

ORDINANCE NO. 73-19AN ORDINANCE PROHIBITING THE RUNNING AT LARGE OF CATS; ESTABLISHING IDENTIFICATION AND ANNUAL LICENSING REQUIREMENT FOR DOGS AND CATS; PROVIDING A FEE SCHEDULE FOR SUCH LICENSES; AND MAKING FURTHER PROVISIONS REGARDING ANIMAL CONTROL IN THE CITY OF FORT SMITH

WHEREAS, the City of Fort Smith has adopted and currently enforces regulations governing the keeping of animals as domesticated pets within the corporate limits of the city, as codified in Chapter 4 of the Fort Smith Code of Ordinances; and

WHEREAS, the continued operation of animal control services to enforce such regulations, specifically as they relate to dogs and cats kept as pets, places a financial burden upon the General Fund of the city, and a greater part of such burden should be borne by those who choose to own and/or keep dogs and cats as pets; and

WHEREAS, the establishment of a licensing program for dogs and cats kept in the city of Fort Smith, and an accompanying fee schedule, is intended to provide revenue to, at least in part, support the cost of providing animal control services to protect the health and welfare of the citizens of Fort Smith.

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Fort Smith, Arkansas, that:

Section 1. Section 4-1 of the Fort Smith Code of Ordinances is hereby amended to add the following changed and new definitions in alphabetical order:

ANIMAL CONTROL OFFICER – The person and the person’s deputies who shall be authorized by the City Administrator as the agent for the City for the purpose of providing and fulfilling the services of the Animal Control Officer as set forth in Chapter 4 of the Fort Smith Municipal Code.

CAT OR DOG – Terms, used in the singular or plural, as defined in A.C.A. § 20-19-302(2) and (3).

CITY – A term referring to the City of Fort Smith, Arkansas.

DOG OR CAT PET LICENSE – A printed or a written permission issued by the City or its agent authorizing the holder to keep a dog or cat within the city limits.

DOG OR CAT PET LICENSE TAG OR IDENTIFICATION – A metal tag of design prescribed by the City Administrator or appointed agent and identifying the time period for which the tag is issued and the corresponding number of the dog or cat Pet License.

MICROCHIP – An identifying integrated circuit placed under the skin of an animal.

RUN AT LARGE – The state of freedom of any dog or cat not confined on the premises of the owner within a secure enclosure, house, or other building, or not restrained on the premises of the owner by a means sufficiently strong or secure to prevent the dog or cat from escaping and restricting it to the premises, or not confined by a leash or confined within an automobile when away from the premises of the owner.

TRAP, NEUTER, AND RELEASE – The process of live-trapping feral cats, having them spayed or neutered, ear-tipped for identification, vaccinated, and released back into their territory.

Section 2. Section 4-116 of the Fort Smith Code of Ordinances is hereby amended to read as follows:

It is unlawful for any dog owner or cat owner to allow his/her dog or cat to run at large within the City. Persons who engage in the Trap, Neuter, and Release process shall not be considered an owner for the purpose of this section.

Section 3. Section 4-32 of the Fort Smith Code of Ordinances is hereby amended to read as follows:

The Animal Control Officer shall seize and may impound at the City approved/contracted impoundment facility all dogs or cats found in violation of the provisions of this chapter. Except when impounding is required by other provisions of this Chapter 4, the Animal Control Officer shall make reasonable effort to return the dog or cat to its owner before transporting the dog or cat to the approved/contracted impoundment facility.

Section 4. Chapter 4 of the Fort Smith Code of Ordinances is hereby amended by adding Article VII – Identification and Licensing of Dogs and Cats, which Article provides as follows:

Section 4-140.

(a) Annual Dog and Cat Pet License. Any resident owning or possessing a dog or cat four (4) months of age or more within the corporate limits of the City must obtain a license for such dog or cat within sixty (60) days of acquiring the dog or cat. New residents to the city shall have sixty (60) days to obtain such pet license for their dog or cat. It shall be a violation of this Ordinance for any resident to own or possess a dog or cat without obtaining a dog or cat Pet License from the City, or its designee, after said sixty (60) day period.

