

**ORDINANCE NO. 18751-08-2009**

**AN ORDINANCE AMENDING VARIOUS PROVISIONS OF CHAPTER SIX OF THE FORT WORTH CITY CODE, "ANIMALS AND FOWL," TO DEFINE "AGGRESSIVE DOG"; TO PROVIDE ADDITIONAL REQUIREMENTS FOR ANIMAL ENCLOSURES; TO PROHIBIT TRANSPORT OF UNSECURED ANIMALS IN OPEN VEHICLES; TO REVISE REGISTRATION FEES FOR DANGEROUS ANIMALS; TO DECLARE OWNERSHIP OF CERTAIN DANGEROUS DOGS A PUBLIC NUISANCE; TO PROHIBIT OWNERSHIP OF UNALTERED ANIMALS UNLESS OWNER HAS INTACT PET PERMIT; TO REGULATE APPLICATION, ISSUANCE, AND REVOCATION OF INTACT PET PERMITS; TO PROVIDE FOR LATE FEES; TO AUTHORIZE CODE COMPLIANCE DIRECTOR TO OFFER PERIODIC FEE REDUCTIONS; TO ALLOW FOR THREE-YEAR ANIMAL LICENSES; TO REVISE CHARGES ASSOCIATED WITH ANIMAL IMPOUND AND BOARDING; TO CLARIFY REQUIREMENTS REGARDING STERILIZATION AND VACCINATION OF ADOPTED AND RECLAIMED ANIMALS; TO REQUIRE FORFEITABLE DEPOSITS FOR RELEASE OF ANIMALS SUBJECT TO A STERILIZATION AGREEMENT; TO REPEAL SECTION 6-49, "AFFIRMATIVE DEFENSE"; TO REPEAL SECTION 6-50, "MANDATORY SPAY/NEUTER OF UNRESTRAINED DOGS AND CATS"; TO REVISE LIST OF ENUMERATED UNLAWFUL ACTS AND SPECIFY MINIMUM AREA REQUIREMENTS FOR ENCLOSURES IN WHICH ANIMALS SPEND A SUBSTANTIAL PORTION OF THE DAY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City of Fort Worth is committed to ensuring public health, welfare, and safety by encouraging individuals to be responsible pet owners; and

WHEREAS, the presence of aggressive, unrestrained, and unaltered animals within the City poses a danger to the public health, welfare, and safety and leads to animal bites, attacks, and overpopulation, which increases such danger and places a strain on public resources; and

**WHEREAS**, staff proposed a number of changes to Chapter 6, "Animals and Fowl," intended to promote responsible pet ownership and to address factors that contribute to aggressive dogs, stray animals, and the unwanted dog and cat population; and

**WHEREAS**, a series of meetings was held to receive public input regarding proposed ordinance changes; and

**WHEREAS**, after taking into account public feedback and professional practices, staff has revised its recommendations; and

**WHEREAS**, the Fort Worth City Council finds it advisable to adopt staff's recommendations as revised.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:**

**SECTION 1.**

That Section 6-1, "Definitions," of the Code of the City of Fort Worth, Texas, is hereby amended to define the terms "Adequate enclosure," "Aggressive Dog," and "Director"; to revise the definition of "Restraint"; and to remove the term "Securely enclosed or confined" and the associated definition. Section 6-1 shall read in pertinent part as follows:

*Adequate enclosure:*

- (1) Means an enclosure or structure that complies with all of the requirements of Section 6-13(a) of this Code.
- (2) Adequate enclosure does not mean enclosure or confinement by an invisible or electronic fence.

.....

*Aggressive Dog:*

Means any dog that the Director determines has, without provocation:

(1) Repeatedly attacked and injured other domestic animals within its own enclosure, provided, however that basic interaction and play among animals of the same species does not constitute an "attack" for purposes of this provision; or

(2) Repeatedly bitten one or more persons who are lawfully inside the animal's enclosure; or

(3) Repeatedly attempted to climb over, dig under, chew through, break, or otherwise escape from its enclosure in an attempt to attack, chase, or harass a person or another domestic animal as observed by a person charged with enforcing this ordinance.

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*Director.* The director of the City of Fort Worth Code Compliance Department or that individual's designee.

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Restraint: An animal is under restraint under the following conditions:

(1) It is kept in an adequate enclosure; or

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~~Securely enclosed or confined:~~

~~(1) Means an area that is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design as to prevent any animal from escaping from the area and in manner that will isolate the animal from the public and other animals except for animals owned or under the control of the owner.~~

~~(2) Securely enclosed or confined does not mean enclosure or confinement by an invisible or electronic fence.~~

~~(3) Such fence or enclosure shall comply with the appropriate zoning regulations in Article 3, section 5.304 of this Code.~~

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All portions of Section 6-1, "Definitions," not specifically amended shall remain in effect.

