

8-12-14

ORDINANCE NO. 29403

An ordinance amending Chapter 2, "Administration," Chapter 7, "Animals," and Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code by amending Article XXIV of Chapter 2 and Sections 7-2.5, 7-2.7, 7-5.3, 7-5.4, 7-8.1, 27-3, 27-16.12, 27-16.16, 27-16.18, and 27-16.21; changing the name of the animal shelter commission to the animal advisory commission and providing new rules for membership and meetings; providing that the director is the caretaker for newly impounded animals; providing for the reduction or waiver of adoption fees; providing for de novo municipal court hearings of dangerous dog determinations; providing a definition for the term Dallas Animal Welfare Fund; providing for civil adjudication of violations of Chapter 7 and for civil penalties, fees, and court costs; providing a new Section 7-8.4 for the creation of the Dallas Animal Welfare Fund; providing a penalty not to exceed \$500; 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 Article XXIV, "Animal Shelter Commission," of Chapter 2, "Administration," of the Dallas City Code is retitled as Article XXIV, "Animal Advisory Commission," and amended to read as follows:

**"ARTICLE XXIV.**

**ANIMAL ADVISORY [~~SHELTER~~] COMMISSION.**

**SEC. 2-157.           CREATED; MEMBERSHIP; MEETINGS.**

(a) There is hereby created the animal advisory [~~shelter~~] commission, which shall be an advisory body of 15 members. Each city council member shall appoint one member to the commission. The mayor shall appoint the chair, and the full city council shall appoint the vice-chair.

(b) All members shall be appointed for an initial term to expire on August 31, 1985. Subsequent appointments will be made in August of each odd-numbered year for a two-year term beginning on September 1. All members shall serve until their successors are appointed and qualified.

(c) Members of the commission must meet the following qualifications:

- (1) one member must be a licensed veterinarian;
- (2) one member must be a city or county official;
- (3) one member must have duties including the daily operation of an animal shelter;
- (4) one member must be a representative from an animal welfare organization; and
- (5) eleven members must be chosen from the general public~~;~~ and
- (6) ~~no member may be a city employee working in the department designated by the city manager to operate a city-owned animal shelter].~~

(d) Disqualification of an appointee under Section 8-1.4(a)(1) of this code may be waived by the city council after review of the specific circumstances.

(e) The commission must meet at least three times a year [~~once each calendar quarter~~] and may hold additional meetings at the call of the chair.

## **SEC. 2-158. DUTIES AND RESPONSIBILITIES.**

(a) The commission shall act as an advisory body to the city manager and the city council to assist in complying with the requirements of state law and city ordinances pertaining to the operation of an animal shelter [~~and shall:~~

- (1) ~~review the operations of the city animal shelters and report the results to the city manager;~~
- (2) ~~provide guidance to the city manager in complying with all provisions of Article 4477-6b, Vernon's Texas Civil Statutes].~~

(b) The city manager shall provide necessary information and assistance to the commission in the performance of its duties and responsibilities.”

SECTION 2. That Section 7-2.5, "Impoundment of Animals," of Article II, "Animal Services; City Animal Shelters," of Chapter 7, "Animals," of the Dallas City Code is amended to read as follows:

**"SEC. 7-2.5. IMPOUNDMENT OF ANIMALS.**

(a) The director or the chief of police is authorized to impound:

- (1) any animal in the city that is not restrained by a tether or leash, fenced yard, or enclosed structure;
- (2) any animal for protective custody;
- (3) any animal required to be quarantined under Section 7-2.4;
- (4) any animal seized pursuant to a warrant or court order;
- (5) any prohibited animal kept in the city in violation of Section 7-6.1; and
- (6) any animal posing a threat to the public health or safety.

(b) If an animal described in Subsection (a) is on private property or property of the animal's owner, the impounding officer may enter the property for the purpose of impoundment or issuance of a citation, or both.

(c) The director is the designated caretaker of a stray, impounded, or surrendered animal immediately upon intake at the animal shelter.

(d) No animal impounded at a city animal shelter or in the custody or control of animal services may be knowingly sold, released, or otherwise disposed of for research purposes."