(b) The application for a dog or cat pet license must provide, at a minimum, the following information:

- (1) The owner's name,
- (2) Proof of Rabies Vaccination as required in Section 4-63 of this Code,
- (3) Proof that the dog or cat has been microchipped for identification purposes,
- (4) Proof that the dog or cat has been spayed or neutered, if applicable,
- (5) The dog or cat owner's address,
- (6) The dog or cat owner's phone number,
- (7) The dog or cat's name, and
- (8) The pet's general description (such as breed, color, etc.)

Section 4-141. Identification.

(a) Except as provided in subsection (b), it shall be a violation of this Article for any dog or cat owner to possess a dog or cat without microchip identification and some form of secondary identification, such as a collar with a tag containing the following information:

- (1) The owners name, address and telephone number, and
- (2) The name of the dog or cat.

(b) An owner of a dog or cat who provides a letter to the City or its Licensing Agent from a licensed veterinarian certifying that due to age (greater than four (4) months), poor health, or illness it is unsafe to microchip the dog or cat shall be issued the license and license tag as if the dog or cat was microchipped.

Section 4-142. Dog and Cat Pet License and Fees.

(a) Pet licenses for altered (spayed or neutered) and microchipped dogs or cats shall be for the life of the dog or cat. Pet licenses for unaltered and microchipped dogs or cats shall be valid for one (1) year and shall be renewed on an annual basis upon payment of the annual fee. The dog or cat pet license fees shall be as established from time to time by the City's Board of Directors, and initially shall be:

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| (1) Altered and microchipped: | \$10.00 per pet, lifetime; |
| (2) Unaltered and microchipped: | \$60.00 per pet, annually. |

For an owner who is 65 years of age or older, the initial license fees shall be:

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| (3) Altered and microchipped: | \$00.00 per pet, lifetime; |
| (4) Unaltered and microchipped: | \$20.00 per pet, annually. |

(b) Renewals on or after the expiration of the prior license are subject to a fee of five (\$5.00) dollars if renewed within thirty (30) days of the expiration date. After such thirty (30) days have expired, the license shall lapse. No dog or cat impounded at the City's designated impoundment facility may be released from impoundment without a valid license.

(c) Upon payment of the license fee, the owner shall be issued a dog or cat license and a dog or cat license tag. The City or its Licensing Agent shall cause a register to be kept of the names and addresses of dog and cat owners paying annual license fee, license numbers, and license tags.

(d) Dog or cat licenses and license tags shall not be transferrable from one dog or cat to another and it shall be a violation of the provisions of this Ordinance for an owner to transfer a license tag from one dog or cat to a dog or cat for which it was not issued.

(e) An owner of a dog or cat who provides a letter to the City or its Licensing Agent from a licensed veterinarian certifying that due to age (greater than four (4) months), poor health, or illness it is unsafe to spay or neuter the dog or cat shall be issued the license and license tag as if the dog or cat was altered. The letter from the veterinarian shall include the veterinarian's name, address, and license number.

(f) An owner of a dog or cat that resides in the City for 60 days or less is not required to purchase a license and license tag.

Section 4-143. Designation of Licensing Agent. The City may, by written agreement, designate a third party to administer the dog or cat pet license program, including recordkeeping and the collection of associated fees.

Section 4-144. Exemptions from Dog or Cat License. The following dogs or cats are exempt from the dog or cat license requirements and will receive a dog or cat License Exemption with a cost of zero (\$0.00) dollars.

(a) Dogs documented as having been appropriately trained and actively used by law enforcement agencies for law enforcement and rescue activities;

(b) Dogs certified as service dogs. A "service dog" shall be defined as a dog which has been individually trained to do work or otherwise perform tasks or services for individuals with disabilities. A service dog shall not include an emotional support (or similarly defined) animal.

(c) All dogs or cats (including dogs or cats bred under a Breeding License issued by the City) under four (4) months of age.

