expense, satisfactorily completed a course on responsible pet ownership offered by the city or otherwise approved by the director.

(c) To obtain a breeder permit, a person must submit an application to the director (on a form provided by the director for that purpose) and pay an annual breeder permit fee of \$70. The breeder permit application must include:

(1) the name, address, and telephone number of the applicant;

(2) the location where the dog or cat is harbored;

(3) a description of the dog or cat;

(4) proof that the animal is qualified for a breeder's permit under Subsection (b) of this section; and

(5) any other information determined necessary by the director for the enforcement and administration of this section.

(d) A breeder permit expires one year after the date of issuance and may be renewed by applying in accordance with Subsection (c) of this section. If the director does not receive an application for a permit renewal within 45 days after the expiration of the permit, a \$10 late fee will be added to the permit fee.

(e) A breeder permit is not transferable.

(f) A permittee commits an offense if he allows a permitted female dog or cat to have more than one litter during the permit term.

(g) It is a defense to prosecution under Subsection (f) that the permittee:

(1) received written authorization from the director under Subsection (h) of this section to allow the female dog or cat to have two litters during the permit term; and

(2) did not allow the female dog or cat to have more than the number of litters authorized by the director for the permit term.

(h) Upon request of a permittee, the director may, in writing, authorize the permittee to allow a permitted female dog or cat to have two litters during the permit term if the permittee establishes, according to regulations adopted by the director, that:

(1) having two litters during the permit term is required to:

(A) protect the health of the female dog or cat; or

(B) avert a substantial economic loss to the permittee; or

(2) previously in the permit term, the female dog's or cat's litter was euthanized or did not survive for other reasons.

(i) A permittee commits an offense if the permittee:

(1) allows the offspring of a female dog or cat for which he holds a permit to be sold, adopted, or otherwise transferred, regardless of compensation, before the offspring have reached at least eight weeks of age and have been vaccinated against common diseases;

(2) fails to prominently display the breeder permit number on any advertisement by the permittee for the sale, adoption, or other transfer of any dog or cat, regardless of compensation; or

(3) sells, adopts, or otherwise transfers any dog or cat, regardless of compensation and fails to:

(A) include a statement signed by the permittee attesting to knowledge of the animal's health and immunization history;

(B) prominently display the breeder permit number on any sales receipt or transfer document;

(C) provide the breeder permit number to any person who purchases, adopts, or receives any dog or cat from the permittee;

(D) provide written information regarding the vaccination, registration, and sterilization requirements of this chapter applicable to the dog or cat; or

(E) provide to the director (on a form provided by the director for that purpose) the name, address, and telephone number of the dog's or cat's new owner within five days after the date of the sale, adoption, or other transfer of the animal.

(j) The director shall deny or revoke a breeder permit if the director determines that the applicant or permittee:

(1) failed to comply with any provision of this chapter; or

(2) intentionally made a false statement as to a material matter on the breeder permit application.

(k) If the director denies or revokes a breeder permit, the director shall notify the applicant or permittee in writing of the action and a statement of the right to an appeal. The applicant or permittee may appeal the decision of the director to the permit and license appeal board in accordance with Section 2-96 of this code. The filing of an appeal stays an action of the director in revoking the permit until the permit and license appeal board makes a final decision."

SECTION 12. That Article IV, "Specific Requirements for Dogs and Cats," of CHAPTER 7, "ANIMALS," of the Dallas City Code, as amended, is amended by adding Section 7-4.12, "Microchip Implant Requirements," to read as follows:

“SEC. 7-4.12. MICROCHIP IMPLANT REQUIREMENTS.

(a) An owner of a dog or cat commits an offense if the dog or cat is not injected with a microchip implant and registered with a national registry for purposes of identification and/or recovery of the animal by its owner.

(b) It is a defense to prosecution under Subsection (a) that:

(1) a licensed veterinarian certifies that the dog or cat should not be injected with a microchip implant for health reasons;

(2) the owner of the dog or cat has resided in the city less than 30 days;

(3) the dog or cat was being held for sale by a retail pet store or for adoption by animal services or an animal welfare organization; or

(4) the animal is a feral cat participating in a trap, neuter, and return program approved by the director.”

