

Added at Agenda Session
9-11-12

AGENDA REQUEST

C. 1
§92.01 Definitions of the Animals Chapter &
§92.35 Managed Care of Feral Cats
Page 1 of 8

FOR: COUNCIL MEETING OF SEPTEMBER 18, 2012

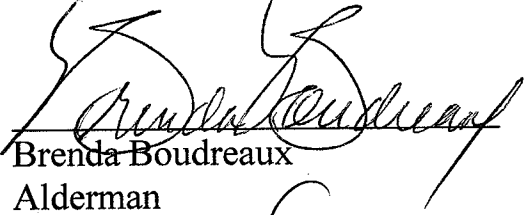
FROM:

ALDERMAN BRENDA BOUDREAUX

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

An Ordinance To Enact New Definitions Into §92.01 **Definitions Of The Animals** Chapter Of The Fayetteville Code And To Enact §92.35 **Managed Care Of Feral Cats**

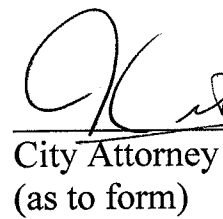
APPROVED FOR AGENDA:

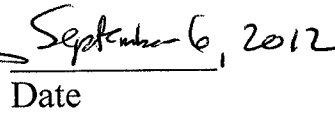

Brenda Boudreaux
Alderman


Date

09-11-12 P03:47 RCVD

WJB


City Attorney
(as to form)


Date



**TO: Mayor Jordan
City Council**

**Kit Williams
City Attorney**

**Jason B. Kelley
Assistant City Attorney**

**CC: Jeremy Pate, Development Services Director
Yolanda Fields, Community Services Director
Justine Middleton, Animal Services Superintendent**

FROM: Kit Williams, City Attorney

A handwritten signature in black ink, appearing to read "Kit Williams", written over a horizontal line.

DATE: September 6, 2012

RE: Control of feral cat population

Animal Services has looked at how some other cities have attempted to better control and manage their feral cat population. The key is to prevent breeding in the most effective manner possible. A trap, neuter and return program appears to be the best solution. Accordingly, we have drafted the proposed new code section which authorizes such a program in Fayetteville if an Animal Welfare Organization volunteers to administer the program.

This ordinance was scheduled and heard at the Ordinance Review Committee with myself, Yolanda Fields, Justine Middleton, Dr. James Robb and other staff present to discuss the problem of feral cats and this potential new way to control their population. Several audience members also spoke about this issue and supported this new ordinance.

Since the Ordinance Review Committee did not have a quorum, no official vote in support of this ordinance could be taken. However, Chairman Brenda Boudreaux examined the ordinance, questioned staff and indicated her personal support for the ordinance to enact a trap, neuter and return program for Fayetteville.

CITY COUNCIL AGENDA MEMO

To: City Council

Thru: Yolanda Fields, Dir. Community Services

From: Justine Middleton, Animal Services Superintendent

Date: August 30, 2012

Subject: New Ordinance for the managed care of feral cats

PROPOSAL:

Allowing for the managed care for existing feral cats is a topic that has arisen repeatedly at the Animal Services Advisory Board. The main purpose behind allowing such activity is to humanely reduce the population of feral cats that otherwise goes largely unchecked. Currently, Animal Services will trap ferals cats on a strictly complaint driven basis. Those cats that are deemed feral are held the required five days and then euthanized. There is no evidence that this is curbing the feral cat population in any way.

Having a structure in place to allow for well organized management of feral cats through a trap, neuter, and return (TNR) program will eventually lead to a natural reduction in the number of feral cats as well as an increase in their current quality of life. Both the Humane Society of the United States and the American Society for the Prevention of Cruelty to Animals endorse trap, neuter, return program. These types of programs are also highly touted by no kill advocates.

The proposed ordinance is crafted in a way that will allow for TNR activities to be underwritten by a sponsoring Animal Welfare Organization (i.e. a third party non-profit) with the day to day management being given by volunteer caretakers. Animal Services will preform quarterly inspections of each designated colony to ensure compliance with the requirements of the ordinance.