## SECTION 2.

That Section 6-13, "Restraint of animals," of the Code of the City of Fort Worth, Texas, is hereby amended to revise and expand subsection (a) to provide specifics regarding what constitutes an adequate enclosure; to insert a new subsection (g) to prohibit transportation of an unrestrained animal in an open vehicle; and to re-designate the remaining subsections. Section 6-13 shall read in pertinent part as follows:

(a) It shall be unlawful for an owner or person in control of an animal to fail to keep the animal in an adequate enclosure, which is one that complies with **all** of the requirements of this subsection.

(1) Subject to the further requirements of this subsection, an enclosure shall be an area that is completely surrounded by a substantial fence or other structure of sufficient strength, height, construction, materials, and design as to prevent any domestic animal from escaping from the area and to isolate the animal from the public and from other animals not under the control of the same owner.

(2) For all dogs, an enclosure shall have an outside-perimeter barrier that is a minimum height of forty-eight inches (48") when measured from the ground. For aggressive dogs, an enclosure shall have an outside-perimeter barrier that is a minimum height of seventy-two inches (72") when measured from the ground. Any portion of a building that is intended to form part of an enclosure must have a continuous wall (inclusive of windows and doors) that meets the applicable height requirement.

(3) All non-building portions of an enclosure, including gates, shall be constructed of chain link, welded wire, wrought iron, brick, mortared stone, concrete block, wood stockade, or other similar fencing-type material approved by the Director.

(4) Where a building forms a part of an enclosure, there shall be minimal separation between the building and the remaining parts of the enclosure to prevent escape of the animal or animals intended to be contained.

(5) An enclosure shall be designed, erected, and maintained in accordance with all applicable zoning and building regulations of this Code.

(6) When not in use, all gates shall be closed and secured in a manner that prevents an animal from leaving the enclosure.

(7) Broken or damaged portions of an enclosure shall be repaired with like material and provide a seamless barrier that reasonably inhibits or prevents escape.

(8) If petitioned by an owner, the Director may modify or waive the requirements of subsections (2), (3), and (7), provided that the Director determines that proposed alternate measures will adequately contain the animal(s) in question. In considering a petition, the Director may take into account factors that include, but are not limited to, zoning requirements, deed restrictions and covenants, and the size and physical characteristics of the animal or animals to be enclosed. The decision of the Director shall be final and unappealable.

(g) It shall be unlawful for an owner or person in control of an animal to carry or transport the animal on any public roadway in an unenclosed vehicle (such as a pick-up or flatbed truck, jeep, or similar vehicle) unless the animal is:

(1) contained in a closed, vented animal carrier that is secured in such a manner as to prevent the carrier from being thrown from the vehicle in the event of a collision; *or*

(2) secured by a leash or other device that is cross-connected to prevent the animal from falling, jumping, or being thrown from the motor vehicle and from strangling on a single lead.

(h) A person commits an offense if the person fails to comply with this section.

(1) An offense under this section is a Class C misdemeanor. If a person fails to comply with this section with respect to more than one (1) dog, the person's conduct with respect to each dog constitutes a separate offense.

(2) An offense under this section is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(i) This section does not prohibit a person from walking a dog with a hand-held leash.

All portions of Section 6-13, "Restraint of animals," not specifically amended shall remain in effect.

### SECTION 3.

That Section 6-17, "Registration of a dangerous animal other than a dog," of the Code of the City of Fort Worth, Texas, is hereby amended to increase the dangerous animal

registration fee relating to an animal declared dangerous as the result of an incident that occurs on or after September 1, 2009. Section 6-17 shall read in pertinent part as follows:

(a) The animal control authority shall annually register a dangerous animal if the owner presents proof of:

(4) Payment of an annual registration fee to the animal care and control division of (i) fifty dollars (\$50.00) if the animal was declared dangerous as the result of an incident that occurred before September 1, 2009, or (ii) five hundred dollars (\$500.00) if the animal was declared dangerous as the result of an incident that occurred on or after September 1, 2009.

All portions of Section 6-17, "Registration of a dangerous animal other than a dog," not specifically amended shall remain in effect.

#### **SECTION 4.**

That Section 6-20.1, "Nuisance declared," of the Code of the City of Fort Worth, Texas, is hereby amended to declare it a public nuisance to keep or bring to the City a dog that was declared dangerous pursuant to law in another jurisdiction. Section 6-20.1 shall read as follows:

It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains a dangerous dog in the city unless the owner complies with the requirements of this article and state statutes regulating dangerous dogs. It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains in the city or brings to the city a dog that has been declared dangerous outside of the city under one or more of the following: (i) Chapter 822 of the Texas Health and Safety Code; (ii) a local law or ordinance adopted in accordance with Chapter 822; or (iii) a statute or ordinance that is substantially similar to Chapter 822 and that was adopted by a political subdivision outside of the State of Texas.

