

The Animal Shelter Commission proposed revisions for discussion purposes. They will make these recommendations to City staff for approval by the Dallas City Council.

1/3/08

Proposed Changes to Dallas City Code Chapter 7 - Animals

Miscellaneous

- § Add new Sec. 7-3.4 – Unlawful Placement of Poison - to prohibit of placing of poisonous substance or bait where it is accessible to domestic animals.
- § Amend Sec. 7-4.2 – Registration of Dogs and Cats - to provide for registration “late fees.”
- § Amend Article VI – Prohibited and Regulated Animals - to eliminate “loopholes” under the current ordinance and require certain registrations.
- § Add new Sec. 7-7.6 – Animals as Prizes, Promotions and Novelties - to prohibit offering animals as prizes, promotions or novelties.
- § Amend Sec 7-8.1 – Violation; Criminal and Civil Penalties – to put \$100 minimum fine for violation of 7-4.10 (having an unsprayed/unneutered dog or cat without a breeder permit) and to put a \$150 minimum fine for breeding a dog or cat without a breeder permit.

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SEC. 7-3.4. RESERVED. UNLAWFUL PLACEMENT OF POISON.

(a) A person commits an offense if he knowingly places any type of poisonous substance or bait, including anti-freeze, that is deemed harmful to a domestic animal in any area reasonably likely to be accessible to a domestic animal.

(b) It is a defense to prosecution under Subsection (a) that the poisonous substance or bait that was placed pursuant to an animal control program under the direction of the director or the city public health officer or to control common household rodents.

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 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.
- (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 (or proof that the dog or cat was not vaccinated due to health reasons as verified by a licensed veterinarian) and 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 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 a payment of the initial registration fee for a dog or cat within 45 days after the director notifies the owner to register his 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 together with payment of the registration fee within 45 days after the expiration of the previous registration, a \$10 late fee will be added to the registration fee.

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

(hi) 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.

ARTICLE VI.

PROHIBITED AND REGULATED ANIMALS.

SEC. 7-6.1. PROHIBITED ANIMALS.

(a) A person commits an offense if he:

(1) owns a prohibited animal for any purpose in the city; or

(2) sells, exchanges, gives away, or transfers a prohibited animal to any person in the city for use, retention, resale, or transfer as a pet or as a human's companion.

(b) It is a defense to prosecution under Subsection (a)(1) that the person is:

(1) a federal, state, county, or municipal agency or an agent of such an agency acting in an official capacity; ~~that:~~

~~———— (A) — has all required state and federal licenses and permits; and~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal;~~

(2) a medical research facility licensed by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, that has a prohibited animal permit issued under this section and is in compliance with all federal, state, and city laws or regulations applicable to the animal;:-

~~———— (A) — has all required state and federal licenses and permits;~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (C) — has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the facility and specifying the location where each animal is kept;~~

(3) an organization that is an accredited member of the American Zoo and Aquarium Association that has a prohibited animal permit issued under this section and is in compliance with all federal, state, and city laws or regulations applicable to the animal;:-

~~———— (A) — has all required state and federal licenses and permits;~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~_____ (C) has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the organization and specifying the location where each animal is kept;~~

(4) transporting an sick, injured, infirm, orphaned, or abandoned prohibited animal to a licensed veterinarian or animal shelter for care or treatment; ~~if the person:~~

~~_____ (A) has all required state and federal licenses and permits; and~~

~~_____ (B) is in compliance with all federal, state, and city laws or regulations applicable to the animal;~~

(5) a licensed veterinarian, ~~an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43 of the Parks and Wildlife Code, as amended,~~ who is temporarily treating or caring for a sick, or injured or abandoned prohibited animal, if the veterinarian or humane society, animal shelter is in compliance with all federal, state, and city laws or regulations applicable to the animal;

~~_____ (A) has all required state and federal licenses and permits; and~~

~~_____ (B) is in compliance with all federal, state, and city laws or regulations applicable to the animal;~~

(6) a transient circus company not based in the State of Texas, if:

(A) the prohibited animal is used as an integral part of the circus performances;

(B) the prohibited animal is kept within the city only during the time the circus is performing in the city; and

(C) the circus has a prohibited animal permit issued under this section and :