Section 4-145. Breeder License. A Breeder license may be issued by the City for an intact dog or cat at a cost of five hundred (\$500.00) dollars per dog or cat. A breeder license must be accompanied by a business license issued by the City.

(a) Each Breeder License shall be valid for one year from the date of issuance and must be renewed annually on or before its expiration date. A separate license must be obtained for each owned dog or cat that is used for breeding purposes. To obtain a Breeder License, each dog or cat owner or possessor shall submit the application information described in Section 4-140(b) and must present proof that the dog or cat has been microchipped, including the microchip

number and each dog or cat born to any licensed breeding dog or cat must be microchipped after 4 months of age and licensed.

(b) The City shall not knowingly issue a Breeder License to a person who has been convicted of Animal cruelty or neglect, or who has previously been determined to be in violation of the City's licensing requirements for dogs or cats.

(c) A Breeder License shall contain the following terms and conditions:

- (1) No offspring may be sold, adopted, bartered, gifted or otherwise transferred whether for compensation or otherwise until it has reached the age of at least six (6) weeks.
- (2) No offspring may be sold, adopted, bartered, gifted or otherwise transferred whether for compensation or otherwise until immunized against common diseases as directed by a licensed veterinarian. The transfer of a dog or cat shall include a statement signed by the transferor or transferee attesting to the signatory's knowledge of the dog or cat's health and the immunization history.
- (3) Any holder of a Breeder License who advertises to the public the availability of any dog or cat for sale, adoption, barter, gift, or transfer, whether for compensation or otherwise, must prominently display the Breeder License number to any person who purchases, adopts or receives any dog or cat from the Breeder License holder and include the Breeder License number on any receipt of sale or transfer document, shall obtain a sales tax permit and comply with all regulations of the state of Arkansas Department of Finance and Administration then or thereafter in effect.
- (4) Commercial establishments selling locally bred dogs or cats shall prominently display the Breeder License number(s) of the breeder(s) whose dogs and cats are sold in that establishment. Commercial establishments selling dogs or cats not bred within the City of Fort Smith shall prominently display the name and address of the breeder(s) of such dogs or cats.
- (5) Any Breeder License holder selling or otherwise transferring a dog or cat, whether for compensation or otherwise, shall submit to the City Animal Control Department the name, address, and telephone number of the dog's or cat's new owner within five (5) days from the sale or transfer.
- (6) Any Breeder License holder or commercial establishment selling or otherwise transferring dogs or cats, whether for compensation or otherwise, shall provide to the new dog or cat owner the information regarding the license and microchip requirements of the City.

(d) The provisions of this Section 4-145 shall be supplemental to the provisions of Article IV of this Chapter.

Section 4-146. Revocation. Any dog or cat Pet License or Breeder License issued pursuant to this Article may be revoked by the City for violation by the holder thereof of any provision of this Chapter. The initial revocation shall be by the Animal Control Officer. The

revocation shall be subject to review on appeal by the City Administrator. Notification of the Owner and the Owner's rights shall be as set forth in Section 4-148.

Section 4-147. Civil Penalties and Service Fee.

(a) If the Animal Control Officer impounds a dog or cat at the City's impoundment facility and the owner of the dog or cat is identified, the owner shall be assessed one or more of the following civil penalties:

- (1) If the dog or cat is not licensed, not microchipped, and not altered, the civil penalty will be \$150.00.
- (2) If the dog or cat is microchipped but not licensed and not altered, the civil penalty will be \$125.00.
- (3) If the dog or cat is licensed and microchipped, no civil penalty shall be assessed; however, the owner of such dog or cat shall pay the service fee set forth in Section 4-147(c).
- (4) Civil penalties (1) and (2) will be reduced by \$50.00 if the dog or cat is altered.