#### **SECTION 5.**

That Section 6-20.7, "Requirements for owners of a dangerous dog," of the Code of the City of Fort Worth, Texas, is hereby amended to increase the dangerous dog registration fee relating to a dog declared dangerous as the result of an incident that occurs on or after September 1, 2009. Section 6-20.7 shall read in pertinent part as follows:

(a) Not later than the fifteenth day after a person learns that the person is the owner of a dangerous dog, the person shall:

(1) Register the dangerous dog with the animal control authority and pay an annual registration fee of (i) fifty dollars (\$50.00) if the animal was

declared dangerous as the result of an incident that occurred before September 1, 2009, or (ii) five hundred dollars (\$500.00) if the animal was declared dangerous as the result of an incident that occurred on or after September 1, 2009;

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All portions of Section 6-20.7, "Requirements for owners of a dangerous dog," not specifically amended shall remain in effect.

#### **SECTION 6.**

That Section 6-22, "License required," of the Code of the City of Fort Worth, Texas, is hereby amended to revise the age at which a dog or cat must be licensed. Section 6-22 shall read in pertinent part as follows:

(a) Offenses.

- (1) A person commits an offense if the person owns, keeps, harbors, or has custody of any dog or cat over four (4) months of age without having such dog or cat currently licensed by the city.

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All portions of Section 6-22, "License required," not specifically amended shall remain in effect.

#### **SECTION 7.**

That the Code of the City of Fort Worth, Texas is hereby amended to add Section 6-22.1 to be titled "Intact Pet Permit" to prohibit keeping of an unaltered animal unless an intact pet permit is obtained; to establish a system for application, consideration, issuance, maintenance, and revocation of an intact pet permit; and to provide defenses. Section 6-22.1 shall read as follows:

##### **6-22.1 Intact Pet Permit**

(a) Offenses.

- (1) A person commits an offense if the person owns, keeps, harbors, or has custody of any female dog or cat over six (6) months of age or of any male dog or cat over eight (8) months of age that is unaltered unless such person has a valid intact pet permit issued in accordance with this section.
- (2) A person commits an offense if the person owns, harbors, or has custody of an unaltered dog or cat and fails to display on such dog or cat at

all times a valid city combined license/rabies tag indicating that the animal is subject to an unaltered pet permit.

(3) A person commits an offense if the person owns, harbors, or has custody of a dog or cat and displays on such animal a tag indicating that the animal is subject to an unaltered pet permit issued to another person.

(4) A person commits an offense if the person owns, harbors, or has custody of an intact animal at the residence or business property of an individual who has had a permit revoked under subsection (e), regardless of whether another person at the same property holds a valid permit.

(5) A person commits an offense if the person advertises for sale within the City or Fort Worth an unaltered dog or cat and fails to include in such advertisement the identification number of the owner's City-issued intact pet permit.

(b) Application.

(1) An application for an intact pet permit must be made on the form prescribed by the Director and shall include the following information:

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

(ii) the total number of animals sought to be included under the permit and the species, breed, gender, and age of each animal;

(iii) the current, valid city license number for each animal listed in the application.;

(iv) a statement affirming that the applicant is familiar with the provisions of this chapter and a promise to maintain all animals in accordance with applicable legal requirements.

(2) An application must be accompanied by either: (i) payment of an application fee in the amount adopted annually by the city council or (ii) documentation evidencing that the applicant has completed a responsible-pet-owner class approved by the Director. This application fee shall be in addition to all other applicable license and registration fees required under this chapter. An application fee is not refundable.

(3) An application must be accompanied by photographic evidence, in digital or printed form, showing the enclosure or enclosures where the unaltered animals are to be kept.

(4) The animal care and control division may require such additional information and documentation deemed necessary to determine whether to issue the permit.

(c) Consideration of application.

(1) An application for permit may be denied if the applicant:

(i) fails or refuses to submit a complete application;

(ii) fails or refuses to submit any information or supporting documentation required under this Section or pursuant to a request of the animal care and control division;

(iii) fails or refuses to submit the fee or documentation required under subsection (b)(2);

(iv) provides false information on or in connection with the application;

(v) has, within the preceding twenty-four (24) months, been convicted, received deferred adjudication, or pleaded guilty or no contest with respect to one or more violations of this chapter, of any state law relating to the care and humane treatment of animals, or both;

(vi) has, within the preceding twenty-four (24) months failed to appear in court to respond to a citation relating to an alleged violation of any provision of this chapter or of any state law relating to the care and humane treatment of animals;

(vii) has, within the preceding sixty (60) months, been convicted, received deferred adjudication, or pleaded guilty or no contest with respect to one or more violations of any provision of this chapter or of any state law relating to animal cruelty;

(viii) has previously had a permit revoked pursuant to subsection (e); or

(ix) resides at the same physical address as another individual whose permit has been revoked pursuant to subsection (e).

(2) Notwithstanding subsection (c)(1), an application for permit may also be denied if the animal care and control division determines that specific circumstances exist indicating that issuance of the permit would not be in the best interest of the animals involved or of the health and safety of the

public. If a permit is denied pursuant to this subsection, the animal care and control division shall issue a written statement citing the specific reason or reasons for the denial.