~~_____ (i) has all required state and federal licenses and permits;~~

~~_____ (ii) is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~_____ (iii) has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the circus and specifying the location where each animal is kept;~~

(7) a television or motion picture production company that has temporary custody or control of ~~the~~ a prohibited animal during the filming of a television or motion picture production in the city, if the production company has a prohibited animal permit issued under this section and is in compliance with all federal, state, and city laws or regulations applicable to the animal;

~~———— (A) — has all required state and federal licenses and permits;~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (C) — has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the production company and specifying the location where each animal is kept;~~

(8) a college or university that owns and has possession, custody, or control of the prohibited animal solely as a mascot for the college or university, if the college or university has a prohibited animal permit issued under this section and is in compliance with all federal, state, and city laws or regulations applicable to the animal;

~~———— (A) — has all required state and federal licenses and permits;~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (C) — has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the college or university and specifying the location where each animal is kept;~~

(9) transporting the prohibited animal in interstate commerce through the city in compliance with the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, and any regulations adopted under that act; ~~if the person:~~

~~———— (A) — has all required state and federal licenses and permits; and~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the prohibited animal;~~

~~———— (10) — a person whose only business is to supply nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, if:~~

~~———— (A) — the prohibited animal is a nonhuman primate owned by and in the custody and control of the person;~~

~~———— (B) — the person has all required state and federal licenses and permits;~~

~~———— (C) — the person is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (D) — the person has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept;~~

~~———— (11) — a participant in a species survival plan of the American Zoo and Aquarium Association for the species of prohibited animal owned by or in the possession, control, or custody of the person, if:~~

~~———— (A) — the prohibited animal is an integral part of the species survival plan;~~

~~———— (B) — the person has all required state and federal licenses and permits;~~

~~———— (C) — the person is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (D) — the person has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept; or~~

(102) exhibiting a prohibited animal (other than a dangerous wild animal as defined in Section 822.101 of the Texas Health and Safety Code, as amended) at the State Fair of Texas or at a special event conducted with written permission of the city, if the person has a prohibited animal permit issued under this section and is in compliance with all federal, state, and city laws or regulations applicable to the animal.;

~~———— (A) — has all required state and federal licenses and permits;~~

~~———— (B) — is in compliance with all federal, state, and city laws or regulations applicable to the animal; and~~

~~———— (C) — has on file with the director, on a form provided for that purpose, a current list describing all prohibited animals kept in the city by the person and specifying the location where each animal is kept.~~

(c) The annual fee for a prohibited animal permit is \$50 per animal up to a maximum of \$500.

(d) A prohibited animal permit is nontransferable, and the permit fee is nonrefundable.

(e) An applicant for a prohibited animal permit shall file an application with the director on a form provided for that purpose. The application must include:

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

(2) a complete identification of each prohibited animal kept in the city, including species, sex, age (if known), and any distinguishing marks or coloration that would aid in the identification of the animal;

(3) the exact location where each prohibited animal is to be kept; and

(4) any other information the director determines necessary to the enforcement and administration of this section.

(f) An application for a prohibited animal permit must be accompanied by:

(1) the applicable prohibited animal permit fee set forth in Subsection (c) of this section;

(2) proof, in a form acceptable to the director, that the applicant has the liability insurance required in Subsection (g) of this section; and

(3) if the applicant holds a research facility license, a Class "A" or Class "B" dealer's license or a Class "C" exhibitor's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, a clear and legible photocopy of the license.

(g) The holder of a prohibited animal permit shall maintain liability insurance acceptable to the city, in an amount of not less than \$100,000 for each occurrence, that provides coverage for any damage to or destruction of property, and for any death or bodily injury to a person, caused by the prohibited animal.

(h) The holder of a prohibited animal permit shall, at all reasonable times, allow the director or a designated licensed veterinarian to enter the premises where the prohibited animal is kept and to inspect the animal, the animal's enclosure, and the owner's records relating to the animal to ensure compliance with this section.

(i) The holder of a prohibited animal permit may not permanently relocate the prohibited animal to another location in the city unless the owner first notifies the director in writing of the exact location to which the animal will be relocated.

(j) Within 10 days after the death, sale, or other disposition of a prohibited animal, the permit holder shall notify the director in writing of that event.

(k) The holder of a prohibited animal permit shall immediately notify the director of any attack on a human by the animal and of any escape by the animal.

