

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5 OF THE *CITY OF TEXARKANA, ARKANSAS, CODE OF ORDINANCES* AS RELATES TO ANIMALS; AND FOR OTHER PURPOSES

WHEREAS, it is necessary and in the best interest of the City to update certain provisions of the *City of Texarkana, Arkansas, Code of Ordinances*, (the “*Code*”) as relates to certain animals; and

WHEREAS, the City Manager and staff recommend approval;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the City of Texarkana, Arkansas, that Chapter 5 of the *Code*, is hereby amended as follows:

Section 1. Not to be codified:

Purpose. The purpose of these revisions and amendments are to promote the health, safety, and general welfare of the residents of the city by reducing the number of stray dogs and cats. The provisions herein section are designed to eliminate the excessive numbers of unwanted animals and thereby stop the needless killing of these animals by restricting the breeding through measures that are both reasonable and enforceable.

Section 2. The following amendments are made to Section 5-1 of the *Code*:

The definition of Animal Control Department is amended to read as follows: Animal Control Department or Animal Shelter: wherever used, refers to the current “Animal Care and Adoption Center (ACAC)”, the agency of the City of Texarkana having primary responsibility for the implementation of this chapter.

The following definitions are added:

Bite: the skin has been penetrated by an animal’s teeth and saliva has contacted a break or abrasion of the skin.

Breeder: Any firm, person, or corporation that is engaged in the operation of breeding and raising one or more dogs or cats for the purpose of selling, trading, bartering, giving away, or otherwise transferring same.

Intact or unaltered animal: An unsterilized animal.

Neutered male: Any male animal which has been operated upon to prevent breeding.

The definition of Owner is amended to read as follows: “*Owner:* any person who (1) has a right of property in a dog, cat, or other animal; (2) keeps, harbors, cares for, or acts as the custodian of a dog, cat, or other animal; or (3) knowingly permits a dog, cat, or other animal to remain on or about any premises occupied by him or her; provided, however, nothing contained in this definition is intended, nor shall be deemed or construed to create a property right or interest that does not otherwise exist under applicable law.”

The definition of Vaccination is amended to read as follows: *Vaccination:* the injection, subcutaneously or otherwise, of antirabic vaccine, as approved by the United States Department of Agriculture or the State Board of Health and administered by a licensed veterinarian or agent of the Department of Health.

Section 3. Section 5-2 of the *Code* is deleted and restated as follows:

Sec. 5-2. Penalty. Any person violating any portion of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred forty-five dollars (\$145.00) nor in excess of five hundred dollars (\$500.00), and if the violation is continuing, each violation shall be considered a separate offense.

Section 4. Section 5-3(b) of the *Code* is deleted and restated as follows:

(b) The licensing and vaccination requirements of this chapter shall not apply to any dog or cat belonging to a nonresident of the city and kept within the city for not longer than thirty (30) days; provided, all such dogs or cats shall at all times while in the city be kept within a building or enclosure or vehicle or be confined by the owner as herein provided.

Section 5. Section 5-5 of the *Code* is amended to change each occurrence of “dog” to “dog or cat.”

Section 6. Section 5-9(d) of the *Code* is amended to replace “not less than fifty dollars (\$50.00)” to “not less than one hundred forty-five dollars (\$145.00).”

Section 7. Section 5-11 of the *Code* is deleted and restated as follows:

Sec. 5-11. License fee; tags.

(a) It shall be unlawful for any person, firm, or corporation to own, keep or harbor a dog or cat within the corporate limits of the city without first having paid to the city an annual license fee of

- (i) \$10.00 for each spayed or neutered dog or cat of six months of age or older; or
- (ii) \$30.00 for each unspayed or unneutered dog or cat of six months of age or older (except as set forth in Section 5.24 of this Chapter)

The license fee required by this section shall be due and payable as soon as the dog or cat attains six (6) months of age.

(b) To secure a license or license renewal, owner must provide proof of legal rabies vaccination covering a valid period of time.