(3) If a permit application is denied by the animal care and control division, the applicant may appeal to the Director. Such appeal must be made in writing and received within thirty (30) days of the date the application was originally rejected. The decision of the Director shall be final and un-appealable.

(d) Issuance and maintenance of permit.

(1) A permit is issued to an individual owner. A permit is not transferable to another person.

(2) A permit is valid unless and until revoked.

(3) To maintain a permit, the permit holder must keep the animal care and control division apprised of current contact information for holder and identifying, licensing, and registration information for all animals included under a permit. In particular, a permit holder must notify the animal care and control division of any change of address or telephone number no later ninety (90) days after the new address or phone number is effective. In addition, within ninety (90) days of obtaining an animal that was not included in the original permit application, the permit holder must provide the animal control division with the species, breed, gender, age, and current, valid city license number of each such animal.

(e) Revocation of permit.

(1) The animal care and control division may revoke a permit if the holder:

(i) is convicted, receives deferred adjudication, or pleads guilty or no contest with respect to one or more violation of this chapter, of any state law relating to the care and humane treatment of animals, or both;

(ii) fails to appear in court to respond to a citation relating to an alleged violation of any provision of this chapter or of any state law relating to the care and humane treatment of animals;

(iii) is convicted, receives deferred adjudication, or pleads guilty or no contest with respect to a single violation of any provision of this chapter or of any state law relating to animal cruelty;

(iv) is discovered to have provided false or inaccurate information on or in connection with the original permit application;

(v) fails to license or vaccinate any animal in accordance with the requirements of state law and this chapter; or

(vi) fails to comply with the requirements of subsection (d)(3).

(2) If a permit is revoked by the animal care and control division, the applicant may appeal to the Director. Such appeal must be made in writing and received within thirty (30) days of the date the application was originally rejected. The Director may: (i) reinstate the permit pursuant to its original terms, (ii) reinstate the permit subject to the holder meeting additional specified conditions, or (iii) affirm the revocation. The decision of the Director shall be final and unappealable.

(f) Defenses

(1) It is a defense to a prosecution under subsection (a)(1) or (a)(2) if an owner produces a signed, written opinion from a licensed veterinarian that the animal in question should not be spayed or neutered due to health concerns.

(2) It is a defense to a prosecution under subsection (a)(1) or (a)(2) that the animal was owned, kept or harbored by, or in the custody of, an animal establishment or releasing agency, was kept under restraint on the premises of the animal establishment or releasing agency, and was being offered for sale or adoption.

(3) It is a defense to prosecution under subsection (a)(1) or (a)(2) that the person who owned the animal was not a permanent resident of the city and was keeping the animal within the city for less than sixty (60) days.

(4) It is a defense to prosecution under subsection (a)(1) or (a)(2) above that, at the time of the offense, the person was using the animal in a research program at an institution of higher education that is accredited by the American Association for the Accreditation of Laboratory Animal Care.

## SECTION 8.

That Section 6-23, "License application; fee," of the Code of the City of Fort Worth, Texas, is hereby amended to allow for imposition of a late fee; to authorize the Director of Code Compliance to periodically offer reduced fees; and to authorize issuance of three-year licenses under certain circumstances. Section 6-23 shall read in pertinent part as follows:

(a) Written application for a license and payment of the applicable license fee shall be made to the animal care and control division, to the Humane Society of North Texas, or to a designated veterinarian.

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(d) Upon acceptance of a license application, a City of Fort Worth combined license/rabies tag shall be issued, which shall bear an identifying number for the animal and the year of issuance. The animal care and control division is authorized to have the name, address, and phone number of the issuing designated veterinarian or Humane Society of North Texas imprinted on one (1) side of the tag.

(e) The city council shall adopt a schedule of license fees applicable to this article, which shall be available for review at the animal care and control division. The schedule of fees may include late fees relating to licenses, registrations, or other actions required under this article that are not accomplished voluntarily and within the time limits prescribed; such fees shall serve to off-set costs associated with staff time required to bring about compliance. Upon proof pursuant to section 6-62, presented to the animal care and control division, no fee shall be charged for animals trained and certified by recognized professional authorities as assistance or service animals. The Director may, in his or her discretion, periodically reduce the license fees adopted by the city council in order to encourage adoption in conjunction with special events.

(f) Unless sooner revoked, licenses shall be valid for their period of issuance in accordance with this subsection. Licenses for animals that are implanted with a microchip currently registered with a national animal-identification database may be issued for a period of up to three years, provided that the animal in question has been immunized against rabies with a vaccine that is effective for the entire three-year period. Licenses for animals that are not implanted with a microchip currently registered with a national animal-identification database may be issued for a period of up to one year, provided that the animal in question has been immunized against rabies with a vaccine that is effective for the entire one-year period. Under no circumstances shall a license be issued for a period that extends beyond the time period for which the animal's most recent rabies vaccination remains in effect.

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(h) A license is not transferable between animals or between owners.

All portions of Section 6-23, "License application; fee," not specifically amended shall remain in effect.