SECTION 3. That Subsection (b) of Section 7-2.7, "Adoption of Animals," of Article II, "Animal Services; City Animal Shelters," of Chapter 7, "Animals," of the Dallas City Code is amended to read as follows:

"(b) The director may, from time to time, designate and advertise promotional adoption periods during which the non-refundable adoption fees payable under Subsection (a)(3)(A) will be reduced or waived [to \$43 for a dog and \$27 for a cat. ~~A promotional adoption period may not exceed seven consecutive days, and no more than eight promotional adoption periods may be designated during a calendar year.~~"]"

SECTION 4. That Section 7-5.3, "Determination as a Dangerous Dog," of Article V, "Dangerous Dogs," of Chapter 7, "Animals," of the Dallas City Code is amended to read as follows:

**"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, 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.]~~

~~(e)] 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 investigation [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 15<sup>th</sup> 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.]~~

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

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

~~(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 ~~(e[f])~~ of this section; or~~

~~(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.~~

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

(e[f]) An impounded dog determined by the director to be dangerous must remain impounded, or confined at a location approved by the director, and may [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 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.

(f[g]) If the owner of an impounded dog has not complied with Subsection (e[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.”

SECTION 5. That Section 7-5.4, “Appeals,” of Article V, “Dangerous Dogs,” of Chapter 7, “Animals,” of the Dallas City Code is amended to read as follows:

**“SEC. 7-5.4. APPEALS.**

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, 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 de novo hearing [~~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.”

SECTION 6. That Subsection (h) of 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 is amended to read as follows:

(h) In addition to imposing a criminal penalty, the city may, in accordance with Section 54.012(5) and (10) 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 7. 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 is amended by adding a new Subsection (i) to read as follows:

“(i) As an alternative to imposing the criminal penalty prescribed in Subsections (d) and (e), the city may, as authorized by Section 54.044 of the Texas Local Government Code, impose administrative penalties, fees, and court costs in accordance with Article IV-b of Chapter 27 of this code for an offense under this chapter. The alternative administrative penalty range for an offense is the same as is prescribed in Subsections (d) and (e). The provisions of Article IV-b of Chapter 27 of this code pertaining to financial inability to comply with an administrative order do not apply to violations of this chapter.”

SECTION 8. That Article VIII, “Violations, Penalties, and Enforcement,” of Chapter 7, “Animals,” of the Dallas City Code is amended by adding a new Section 7-8.4, “Dallas Animal Welfare Fund,” to read as follows:

**“SEC. 7-8.4. DALLAS ANIMAL WELFARE FUND.**

(a) The Dallas Animal Welfare Fund is composed of:

(1) All Dallas Animal Welfare Fund administrative penalties collected under Sections 27-16.16(b), 27-16.18(g), and 27-16.21(b) of Chapter 27 of this code;

(2) 30 percent of all civil fines collected by the city for lawsuits filed in the municipal court under Subchapter B, Chapter 54 of the Texas Local Government Code; and

(3) Any funds donated by an individual or entity, any of which may be refused by a majority vote of the city council.

(b) The director shall adopt rules and procedures consistent with this article for the administration of the Dallas Animal Welfare Fund.

(c) To be eligible to receive funds from the Dallas Animal Welfare Fund, a person must:

(1) establish to the satisfaction of the director that the person's income does not exceed the Dallas area median family income as determined by the U.S. Department of Housing and Urban Development; and

(2) not have received funds from the Dallas Animal Welfare Fund within the preceding 24 months.

(d) The director may not make an award from the Dallas Animal Welfare Fund in excess of \$1,000. The director may not make an award unless the award is for less than or equal to the amount in the Dallas Animal Welfare Fund at any one time. If the fund is temporarily out of money, the director may not make an award until such time as there are additional funds equal to or exceeding the amount of the award."

SECTION 9. That Section 27-3, "Definitions," of Article I, "General Provisions," of Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code is amended by adding a new Paragraph (6.1) to read as follows:

"(6.1) DALLAS ANIMAL WELFARE FUND means the Dallas Animal Welfare Fund as described in Section 7-8.4 of Chapter 7 of this code."

SECTION 10. That Article IV-b, "Administrative Adjudication Procedure for Premises and Property Violations," of Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code, as amended, is retitled as Article IV-b, "Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations."