SECTION 13. That Article V, “Dangerous Dogs,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“ARTICLE V.

DANGEROUS DOGS.

SEC. 7-5.1. DEFINITIONS.

(a) Except where a term is otherwise defined in Subsection (b) of this section, the [The] definitions contained in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article by reference.

(b) In this article: [;]

(1) BODILY INJURY means physical pain, illness, or any impairment of physical condition.

(2) DANGEROUS DOG means a dog that:

(A) makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(B) commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

(3) SERIOUS BODILY INJURY means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

(4) UNPROVOKED means an action by a dog that is not:

(A) ~~(+)~~ in response to being tormented, abused, or assaulted by any person;

(B) ~~(+)~~ in response to pain or injury;

(C) ~~(+)~~ in protection of itself or its food, kennel, immediate territory, or nursing offspring; or

(D) ~~(+)~~ in response to an assault or attempted assault on a person.

SEC. 7-5.2. STATE LAW; ANIMAL CONTROL AUTHORITY.

(a) The provisions of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, are incorporated into this article, and a violation of any provision of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is an offense under this article.

(b) The director shall serve as the animal control authority for the city for purposes of administering and enforcing this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended.

(c) Seizure, impoundment, and humane destruction of a dog that has caused death or serious bodily injury to a person is governed by Subchapter A, Chapter 822 of the Texas Health and Safety Code, as amended.

SEC. 7-5.3. DETERMINATION AS A DANGEROUS DOG.

(a) Upon receipt of a sworn, written complaint by any person of an incident described in Section 7-5.1(b)(2)(A) or (B) of this article, ~~[in a form approved by the director,]~~ the director shall investigate and conduct a hearing to determine if a dog is dangerous. The hearing must be conducted within 30 days after receipt of the complaint.

(b) The director shall provide notice of the date, time, and location of a hearing to the dog owner, either in person or by certified mail, return receipt requested, and to the complainant by regular mail. A hearing must be conducted not less than 10 days after notice has been mailed or delivered to the dog owner. At a hearing, all interested persons will be given the opportunity to present evidence on the issue of the dog's dangerousness.

(c) If a dog has caused bodily injury to any person, the director may seize and impound the dog at the owner's expense pending the hearing and a determination of whether the dog is a dangerous dog. If the director cannot, with due diligence, locate the owner of the dog that has been seized under this subsection, the director shall impound the dog. If the owner of the dog has not been located before the 15th day after seizure and impoundment, the director may order the dog to be humanely destroyed. If, during the time the dog is impounded, the owner claims the dog, the owner shall be served with notice of a hearing as provided in Subsection (b) of this section.

(d) At the conclusion of a hearing required by this section, the director shall ~~[either]~~:

(1) determine that the dog is not dangerous and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; ~~[or]~~

(2) determine that the dog is dangerous and order the owner to comply with the requirements for ownership of a dangerous dog set forth in Section 7-5.5 of this article and in Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, and, if the dog is impounded, release the dog to its owner after compliance with all applicable requirements of Subsection (f) of this section; or [payment of all impoundment fees required by this chapter]

(3) determine that the dog is dangerous and order the owner to permanently remove the dog from the city within a designated period of time.

~~(e) [(d)]~~ If a dog is determined to be dangerous, the director shall notify the dog owner, either in person or by certified mail, return receipt requested:

(1) that the dog has been determined to be a dangerous dog;

(2) whether the dog must be permanently removed from the city and the date by which the dog must be removed;

(3) what the owner must do to comply with requirements for ownership of a dangerous dog that is allowed to remain in the city and to reclaim the dog, if impounded; and

(4) ~~[(3)]~~ that the owner has a right to appeal the determination of dangerousness or any order to remove the dog from the city.