### SECTION 9.

That Section 6-44, "Time; fees: impoundment; bite; boarding; vaccination or license," of the Code of the City of Fort Worth, Texas, is hereby amended to revise and clarify the factors considered in setting impound and boarding fees; and to require payment of a deposit to ensure released animals are sterilized and vaccinated. Section 6-44 shall read in pertinent part as follows:

(a) Impounded animals, including those released from quarantine, shall be kept for three (3) days from the date of impoundment. In calculating the length of this time, the first day after impoundment shall be day one. If the owner of such impounded animal does not redeem it within three (3) days after impoundment, disposition will be in accordance with this chapter. The animal may be disposed of prior to the expiration of such time if in the professional opinion of the animal control authority disposition is necessary to avoid the unnecessary suffering of a sick or injured animal.

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(c) Impounded and quarantine animals, except for prohibited animals, shall be available for immediate redemption to their owner upon presenting photo identification to the city (of which the city shall keep a copy) and paying all applicable fees. Impounded prohibited animals shall be available for immediate redemption by the owner after presenting photo identification (of which the city shall keep a copy) and paying all applicable fees. In addition, the owner of a prohibited animal must sign an agreement with the city stipulating that the owner 1) shall lawfully and immediately remove from the city limits the prohibited animal and shall not allow the prohibited animal to return to the city; and 2) shall consent to the city humanely destroying the prohibited animal if the animal returns and is found within the city limits. If the owner of a prohibited animal fails to comply with this subsection, the prohibited animal may be either euthanized or removed from the city as determined by the animal care and control division. The owner of a prohibited animal shall pay to the city the applicable fees and costs of impoundment and handling.

(d) Amounts of the "applicable fees" are established by the city council. Types of "applicable fees" which must be paid by the animal owner to reclaim impounded or quarantined animals shall be determined in accordance with this subsection.

(1) An impoundment and boarding charge will be charged for all reclaimed animals. This charge shall take into account and reflect the species of the animal in question, the amount of staff time required to capture the animal, and whether such animal is: (i) a prohibited animal; (ii) currently vaccinated against rabies, (iii) validly licensed, (iv) microchipped, and (v) spayed or neutered. The impoundment and boarding charge shall also reflect whether the animal required quarantine. This charge will also reflect, apart from any quarantine issue, whether the animal could be housed with one or more others or required its own cage due to size or temperament. This charge shall also take into account and reflect the number of times that any dog or cat belonging to the same owner has been impounded at the animal care and control center within the preceding twelve (12) months, for whatever reason. In each instance, the factors affecting the amount of the impoundment and boarding charge shall be itemized in the invoice provided to an owner at the time the animal is reclaimed.

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(3) For any animal released pursuant to a sterilization and vaccination agreement, a deposit will be charged in an amount established annually by the city council. If an owner fails to provide proof to the animal care and control division from a veterinarian that each animal subject to such agreement was sterilized and vaccinated within thirty (30) days from the date the animal was reclaimed, the amount of such deposit shall be forfeited and used to defray costs associated with additional staff time required to ensure that each animal in question was sterilized and vaccinated.

(4) An impoundment and boarding charge will be made for every day and any part of a day that the animal is in the custody of the animal care and control center.

(5) Where an owner cannot provide proof to the animal care and control division at the time of release from impoundment that the impounded animal is currently vaccinated against rabies and validly licensed, then a charge for the legally required vaccination and/or licensing will be made and a voucher provided to the owner to receive vaccination services from a veterinarian.

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All portions of Section 6-44, "Time; fees: impoundment; bite; boarding; vaccination or license," not specifically amended shall remain in effect.

## SECTION 10.

That Section 6-46, "Requirements for adoption," of the Code of the City of Fort Worth, Texas, is hereby re-titled and amended to clarify the requirements for release of animals pursuant to a sterilization and vaccination agreement; and to provide for forfeiture of deposit if owner fails to submit required proof of sterilization and vaccination. Section 6-46 shall read:

### **Sec. 6-46. Requirements for adoption and reclamation.**

(a) The animal care and control center may not release a dog or cat for adoption unless the animal (1) has a microchip implanted ; (2) has been sterilized and (3) has received rabies vaccination according to section 6-41. Vaccination and sterilization are not required if the release is made to an owner who has signed an agreement to have the animal sterilized and vaccinated by a private veterinarian and who has paid the deposit required by Section 6-44(d)(3).

(b) The animal care and control center may not release a dog or cat for reclamation unless the animal (1) has a valid, current city license; (2) has been sterilized, and (3) has received rabies vaccination according to section 6-41. Vaccination is not required if the release is made to an owner who provides proof that the animal is current on its vaccinations or has signed an agreement to have the animal vaccinated by a private veterinarian and has paid the deposit required by Section 6-44(d)(3). Sterilization is not required if the release is made to an owner who has signed an agreement to have the animal sterilized by a private veterinarian and has paid the deposit required by Section 6-44(d)(3) or to an owner who provides proof that (i) the animal been previously sterilized, (ii) a veterinarian has issued a signed, written opinion that sterilization would jeopardize the animal's health, or (iii) the animal is the subject of a valid intact pet permit and has not been previously impounded in the city.