RECOMMENDATION:

Staff endorses this new ordinance as another step in lowering the euthanasia rate at the Animal Shelter in addition to a more effective and humane means of controlling the existing feral cat population in Fayetteville.

BUDGET IMPACT:

N/A

ORDINANCE NO. _____

**AN ORDINANCE TO ENACT NEW DEFINITIONS INTO §92.01
DEFINITIONS OF THE ANIMALS CHAPTER OF THE FAYETTEVILLE
CODE AND TO ENACT §92.35 MANAGED CARE OF FERAL CATS**

WHEREAS, increased efforts to control feral cats and reduce their ability to reproduce is needed in Fayetteville; and

WHEREAS, an ordinance for managed care of feral cats would improve control over feral cats and reduce their overall number through a spay and neuter program.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF FAYETTEVILLE, ARKANSAS:**

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby enacts and adds the following definitions (properly alphabetized) into §92.01 **Definitions** of the **Animals** Chapter of the Fayetteville Code:

Eartip. A mark identifying a feral cat as having been sterilized, specifically the removal of a quarter inch off the tip of the cat's left ear in a straight line cut while the cat is anesthetized.

Feral cat. A cat that is not socialized to humans and is not an owned cat.

Feral cat colony. A group of feral cats that congregate together as a unit and share a common food source.

Sterilize. To spay or neuter.

Trap, Neuter and Return Program. A program pursuant to which feral cats are trapped, sterilized, vaccinated against rabies, eartipped, returned to the location where they were captured and provided with long-term care by a Caretaker in accordance with this Chapter.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby enacts
§92.35 **Managed Care of Feral Cats** into the Fayetteville Code as shown on Exhibit A.

PASSED and **APPROVED** this 18th day of September, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

EXHIBIT A

“§92.35 Managed Care of Feral Cats

(A) *Trap, Neuter and Return Program*

A Trap, Neuter and Return program is established to better control and manage feral cats who are living in a colony cared for by a Caretaker. This program will not be in effect until it is sponsored and managed by a non-profit Animal Welfare Organization approved by the Fayetteville Animal Services Program. This sponsoring organization shall supervise the Caretakers and ensure the Caretakers perform all duties imposed upon them by §92.35 (B). This approved Animal Welfare Organization shall report annually to Animal Services concerning the status and population of all registered feral cat colonies including the total number of managed cats and the number of cats and kittens sterilized, vaccinated and/or placed for adoption.

(B) *Caretaker Duties*

A Caretaker of a feral cat colony shall regularly provide food, water and shelter for the cats in his or her feral cat colony. The Caretaker shall make reasonable efforts to:

- (1) trap all cats so they can be sterilized, vaccinated, and ear-tipped by a veterinarian;
- (2) recapture all cats to update rabies vaccinations as required by state law;
- (3) register all feral cats with the sponsoring Animal Welfare Organization and maintain medical records for all cats;
- (4) find adoptive or foster homes for any kittens born to the feral cats of the colony;
- (5) report annually in writing the total number of feral cats in the colony, the number sterilized and vaccinated, the number of kittens born and the number of cats and kittens adopted or placed in foster care.

(C) *Caretaker Exemption from §92.22 (C) and (D)*

A Caretaker of a feral cat colony who is properly registered with the approved Animal Welfare Organization and in compliance with all Caretaker Duties stated above shall be exempt from §92/22 **Running at Large Prohibited** subsections (C) and (D) only for allowing properly managed feral cats from running at large. Any such feral cat which is running at large within Fayetteville and is a nuisance or problem for neighbors may be trapped or caught by Animal Services officers, impounded and dealt with as any other cat or dog captured while running at large would be handled. Such exemption ends if the Caretaker's status is revoked or abandoned.