(c) Upon payment of the license fee to the city, it shall be the duty of the city to furnish the owner of the dog or cat with a metal tag of distinctive design with the serial number of the dog or cat and the year for which the same is issued. This serial number shall be kept on file by the city. Each identification tag issued to an owner of a sterile dog or cat shall be of different and distinctive color or contain such other distinguishing characteristic, which can be readily distinguished from such tag that would be issued for an unsterilized dog or cat. The license referred to in this section shall be effective for the year ensuing its issuance and must be renewed each subsequent year on or before the anniversary date of the issuance of said tag. The license shall be nontransferable and voided upon the death of a dog or cat. It shall be illegal to misuse and/or alter an I.D. tag, and any person doing so will be found guilty of License Fraud and subject to a fine. The owner may obtain a duplicate tag if such tag is lost by payment of a \$1.00 fee to the city.

(d) Every dog or cat covered by this article must wear a collar of such type that the city license tag may be firmly attached at all times to the dog's or cat's collar or harness. Failure to keep such tag on the dog's or cat's collar shall be unlawful.

(e) All owners of seeing-eye dogs or guide dogs, such dogs being used to aid the blind, or service dogs with proper certification shall not be required to pay an annual city license fee but shall be required to obtain a courtesy license and identification tag.

(f) Every person engaged in the business of buying, selling, and/or boarding or who owns, harbors or keeps more than four (4) dogs and/or cats not used for

breeding purposes shall pay an annual license fee to the city of \$25.00. If used for breeding purposes, see Sec. 5-24.

Section 8. Section 5-12 of the *Code* is amended as follows:

The title is amended to change “dogs” to “animals.”

Paragraph (a) is amended to change “three (3) days” to “five (5) days.”

Paragraph (b) is deleted and restated as follows: “(b) The animal control department may, at its discretion, transfer title of all animals held at its animal shelter to a 501(c)(3) animal rescue organization after the detention period has expired and the animal has not been claimed by its owners. In the event of such transfer of title, the rescue organization shall pay the current fee set by ACAC.”

Paragraph (f) is deleted and restated as follows: “(f) No unspayed or unneutered animal which has been impounded by reason of its running at large shall be allowed to be adopted from the animal shelter absent compliance with Ark. Code Ann. Sect. 20-19-103, or any successor thereto.

Section 9. Section 5-13 of the *Code* is amended to change all references to “dog” to “dog or cat.” Furthermore, Sec. 5-13(a) of the *Code* is deleted and the following is substituted for the same:

(a) Any person owning, possessing or keeping a dog or cat which has been allowed to run at large and which has been impounded may claim and retrieve such dog from the city pound by proper payment of the applicable license fee (if unlicensed), payment of the fees set forth in this section and proof that the dog or cat has a valid rabies vaccination certificate. been vaccinated within the year preceding such impounding and is currently licensed as required by law. The burden of proof as to vaccination and licensing shall be upon the party attempting to claim the dog from the animal control worker under this chapter. Any person claiming unvaccinated and unlicensed dog or cat shall, after payment of the fee assessed herein, and prior to release of the dog or cat, sign a promise in writing to the animal control officer that such person will immediately have the dog or cat vaccinated and licensed if the animal is released to him.

Section 10. Paragraphs (l) and (m) of Section 5-14 of the *Code* are deleted and restated, respectively, as follows:

(l) No person shall own, keep, harbor or have control over any dog or cat in the city, or obtain a license for any dog or cat over the age of six (6) months, unless said animal shall have been vaccinated with an anti-rabies vaccine. All such dogs

or cats shall be vaccinated against rabies annually in accordance with Arkansas Code Annotated §20-19-305.

...

(m) All veterinarians who are licensed to practice in the city shall be appointed registrars of the city and shall register each dog or cat that receives a rabies vaccination if such dog or cat is to be kept within the corporate limits of the city.

Section 11. Section 5-22 of the *Code* is deleted and restated as follows:

Sec. 5-22. Prohibition of sale of animals from certain locations

(a) This section does not apply to any facility operated by the Animal Control Department

(b) It shall be unlawful for any person to sell, trade, barter, lease, rent, give away, or display for a commercial purpose a live animal on a roadside, public right-of-way, commercial parking lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or similar event.

(c) Without superseding or implying waiver of any applicable law or ordinance (including, without limitation any applicable zoning or land use ordinances), this section does not apply to:

(i) An agent or a business that has a certificate of occupancy from the building inspection division (or other like authority) authorizing the occupancy of the premises for purposes of operating a business selling pets;

(ii) An event primarily for the sale of agricultural livestock such as animals or fowl commonly raised for food, dairy, or fiber products; or

(iii) A tax-exempt, non-profit organizations founded for the purpose of providing humane sanctuary or shelter for abandoned or unwanted animals.