(f) An impounded dog determined by the director to be dangerous must remain impounded, or confined at a location approved by the director, and will not be released to the owner until the owner pays all fees incurred for impoundment of the dog and:

(1) if and while the dog is allowed to remain in the city, complies with all requirements for ownership of a dangerous dog set forth in this article and Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended; or

(2) if the dog is ordered permanently removed from the city, provides the director, in writing, with the street address, telephone number, and name of the person in control of the location outside of the city where the dog will be relocated or other evidence satisfactory to the director that the dog will be permanently removed from the city.

(g) If the owner of an impounded dog has not complied with Subsection (f) within 30 days after a final determination is made that an impounded dog is dangerous, the director may file a complaint in municipal court under Section 7-5.5 of this article.

SEC. 7-5.4. APPEALS ~~[FROM DETERMINATION AS A DANGEROUS DOG]~~.

If, under Section 7-5.3 of this article, the director determines that a dog is dangerous or orders a dangerous dog to be permanently removed from the city [~~under Section 7-5.3 of this article~~], that decision is final unless the dog owner files a written appeal with the municipal court within 15 days after receiving notice that the dog has been determined to be dangerous or ordered to be removed from the city. The appeal standard is a substantial evidence review and is a civil proceeding for the purpose of affirming or reversing the director's determination of dangerousness or affirming, reversing, or modifying the director's removal order. If the municipal court allows a dangerous dog to remain in the city, the court shall order that the dog owner comply with the ownership requirements set forth in Section 7-5.5 of this article and may order additional conditions for maintaining ownership of a dangerous dog in the city.

SEC. 7-5.5. REQUIREMENTS FOR OWNERSHIP OF A DANGEROUS DOG; NONCOMPLIANCE HEARING.

(a) In addition to complying with the requirements of Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, a person shall, not later than the 30th day after learning that he is the owner of a dangerous dog:

(1) have an intact dangerous dog spayed or neutered;

(2) register the dangerous dog with the director and pay to the director a dangerous dog registration fee of \$50;

(3) restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure;

(4) obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the director;

(5) [~~2~~] place and maintain on the dangerous dog a collar or harness with a current dangerous dog registration tag securely attached to it;

(6) [~~3~~] have the dangerous dog injected with a microchip implant and registered with a national registry for dogs; and

(7) [~~4~~] post a sign at each entrance to the enclosure in which the dangerous dog is confined stating "BEWARE DANGEROUS DOG."

(b) The owner of a dangerous dog shall renew registration of the dangerous dog with the director annually and pay an annual dangerous dog registration fee to the director of \$50.

(c) The owner of a dangerous dog who does not comply with Subsection (a) shall deliver the dog to the director not later than the 30th day after learning that the animal is dangerous.

(d) The owner of a dangerous dog that has been ordered removed from the city shall relocate the dog to a place outside of the city within the time designated in the order. Within five days after the expiration of the time ordered for the dog's removal, the owner shall provide the director with proof of the removal and relocation, or other disposition, of the dog. Such proof must include the owner's written sworn affidavit stating:

(1) that the dog is no longer located in the city; and

(2) the name, street address, and telephone number of the person outside of the city in possession of the dog or the details of any other disposition of the dog.

(e) Upon receipt of a sworn, written complaint by any person that the owner of a previously determined dangerous dog has failed to comply with Subsection (a) of this section or has failed to remove the dog from the city as required by order of the director or the municipal court, the municipal court shall conduct a hearing to determine whether the owner is in compliance with Subsection (a) or with an order of removal, whichever applies. The hearing must be conducted within 30 days after receipt of the complaint, but, if the dog is already impounded, not later than 10 days after the date on which the dog was seized or delivered. The municipal court shall provide, either in person or by mail, written notice of the date, time, and location of the hearing to the dog owner and to the complainant. Any interested person may present evidence at the hearing.