(c) The sterilization and vaccination agreement must contain:

(1) A sterilization completion date, which is:

(i) The thirtieth (30th) day after the date of adoption or reclamation in the case of an adult animal; or

(ii) The thirtieth (30th) day after a specific date estimated to be the date an infant female animal becomes six (6) months old or an infant male becomes eight (8) months old; and

(2) A statement, printed in conspicuous, bold print, that sterilization and vaccination of the animal are required, and that if the animal is not sterilized on or before the appropriate date or is not vaccinated within a reasonable time, the owner commits a criminal offense punishable as a

Class C misdemeanor, and forfeits the deposit paid under Section 6-44(d)(3).

(d) Except as provided by this subsection, an owner who signs a sterilization and vaccination agreement under this section shall have the animal sterilized on or before the sterilization completion date stated in the agreement. If the sterilization completion date falls on a Saturday, Sunday, or legal holiday, the deadline is extended to the first day that is not a Saturday, Sunday, or legal holiday. The animal care and control center may extend the deadline for thirty (30) days on presentation of a written report from a licensed veterinarian stating that the life or health of the animal may be jeopardized by surgery. There is no limit of the number of extensions that may be granted for this reason.

(e) When adopting or reclaiming an animal from the city's animal care and control center, an owner must sign an adoption or reclamation agreement and must present government-issued photo identification to the city so that the city can make a copy of it.

(f) It shall be unlawful for a person who adopted or reclaimed a dog or cat from the animal care and control center and executed a sterilization and vaccination agreement for the subject animal (i) to fail or refuse to have the subject animal vaccinated within a reasonable time or (ii) to fail or refuse to have the subject animal sterilized by the date specified in the agreement or in subsequent extension(s) of the deadline as may be granted by the animal care and control center pursuant to section 6-46(d).

## SECTION 11.

That Section 6-47, "Confirmation of sterilization, death or lost or stolen animal," of the Code of the City of Fort Worth, Texas, is hereby re-titled and amended to clarify proof required to demonstrate that a released animal has been sterilized and vaccinated. Section 6-47 shall read:

### **Sec. 6-47. Confirmation of sterilization and vaccination, death or lost or stolen animal.**

(a) Except as provided by subsection (b) and (c) of this section, every owner who signs a sterilization and vaccination agreement under section 6-46 of this article shall provide the animal care and control center from which the owner adopted a dog or cat, a certificate of sterilization and/or vaccination signed by the veterinarian who performed the surgery and/or vaccination; this certificate must include a brief description of the animal and provide the date of sterilization and/or vaccination. It shall be unlawful for a person who adopts or reclaims a dog or cat from the animal care and control center and who has executed a sterilization and vaccination agreement for the subject animal to fail or refuse to provide a certificate of sterilization and/or vaccination for the animal to the animal care and

control center by seven (7) days from the date the animal is sterilized and/or vaccinated.

(b) If the adopted or reclaimed animal dies on or before the deadline provided by section 6-46 of this article, the owner shall provide to the animal care and control center, no later than seven (7) days from the date of the animal's death, a signed letter stating that the animal is dead, describing the cause of death, if known, and providing the date of death. The letter required by this subsection is in lieu of the letter required by subsection (a) of this section.

(c) If an adopted or reclaimed animal is lost or stolen before the sterilization completion date, the owner shall deliver to the animal care and control center a signed letter stating that the animal is lost or stolen. The letter must be delivered not later than the seventh day after the date of the animal's disappearance and must describe the circumstances surrounding the disappearance and provide the approximate date of the disappearance. The letter required by this subsection is in lieu of the letter required by subsection (a) of this section.

#### **SECTION 12.**

That Section 6-49, "Affirmative defense," of the Code of the City of Fort Worth, Texas, is hereby repealed.

#### **SECTION 13.**

That Section 6-50, "Mandatory spay/neuter of unrestrained dogs and cats," of the Code of the City of Fort Worth, Texas, is hereby repealed.

#### **SECTION 14.**

That Section 6-61, "Unlawful acts enumerated," of the Code of the City of Fort Worth, Texas, is hereby amended to add a new subsection (i) to clarify the status of tethering as an unlawful, cruel act; to add a new subsection (j) to prohibit confining an animal to an enclosure for a substantial portion of the day unless a specified minimum per-animal size requirement is met; and to re-designate the remaining subsections. Section 6-61 shall read in pertinent part as follows:

.....

(i) It shall be unlawful for a person to use a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system. Restraint under such conditions is presumed to be cruel confinement for purposes of this chapter.