(l) The permit holder for a prohibited animal that escapes is liable for all costs incurred in apprehending and confining the animal. The city, animal services, and any law enforcement agency (and their employees and agents) are not liable to an owner of a prohibited animal for damages arising in connection with the escape of the animal, including any liability for damage, injury, or death caused by the animal during or after its escape, or for injury to or death of the animal resulting from the apprehension or confinement of the animal after its escape.

(m) The director may establish caging requirements and standards for the keeping and confinement of a prohibited animal to ensure that the animal is kept and confined in a manner that:

- (1) protects and enhances the public's health and safety;
- (2) prevents escape by the animal; and
- (3) provides a safe, healthy, and humane environment for the animal.

(n) The holder of a prohibited animal permit shall keep and confine the animal in accordance with the caging requirements and standards established by the director.

(o) For each prohibited animal, the permit holder shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, and with regulations adopted under that Act relating to:

- (1) facilities and operations;
- (2) animal health and husbandry; and
- (3) veterinary care.

(p) The director shall deny issuance or renewal of a prohibited animal permit if the applicant:

- (1) makes a false statement of material fact on an application for a prohibited animal permit;
- (2) is not in compliance with this section or Article III of this chapter;
- (3) is not in compliance with any conditions of the permit or any rules established by the director relating to the prohibited animal;
- (4) has had a prohibited animal permit revoked by the director within the preceding 12 months; or
- (5) intentionally or knowingly impeded a lawful inspection by the director or the director's authorized representative.

(q) The director shall revoke a prohibited animal permit if the director determines that the permit holder has:

- (1) made a false statement of material fact on an application for a prohibited animal permit;

(2) violated a provision of this section or Article III of this chapter;

(3) violated a condition of the permit or a rule established by the director relating to the prohibited animal; or

(4) intentionally or knowingly impeded a lawful inspection by the director or the director's authorized representative.

(r) If the director refuses to issue or renew a prohibited animal permit, or revokes a prohibited animal permit, the director shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the action, including the reason for the action, and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the director to a permit and license appeal board in accordance with Section 2-96 of this code. The filing of a request for an appeal hearing with the permit and license appeal board stays an action of the director in revoking a permit until the permit and license appeal board makes a final decision.

(s) An owner of a prohibited animal commits an offense if he fails to comply with this section. Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

SEC. 7-6.2. REGULATED ANIMALS.

(a) A person commits an offense if he owns a regulated animal for any purpose in the city without holding a valid regulated animal permit issued for the animal under this section.

(b) All defenses set forth in ~~Subsections Section 7-6.1(b) (1)(4)(5) and (9)~~ relating to prohibited animals are defenses to prosecution under Subsection (a) of this section when applied to regulated animals.

(c) A regulated animal permit may be issued only to:

(1) a person who is in the business of exhibiting one or more regulated animals to the public and who:

(1A) has all required state and federal licenses and permits; and

(2B) is in compliance with all federal, state, and city laws or regulations applicable to the regulated animal; or

(2) persons listed in Subsections 7-6.1(b) (2), (3), (6), (7), (8) and (10).

(d) Regulated animal permits are classified as follows:

(1) Annual regulated animal permit. Possession of an annual regulated animal permit is required to keep a regulated animal in the city for more than 10 days within any calendar year.

The permit is valid for one year after the date of issuance, unless sooner revoked by the director, and may be renewed by filing an application in accordance with this section.

(2) Temporary regulated animal permit. Possession of a temporary regulated animal permit is required to keep a regulated animal in the city for not more than 10 days within any calendar year. The permit is valid for a period designated by the director not to exceed 10 days.

(e) The fees for a regulated animal permit are as follows:

<u>Type of Permit</u>	<u>Fee</u>
(1) Annual	\$500
(2) Temporary	\$100

(f) A regulated animal permit is nontransferable, and the permit fee is nonrefundable.

(g) An applicant for a regulated animal permit shall file an application with the director on a form provided for that purpose. The application must include:

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

(2) a complete identification of each regulated animal kept in the city, including species, sex, age (if known), and any distinguishing marks or coloration that would aid in the identification of the animal;

(3) the exact location where each regulated animal is to be kept; and

(4) any other information the director determines necessary to the enforcement and administration of this section.