(f) At the conclusion of the hearing, the municipal court shall:

(1) find that the owner of a dangerous dog is in compliance with Subsection (a) of this section or with an order of removal, whichever applies, and, if the dog is impounded, order the director to waive any impoundment fees incurred and release the dog to its owner; or

(2) find that the owner of a dangerous dog is not in compliance with Subsection (a) of this section or with an order of removal, whichever applies, and order the director to seize and impound the dog (if the dog is not already impounded) and to:

(A) humanely destroy the dog if the director determines that the owner has not complied with Subsection (a) of this section by the 11th day after the date the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later, or release the dog to the owner if the director determines that the owner has complied with Subsection (a) before the 11th day;

(B) release the dog to the owner if the director determines that the owner will permanently remove the dog from the city before the 11th day after the date the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later, and reseize, impound, and humanely destroy the dog if the owner has not permanently removed the dog from the city by the 11th day; or

(C) humanely destroy the dog if:

(i) the director determines that the owner will not comply with Subsection (a) of this section by the 11th day after the date the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later;

(ii) the director determines that the owner will not permanently remove the dog from the city before the 11th day after the date the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later; or

(iii) the owner of the dog cannot be located before the 15th day after the date the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later.

(g) The owner of the dangerous dog is responsible for all costs of seizure, acceptance, and impoundment, and all costs must be paid before the dog will be released to the owner.

SEC. 7-5.6 ATTACKS BY DANGEROUS DOG; HEARING

(a) If a previously determined dangerous dog commits an act described in Section 7-5.1(b)(2)(A) or (B) of this article, the director may seize and impound the dangerous dog at the owner's expense pending a hearing before the municipal court in accordance with this section.

(b) Upon receipt of a sworn, written complaint by any person of an incident described in Section 7-5.1(b)(2)(A) or (B) of this article, the municipal court shall conduct a hearing to determine whether a dangerous dog committed an act described in Section 7-5.1(b)(2)(A) or (B) of this article. The hearing must be conducted within 30 days after receipt of the complaint, but, if the dog is already impounded, not later than 10 days after the date on which the dog was seized or delivered. The municipal court shall provide, either in person or by mail, written notice of the date, time, and location of the hearing to the dog owner and the complainant. Any interested person may present evidence at the hearing.

(c) At the conclusion of the hearing, the municipal court shall:

(1) find that the dangerous dog did not commit an act described in Section 7-5.1(b)(2)(A) or (B) of this article, and, if the dog is impounded, order the director to waive any impoundment fees incurred and release the dog to its owner;

(2) find that the dangerous dog did commit an act described in Section 7-5.1(b)(2)(A) or (B) of this article, and order the director to seize and impound the dog (if the dog is not already impounded) and to:

(A) humanely destroy the dog;

(B) humanely destroy the dog if the director determines that the owner has not complied with Section 7-5.5(a) within a period of time designated by the court, or release the dog to the owner if the director determines that the owner has complied with Section 7-5.5(a) within the designated period of time;

(C) release the dog to the owner if the director determines that the owner will permanently remove the dog from the city within a period of time designated by the court and re seize, impound, and humanely destroy the dog if the owner has not permanently removed the dog from the city within the designated period of time; or

(D) humanely destroy the dog if the owner of the dog has not been located before the 15th day after the municipal court issues an order under this subsection or the dog is seized and impounded, whichever occurs later.

(d) The owner of a dangerous dog is responsible for all costs of seizure, acceptance, and impoundment, and all costs must be paid before the dog will be released to the owner.

SEC. 7-5.7 PROHIBITION ON OWNING A DOG DETERMINED DANGEROUS BY ANOTHER JURISDICTION.

(a) A person commits an offense if he owns a dog in the city that has been determined to be a dangerous dog by any other jurisdiction.

(b) It is a defense to prosecution under Subsection (a) that the person owned the dog in the city on June 25, 2008.

SEC. 7-5.8. SURRENDER OF A DANGEROUS DOG.

A person who owns a dog that has been ordered to be seized or impounded under this article commits an offense if the person does not surrender the dog to the director within the time period ordered by the director or the municipal court, whichever applies.

SEC. 7-5.9[6]. DANGEROUS DOG OWNED OR HARBORED BY MINOR.

If the owner of a dangerous dog is a minor, the parent or guardian of the minor is liable for all injuries sustained by any person or another animal in an unprovoked attack by the dog.