(j) Except as otherwise provided in this paragraph, it shall be unlawful for a person to confine an animal for a substantial portion of the day in an outdoor

enclosure that provides less than forty-eight (48) square feet of space for each animal that it contains that is at least six months old. It is presumed that an animal is being confined for a substantial portion of the day if a police officer, animal care and control officer, code enforcement officer, or the person charged with enforcing this ordinance witnesses the animal in said enclosure at least twice on the same day at two separate times that are at least five hours apart.

The prohibition in this paragraph (j) shall not apply to (i) registered non-profit agencies that keep animals for purposes of rescue, rehabilitation, or adoption so long as such animals are otherwise maintained in accordance with the requirements of this chapter; or (ii) situations in which animals are being boarded for a period of less than thirty (30) days so long as such animals are otherwise maintained in accordance with the requirements of this chapter.

(k) The actions prohibited by this section are in addition to any prohibitions existing elsewhere in this code or any applicable state or federal law. Nothing in this section shall be construed to limit any duty imposed on an owner by any other provision of this Code or any applicable state or federal law.

(l) (1) Public safety officers, including officers in the city code compliance, public health, fire, and police departments, shall have the authority to seize any animal that is the subject of any violation of this section if doing so is believed to be necessary to protect the animal's health, safety, or welfare.

(m) Nothing in this section shall be construed to prevent public safety officers, including officers in the city code compliance, public health, fire, and police departments from euthanizing animals when authorized to do so by any statute, ordinance, or law, or when such action is deemed necessary to spare the animal unreasonable pain and suffering or in the interest of the public health and safety.

All portions of Section 6-61, "Unlawful acts enumerated," not specifically amended shall remain in effect.

## **SECTION 15.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such

Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

#### **SECTION 16.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 17.**

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

#### **SECTION 18.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended herein, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or

not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 19.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the ordinances amended herein, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 20.**

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

**SECTION 21.**

This ordinance shall take effect on October 1, 2009, following publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Assistant City Attorney

ADOPTED: August 11, 2009

EFFECTIVE: October 1, 2009

*City of Fort Worth, Texas*  
**Mayor and Council Communication**

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**COUNCIL ACTION: Approved on 8/11/2009 - Ord. No. 18751-08-2009**

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**DATE:** Tuesday, August 11, 2009

**REFERENCE NO.:** G-16653

**LOG NAME:** 23ANIMALWELFARE

**SUBJECT:**

Adopt an Ordinance Amending Chapter 6 of the City Code (Animals and Fowl) to Promote Responsible Pet Ownership by Clarifying and Enhancing Animal Enclosure Standards; Providing Incentives to Spay/Neuter Animals; Providing Incentives to Microchip Animals; Creating a System for Issuance of Intact Pet Permits; Increasing Certain Dangerous Animal Registration Fees and Declaring Certain Dangerous Dogs to be Public Nuisances; Prohibiting Transport of Unsecured Animals in Open Vehicles and Making Other Minor Amendments to Promote Animal Welfare

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**RECOMMENDATION:**

It is recommended that City Council adopt amendments to Chapter 6 of the City Code (Animals and Fowl) to promote responsible pet ownership by clarifying and enhancing animal enclosure standards; providing incentives to spay/neuter animals; providing incentives to microchip animals; creating a system for issuance of intact pet permits; increasing certain dangerous animal registration fees and declaring certain dangerous dogs to be public nuisances; prohibiting transport of unsecured animals in open vehicles and making other minor amendments to promote animal welfare.

**DISCUSSION:**

Earlier this year, the City Council directed staff to develop strategies to more proactively address the growing number of stray and aggressive animals being reported in Fort Worth neighborhoods. The Code Compliance Department (Department) developed several draft ordinance changes as part of a multi-faceted plan of action. These draft concepts were introduced to the City Council in April. The Department then promoted and facilitated seven public meetings to discuss staff's proposals. Additionally, staff met with stakeholder groups in the community, including the Fort Worth Kennel Club, the American Society for the Prevention of Cruelty to Animals, the Humane Society of the United States and others.

Following these meetings, staff revised its original proposals to take into account feedback from these various sources. The revised proposals were presented to the City Council on July 14, 2009. The attached ordinance reflects staff's revised proposals and includes the following ordinance revisions:

**Dangerous Dogs / Aggressive Dogs / Enclosure Standards:**

- Currently the City Code provides no minimum pen size for dogs placed in dog runs even if the dog spends the majority of its time in the enclosure. The proposed ordinance amendment requires a minimum of 48 square feet of space for each animal that is six months old or older and that spends a substantial portion of the day in the enclosure.
- The City Code broadly defines an enclosure as one preventing escape without giving further guidance on height or materials. This outcome-defined standard has allowed for makeshift enclosures cobbled together from an assortment of objects and materials that are neither attractive nor effective. The proposed ordinance amendment includes a minimum height (four foot) and

specifies acceptable materials (chain link, welded wire, wrought iron, brick, block, wood stockade or other material approved by the Director). In addition, the proposed ordinance would require a greater minimum height (six foot) for the enclosure of a dog that repeatedly commits certain defined, unprovoked, aggressive acts.