SECTION 11. That Section 27-16.12, "Alternative Administrative Adjudication Procedure," of Article IV-b, "Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations," of Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code, as amended, is amended to read as follows:

**“SEC. 27-16.12. ALTERNATIVE ADMINISTRATIVE ADJUDICATION PROCEDURE.”**

Every violation of an ordinance described by Section 54.032 of the Texas Local Government Code or adopted under Subchapter E, Chapter 683 of the Texas Transportation Code or under Section 214.001(a)(1) of the Texas Local Government Code may be enforced as an administrative offense using the alternative administrative adjudication procedure set forth in this article, as authorized by Section 54.044 of the Texas Local Government Code. The adoption or use of this alternative administrative adjudication procedure does not preclude the city from enforcing a violation of an ordinance described in this section through criminal penalties and procedures.”

SECTION 12. That Subsection (b) of Section 27-16.16, “Failure to Appear at an Administrative Hearing,” of Article IV-b, “Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations,” of Chapter 27, “Minimum Urban Rehabilitation Standards,” of the Dallas City Code is amended to read as follows:

“(b) The hearing officer shall assess an additional \$36 administrative penalty for each violation for which a person is found liable, which amount will be placed in the Dallas Tomorrow Fund or the Dallas Animal Welfare Fund, as applicable. In no case may the total amount of administrative penalties assessed against a person for a violation exceed the maximum penalty established by city ordinance for the particular violation.”

SECTION 13. That Subsection (g) of Section 27-16.18, “Hearing for Disposition of an Administrative Citation; Citation as Rebuttable Proof of Offense,” of Article IV-b, “Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations,” of Chapter 27, “Minimum Urban Rehabilitation Standards,” of the Dallas City Code is amended to read as follows:

“(g) The hearing officer shall assess an additional \$36 administrative penalty for each violation for which a person is found liable, which amount will be placed in the Dallas Tomorrow Fund or the Dallas Animal Welfare Fund, as applicable. In no case may the total amount of administrative penalties assessed against a person for a violation exceed the maximum penalty established by city ordinance for the particular violation.”



SECTION 14. That Subsection (i) of Section 27-16.18, "Hearing for Disposition of an Administrative Citation; Citation as Rebuttable Proof of Offense," of Article IV-b, "Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations," of Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code is amended to read as follows:

"(i) During a period in which enforcement of an administrative order is suspended under Subsection (f)(3) or (h) of this section, the person found liable for a violation may request an extension of the suspension period. The hearing officer may, only one time for each administrative order, grant an extension of the suspension period. The sole basis for an extension is that the person found liable for the violation is making a good faith attempt to comply with the administrative order and, due to delay beyond that person's control, is unable to timely complete the rehabilitation and/or repair of the property or the premises or otherwise comply with the administrative order. The extension granted will be for a specific time period as determined by the hearing officer."

SECTION 15. That Subsection (b) of Section 27-16.21, "Disposition of Administrative Penalties, Fees, and Court Costs," of Article IV-b, "Administrative Adjudication Procedure for Premises, Property, and Certain Other Violations," of Chapter 27, "Minimum Urban Rehabilitation Standards," of the Dallas City Code is amended to read as follows:

"(b) From the administrative penalties assessed under this article, \$36 for each violation for which a person is found liable must be deposited into the Dallas Tomorrow Fund established by Section 27-16.22 of the article or the Dallas Animal Welfare Fund established under Section 7-8.4 of Chapter 7 of this code, as applicable."

SECTION 16. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

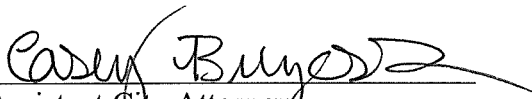
SECTION 17. That Chapters 2, 7, and 27 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 18. 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.

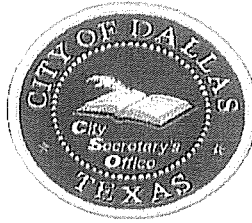
SECTION 19. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

WARREN M.S. ERNST, City Attorney

By   
Assistant City Attorney

Passed AUG 13 2014



## PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL AUG 13 2014

ORDINANCE NUMBER 29403

DATE PUBLISHED AUG 16 2014

ATTESTED BY:

A handwritten signature in cursive script, appearing to read "Rose G. Sims".