(D) *Loss of Caretaker Status*

(1) If a Caretaker fails to adequately perform the duties required by (B), the Animal Welfare Organization shall report this failure to Animal Services which may revoke all of the Caretaker's rights to care for the feral cat colony and the exemption from §92.22 (C) and (D). If the Caretaker disputes the grounds for revocation of his or her Caretaker status, the Caretaker can appeal in writing within three business days to the Community Services Director who shall conduct a hearing during which the Caretaker can explain why his or her Caretaker's status should not be revoked. The Director shall then make a final determination whether or not to revoke the Caretaker's status.

(2) If a person desires to be released from Caretaker duties, the person shall immediately notify the Animal Welfare Organization who shall notify the City's Animal Services Program, which shall release and revoke the person's Caretaker status and the duties and exemption thereunder.

FAYETTEVILLE CODE OF ORDINANCES
TITLE IX GENERAL REGULATIONS

CHAPTER 92 ANIMALS

ARTICLE I
GENERAL PROVISIONS

92.01 Definitions

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandon. Any person who knowingly deserts an animal on public or private property.

Animal. Any living creature, domestic or wild.

Animal shelter. Any facility operated by a humane society, municipal agency or its authorized agent(s) for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

At large. Not under the physical control of the animal's owner or harborage, or his authorized representative, either by leash, trolley system, or enclosure. An animal intruding upon or damaging the property of another person or upon public property, trespassing on school grounds, harassing passersby or passing vehicles, or interfering with refuse collection, harassing meter readers and not under the physical control referred to herein shall be deemed "running at large." An animal within an automobile or other vehicle shall not be deemed "running at large" if the animal is physically confined to the vehicle. An animal shall not be considered "at large" when on the premises of the owner or harborage thereof and accompanied by the owner or harborage.

Cat. A feline of either sex, including one neutered or sterilized.

City. City of Fayetteville, Arkansas.

Dangerous Animal. Any animal which, when unprovoked, approaches in a manner of attack any person or domestic animal upon the streets, sidewalks, or any other public ground or place.

Dog. A canine of either sex, including one neutered or sterilized.

Enclosure. A fence or pen, or structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping. Owners confining dogs or cats by means of an enclosure must provide a minimum space of 100 square feet (10x10) per dog or cat four (4) months of age or older.

Harbor. For a period of three days or more, to keep and care for an animal or provide a premises to which the animal returns.

Kennel means a structure or facility used for the purpose of breeding two or more litters of puppies or kittens within any twelve month period. A facility used for commercially boarding more than three dogs or cats or combination thereof at any time shall be considered a 'Kennel'.

Locked Enclosure. A fence or pen, or structure with all gates or entrances locked with a key or combination device. The structure forming or causing an enclosure of sufficient strength or construction to contain the specific animal and prevent the animal from escaping.

Microchip. An identifying integrated circuit placed under the skin of a dog or cat for purposes of identifying the owner of the animal.

Noisy Animals. Any domestic animal which barks, whines, or howls in an unwarranted, or continuous, or loud, or frequent fashion.

Pet Shop means a commercial establishment or facility which regularly sells pets such as dogs, cats, birds, rodents, reptiles and/or fish to the general public. Pet Shops are only allowed in C-1, C-2, C-3, Downtown Core, Mainstreet Center, Downtown General and by Conditional Use in R-O Districts

Restrained. Any animal secured by leash and under the control of owner or harborage. At public events of 100 persons or more, leashes shall be a maximum length of 6 feet. The animal must be within 4 feet of the owner or harborage.

Special Event. A specified or designated public occurrence, affair, or event at which more than three hundred (300) persons are reasonably expected by the organizer or sponsor thereof to be in attendance.

Sterilize means to surgically alter an animal so that it cannot reproduce.

Tether. A rope, chain, or cable of appropriate strength that is firmly anchored to the bed of an open bed pickup truck or similar vehicle in at least two places. Tether is to be used to restrain the animal and fastened to the animal by means of a harness or collar and to be the appropriate length as to afford the animal freedom to move about the vehicle, but to restrict the animal to a set radius to prevent it from reaching either side or the rear of the vehicle so that the animal cannot be thrown