- The City Code allows dogs declared "dangerous" in other jurisdictions to relocate to Fort Worth with required notifications and safeguards. The proposed ordinance amendment would prohibit dogs declared "dangerous" in other jurisdictions from relocating to Fort Worth by declaring such animals to be public nuisances. In addition, the ordinance would increase from \$50.00 to \$500.00 the fee for registration of animals that are declared dangerous going forward. The increased fee more accurately reflects the actual associated staff costs.

#### Spay/Neuter Requirements:

- The City Code has no requirement for spay/neuter until an animal is captured at-large with no identification or captured at-large more than once. The proposed ordinance requires all dogs and cats of a certain age to be spayed or neutered unless a veterinarian certifies that such a procedure would jeopardize an animal's health or the owner obtains an intact pet permit with a waiveable, one time fee per owner. Waiver of the fee is conditioned on the applicant completing a responsible pet ownership class facilitated through Animal Care and Control. Intact pet permits can be revoked if the owner does not consistently comply with animal ordinance provisions.
- The City Code allows owners to re-claim unaltered pets if they agree to have the animals spayed/neutered within 30 days at the clinic of their choice. Although owners agree to submit proof of completion, the current ordinance provides little incentive for an owner to do so. The proposed ordinance would add a requirement of a deposit for owners who want to take their animals to another veterinarian for spay/neuter. The deposit would be forfeited if the owner fails to provide proof that the pet was spayed/neutered at another veterinary clinic within 30 days.

#### Microchips and Licensing:

- Under the current City Code, the City Council adopts licensing fees once a year but no provision is included to allow such fees to vary depending on the circumstances under which a license is obtained. Many people do not license their animals until they are compelled to do so by the threat of a citation. The proposed ordinance amendment would allow for imposition of a late fee in those instances where an owner does not comply with the ordinance requirements voluntarily and in a timely manner. Staff believes the additional financial incentive for timely, voluntary compliance will increase the number of voluntary registrations, which will in turn make it easier to return lost or escaped animals and free up staff time to address more pressing animal issues. The ordinance would also allow the Code Compliance Director to periodically offer lower licensing fees in order to encourage adoptions in connection with special events. The flexibility to offer reduced fees would provide the Director with additional options for addressing situations in which the shelter population is unusually high.
- The City Code now requires that animals released from the animal care and control center be microchipped but does not otherwise require or promote microchipping of animals. In addition, all animal licenses are issued for a period of no more than one year even if the animal has received a three year rabies vaccination. In staff's experience, microchipping makes it much easier to locate an owner and annual re-licensing of animals that have been given a long-term vaccine serves no greater purpose and reduces staff resources for addressing more pressing issues. The proposed ordinance would create an incentive to get an animal microchipped by allowing a properly vaccinated, microchipped animal to be licensed for up to three years. A license would never extend beyond the period of the vaccine. Staff intends to propose a reduced per year license fee for a multi-

year license when staff presents its overall fee schedule in the budget process.

**Animal Welfare Considerations:**

- At present, the City Code does not restrict animals from riding unsecured in open vehicles such as the beds of pick-up trucks. The proposed ordinance establishes requirements for securing animals in open vehicles to prevent the animals from jumping or falling out.
- The City Code currently allows for citations to be issued to owners of tethered animals. The proposed ordinance adds clearer authority to seize a tethered animal if circumstances warrant.

**Fee and Fine Incentives:**

With the exception of dangerous animals, animal related fees are not explicitly set by ordinance and are instead adopted annually by the City Council. The attached ordinance sets the new fees for dangerous animals and addresses some general fee-related issues, but it does not otherwise include fees. As part of staff's recommended comprehensive approach to dealing with animal issues, staff will be bringing forward specific proposed revisions to the Animal Care and Control fee schedule as part of the Fiscal Year 2010 budget process. Overall, the recommended fee revisions are intended to provide further incentives for individuals to be responsible pet owners by providing lower fees and fines on the front-end and providing higher fees and fines after owners are found to be in violation of animal ordinances. The purpose of the fee differentials will be to create additional monetary incentives for voluntary compliance.

- The proposed fee amendments would include: variable reclaim fees that more accurately reflect the resources required to capture and shelter each particular animal; reduced fees for pet adoption by senior citizens; reduced fees for adoption of an older, adoptable animal; and an increased "window fine" for violations of animal ordinances to match those imposed for other health-and-safety violations.

Staff recommends that the ordinance have an effective date of October 1, 2009, to coincide with the implementation of the new fee schedule.

**FISCAL INFORMATION / CERTIFICATION:**

The Financial Management Services Director certifies that this action will have no material effect on City funds.

**FUND CENTERS:**

**TO Fund/Account/Centers**

**FROM Fund/Account/Centers**

**CERTIFICATIONS:**

**Submitted for City Manager's Office by:**

Charles Daniels (6199)

**Originating Department Head:**

Brandon Bennett (6322)

**Additional Information Contact:**

Brandon Bennett (6322)