SEC. 7-5.10[7]. DEFENSES.

Any defense to prosecution under Subchapter D, Chapter 822 of the Texas Health and Safety Code, as amended, is a defense to prosecution for a violation under this article.”

SECTION 14. That Article VII, “Miscellaneous,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended by adding Section 7-7.6, “Animals as Prizes, Promotions, and Novelties,” to read as follows:

“SEC. 7-7.6. ANIMALS AS PRIZES, PROMOTIONS, AND NOVELTIES.

A person commits an offense if he sells, exchanges, raffles, auctions, or gives away or offers to sell, exchange, raffle, auction, or give away any live animal as:

(1) a prize;

(2) an inducement to enter a place of amusement or a business establishment;

or

(3) an inducement to participate in a charitable fund-raising event.”

SECTION 15. That Section 7-8.1, “Violations; Criminal and Civil Penalties,” of Article VIII, “Violations, Penalties, and Enforcement,” of CHAPTER 7, “ANIMALS,” of the Dallas City Code, as amended, is amended to read as follows:

“SEC. 7-8.1. VIOLATIONS; CRIMINAL AND CIVIL PENALTIES.

(a) A person who violates a provision of this chapter, or who fails to perform an act required of him by this chapter, commits an offense.

(b) A person violating a provision of this chapter commits a separate offense for each day or part of a day during which a violation is committed, continued, or permitted.

(c) The [A] culpable mental state [is not] required for the commission of an offense under this chapter is governed by Section 1-5.1 of this code [unless the provision defining the conduct expressly requires a culpable mental state].

(d) Unless specifically provided otherwise in this chapter, an offense under this chapter is punishable by a fine not to exceed:

(1) \$2,000 if the provision violated governs public health or sanitation;

(2) the amount fixed by state law if the violation is one for which the state has fixed a fine; or

(3) \$500 for all other offenses.

(e) Unless specifically provided otherwise in this chapter or by state law, an offense under this chapter is punishable by a fine of not less than:

(1) \$50 for a first conviction of a violation of Section 7-2.6(f), 7-2.7(d), 7-3.1, 7-4.2(a), 7-4.5, 7-4.6, 7-4.8, 7-7.2, or 7-7.4(a).

(2) \$100 for a first conviction of a violation of Section 7-3.3, 7-4.1(a), 7-4.7, 7-4.10, 7-7.3, or 7-7.5(a); and

(3) \$150 for a first conviction of a violation of Section 7-2.4(b), 7-3.2, 7-4.3(e), 7-4.11, 7-6.1, 7-6.2, or 7-7.1.

(f) The minimum fines established in Subsection (e) will be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may the minimum fine exceed the maximum fine established in Subsection (d).

(g) Prosecution for an offense under Subsection (a) does not prevent the use of civil enforcement remedies or procedures applicable to the person charged with or the conduct involved in the offense.

(h) In addition to imposing a criminal penalty, the city may, in accordance with Section 54.012(5) of the Texas Local Government Code, bring a civil action against a person violating a provision of this chapter. The civil action may include, but is not limited to, a suit to recover a civil penalty pursuant to Section 54.017 of the Texas Local Government Code not to exceed \$1,000 for each day or portion of a day during which each violation is committed, continued, or permitted.”

SECTION 16. That CHAPTER 7 of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance. Any proceeding, civil or criminal, based upon events that occurred prior to the effective date of this ordinance are saved, and the former law is continued in effect for that purpose.

SECTION 17. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 18. That this ordinance will take effect on July 1, 2008, except that Section 7-4.9 (confinement requirements for dogs kept outdoors) of the Dallas City Code, as set forth in this ordinance, will take effect on September 25, 2008, and Section 7-4.10 (restrictions on unsterilized dogs and cats), Section 7-4.11 (breeder permits), and Section 7-4.12 (microchip implant requirements) of the Dallas City Code, as set forth in this ordinance, will take effect on October 25, 2008, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By _____
Assistant City Attorney

Passed _____

RM/DCC/000010