(b) If the owner, after retrieving the dog or cat from the City or the City's impoundment facility, has the dog or cat altered and/or microchipped within ten (10) days, the civil penalty will be reduced by \$50.00 for having the dog or cat altered and \$25.00 for having the dog or cat microchipped. Proof of such action shall be provided to the Animal Control Officer or the approved/contracted impoundment facility who shall then process payment consistent with the reduced civil penalty.

(c) In addition to and supplemental to any criminal provisions which may attach, the owner of the dog or cat shall be subject to the civil penalty provisions provided in Section 4-147(a) and the owner of the dog or cat shall pay to the City a service fee in the amount of \$25.00 for the service of holding the dog or cat transported to the impoundment facility. The service fee to be paid to the City shall be in addition to and supplemental to any impoundment fee charged by the impoundment facility. The service fee provided for by this Section shall be collected by the impoundment facility at the time the dog or cat is claimed by the owner and then paid to the City. Additionally, the impoundment facility shall require any unlicensed dog or cat to be licensed, and the license fee shall be remitted to the City.

(d) All civil penalties and service fee are payable to the City.

Section 4-148. Civil Penalty Enforcement Procedures.

(a) At the time of impoundment, the Animal Control Officer shall issue a written notice of the amount of civil penalty established by Section 4-147, which such notice shall be retained by the impoundment facility and provided to any subsequently identified Owner.

(b) The City's impoundment facility shall collect the noticed civil penalty from the owner at the time the dog or cat is claimed by the owner and the civil penalty shall be remitted to the City.

(c) The written notice issued by the Animal Control Officer shall specify a time period with ending date, not earlier than ten (10) calendar days from the date of notice, within which the owner may appeal the civil penalty to the City Administrator. The appeal shall be heard by the City Administrator within thirty (30) days of the date of receipt of the written appeal notice. At the appeal hearing, the owner is entitled to be present, is entitled to present information and is entitled to be represented by legal counsel if desired.

(d) Within three (3) days of appeal hearing, the City Administrator shall issue the Administrator's written determination regarding the appeal.

(e) The civil penalty, if not appealed, and the determination by the City Administrator in the event of an appeal shall be subject to enforcement, if necessary, by the filing of a civil action in the District Court of the Fort Smith District of Sebastian County.

Section 4-149. The City Administrator and his authorized agents, including the assigned Animal Control Officer, shall take any and all necessary actions to provide appropriate documents for the enforcement of the licensing provisions of this Article and shall cause necessary arrangements to be made with license fee collectors and impoundment facility operator to properly administer the provisions of this Article.

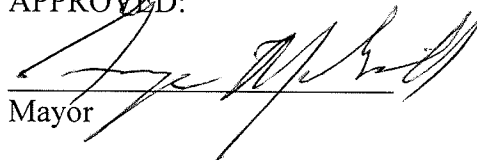
Section 4-150. Adoption. The provisions of this Article are adopted pursuant to the police powers and taxing (licensing) authority of the City.

Section 5. Repealed. Sections 4-31, 4-33, and 4-132 through 4-135 of the Fort Smith Code of Ordinances are hereby repealed. Ordinance No. 55-19, adopted on August 6, 2019, is repealed and replaced by the provisions of this ordinance.

Section 6. Codification. The definitions of Section 1 of this Ordinance shall be codified alphabetically within the provisions of Section 4-1 of the Fort Smith Code of Ordinances. The amendments to 4-32 and 4-116, adopted by Sections 2 and 3 respectively of this Ordinance, shall be so codified. The other provisions of this Ordinance shall be codified as Article VII of Chapter 4 of the Fort Smith Code of Ordinances.

ADOPTED AND APPROVED by the Board of Directors of the City of Fort Smith, Arkansas on this 20th day of August, 2019.

APPROVED:



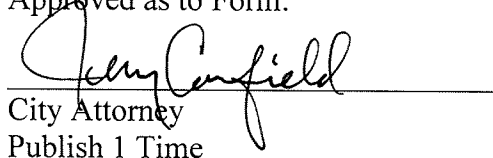
Mayor

ATTEST:



City Clerk

Approved as to Form:



City Attorney
Publish 1 Time