Section 12. The following is added as Section 5-23 of the *Code*:

Sec. 5-23. Sterilization.

(a) Pursuant to Ark. Code Ann. Sec. 20-19-103: It shall be unlawful for any pound, shelter, humane organization, or animal rescue group to release any dog or cat which has not been sterilized to a new owner except as provided in subsection (b) of this section.

(b) (i) An animal which in the opinion of a veterinarian licensed to practice veterinary medicine in the State of Arkansas is medically compromised to the extent that it cannot withstand immediate sterilization may be

temporarily released pursuant to a foster care agreement until such time as it can safely be sterilized or until two (2) veterinarians licensed to practice veterinary medicine in the State of Arkansas certify that it is unlikely that the animal will ever recover to the extent that it can be safely sterilized.

(ii) At that time, ownership of the animal may be transferred to an owner who certifies that the animal will not be used for breeding.

(c) Any person owning, keeping, harboring, or having custody of any dog or cat six (6) months of age or older is required to spay or neuter said animal unless said person holds an unaltered animal permit issued by the city or any successor agency authorized by the city to issue said permit, except:

(i) Persons who own, keep, harbor, or have custody of registered service dogs or working police dogs;

(ii) Individuals who are non-residents of the city and reside temporarily therein for a period not to exceed thirty (30) days within a 12-month period;

(iii) Animal shelter, retail pet stores, or veterinary hospitals who are holding said animals; and

(d) In addition to any other fine or punishment for violation of city ordinances, violations of (a) above are declared to be misdemeanors pursuant to Ark. Code Ann 20-19-103 punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Section 13. The following is added as Section 5-24 of the *Code*:

Sec. 5-24. Breeding and Selling

(a) It shall be unlawful for any person to operate as a breeder without:

(i) Obtaining a Breeders Maintenance Permit from the city; and

(ii) Being issued a valid Breeder Permit from ACAC as provided below.

(b) A person who wishes to operate as a commercial breeder may apply to the ACAC Director for a Breeder Permit. Such application shall include:

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

- (ii) The name, address, and telephone number of the location where the breeding will be conducted;
- (iii) A description of the types of animals to be bred; and
- (iv) Any other information deemed reasonably necessary by the ACAC Director.

(c) The ACAC Director shall issue a Breeder Permit if the applicant meets the qualifications to obtain such permit. A Breeder Permit shall be denied if the applicant fails to:

- (i) Complete the application for a Breeder Permit;
- (ii) Properly restrain the dogs and cats in his care and custody;
- (iii) Adequately care for and protect the dogs and cats in his care and custody;
- (iv) Meet all requirements specified on the Breeder Permit;
- (v) If applicable, comply with Sec. 28-52(b) of the City Code of Ordinances; or
- (vi) Pay all required fees pertaining to the Breeder Permit.

(d) The annual fee for a Breeder Permit shall be \$100.00. A permit shall expire one year from the date of issuance and must be renewed prior to its expiration. Failure to timely renew a permit will result in the assessment of a late fee of \$25.00 against the permit holder.

(e) In addition to the \$100.00 Breeder Permit fee, applicants must apply for permits with the city for each unaltered animal used for breeding. The fee for an unaltered animal used for breeding shall be \$250.00 per city-registered animal. The permit is nontransferable to other animals or other parties and is good only for the lifetime of the registered animal.

(e) If the ACAC Director denies an application for a Breeder Permit or a request for renewal or revokes an existing permit, the Director shall provide notice of the denial or revocation to the application in writing not later than the 10th business day after the determination to deny an application or renewal or to revoke a permit. The notice of denial or revocation shall be sent to the permit holder or applicant by certified mail, return receipt requested, addressed to the permit holder or applicant. A person may appeal the denial or revocation of a permit by delivering a written

request for an appeal to the City Manager not more than 10 days after the first date of mailing written notice of denial or revocation. The determination of the City Manager shall be final.

Section 15. Except as specifically set forth above, the *Code* remains unmodified and in full force and effect.

PASSED AND APPROVED this 15th day of August, 2022.

Allen L. Brown, Mayor

ATTEST:

Heather Soyars, City Clerk

APPROVED:

George Matteson, City Attorney