(h) An application for a regulated animal permit must be accompanied by:

(1) the applicable regulated animal permit fee set forth in Subsection (e) of this section;

(2) proof, in a form acceptable to the director, that the applicant has the liability insurance required in Subsection (i) of this section; and

(3) if the applicant holds a Class "A" or Class "B" dealer's license or a Class "C" exhibitor's license issued by the United States Secretary of Agriculture under the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, a clear and legible photocopy of the license.

(i) An owner of a regulated animal shall maintain liability insurance acceptable to the city, in an amount of not less than \$100,000 for each occurrence, that provides coverage for any damage to or destruction of property, and for any death or bodily injury to a person, caused by the regulated animal.

(j) An owner of a regulated animal shall, at all reasonable times, allow the director or a designated licensed veterinarian to enter the premises where the animal is kept and to inspect the animal, the animal's enclosure, and the owner's records relating to the animal to ensure compliance with this section.

(k) An owner of a regulated animal may not permanently relocate the animal to another location in the city unless the owner first notifies the director in writing of the exact location to which the animal will be relocated.

(l) Within 10 days after the death, sale, or other disposition of a regulated animal, the owner of the animal shall notify the director in writing of that event.

(m) An owner of a regulated animal shall immediately notify the director of any attack on a human by the animal and of any escape by the animal.

(n) An owner of a regulated animal that escapes is liable for all costs incurred in apprehending and confining the animal. The city, animal services, and any law enforcement agency (and their employees and agents) are not liable to an owner of a regulated animal for damages arising in connection with the escape of the animal, including any liability for damage, injury, or death caused by the animal during or after its escape, or for injury to or death of the animal resulting from the apprehension or confinement of the animal after its escape.

(o) The director may establish caging requirements and standards for the keeping and confinement of a regulated animal to ensure that the animal is kept and confined in a manner that:

- (1) protects and enhances the public's health and safety;
- (2) prevents escape by the animal; and
- (3) provides a safe, healthy, and humane environment for the animal.

(p) An owner of a regulated animal shall keep and confine the animal in accordance with the caging requirements and standards established by the director.

(q) For each regulated animal, the owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C. Section 2131, et seq.), as amended, and with regulations adopted under that Act relating to:

- (1) facilities and operations;
- (2) animal health and husbandry; and
- (3) veterinary care.

~~(r) An owner of a regulated animal commits an offense if he fails to comply with this section. Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.~~

~~(s)~~ The director shall deny issuance or renewal of a regulated animal permit if the applicant:

(1) makes a false statement of material fact on an application for a regulated animal permit;

(2) is not in compliance with this section or Article III of this chapter;

(3) is not in compliance with any conditions of the permit or any rules established by the director relating to the regulated animal;

(4) has had a regulated animal permit revoked by the director within the preceding 12 months; or

(5) intentionally or knowingly impeded a lawful inspection by the director or the director's authorized representative.

~~(ts)~~ The director shall revoke a regulated animal permit if the director determines that the permit holder has:

(1) made a false statement of material fact on an application for a regulated animal permit;

(2) violated a provision of this section or Article III of this chapter;

(3) violated a condition of the permit or a rule established by the director relating to the regulated animal; or

(4) intentionally or knowingly impeded a lawful inspection by the director or the director's authorized representative.

~~(tt)~~ If the director refuses to issue or renew a regulated animal permit, or revokes a regulated animal permit, the director shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of the action, including the reason for the action, and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the director to a permit and license appeal board in accordance with Section 2-96 of this code. The filing of a request for an appeal hearing with the permit and license appeal board stays an action of the director in revoking a permit until the permit and license appeal board makes a final decision.

(u) An owner of a regulated animal commits an offense if he fails to comply with this section. Each animal with respect to which there is a violation and each day that a violation continues is a separate offense.

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

It is an offense for a person to sell, exchange, raffle, auction, give away or offer to sell, exchange, raffle, auction, or give away any live animal as a prize, as an inducement to enter a place of amusement or business establishment, or as an inducement to participate in a charitable fund-raising event.

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) A culpable mental state is not required for the commission of an offense under this chapter unless the provision defining the conduct expressly requires a culpable mental state.

(d) Unless specifically provide 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 (3) 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 Section (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.