

## AGENDA REQUEST

FOR: COUNCIL MEETING OF February 18, 2014

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FROM:  
CITY COUNCIL MEMBER Alan Long

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### ORDINANCE OR RESOLUTION TITLE AND SUBJECT:


AN ORDINANCE TO AMEND § 92.01 DEFINITIONS, § 92.23 IMPOUNDMENT AND § 92.24 REDEMPTION OF ANIMALS OF THE FAYETTEVILLE CODE TO AUTHORIZE THE ANIMAL SHELTER TO ACCEPT LIVESTOCK AND SET THE REDEMPTION FEE FOR THEIR RELEASE

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### APPROVED FOR AGENDA:

  
\_\_\_\_\_  
City Council Member Alan Long

02-18-14  
Date

  
\_\_\_\_\_  
City Attorney Kit Williams  
(as to form)

2-11-14  
Date

Left on the 2<sup>nd</sup> reading at the 3/4/14 City Council meeting.  
Left on the 1<sup>st</sup> reading on the 2/18/14 City Council meeting.

**MEMO FEBRUARY 18<sup>th</sup>, 2014**

TO: MAYOR, CITY COUNCIL MEMBERS & CITY CLERK

From: Alderman, Alan T. Long

RE: Amendment to Chapter 92 on animals to coincide with the new Urban Agriculture Ordinance.

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After considering the impacts that the Urban Agriculture ordinance would have on the Animal Services Division, I feel that it is necessary to change language in Chapter 92.

I believe that the changes to chapter 92 should be considered at the same time that the Urban Agriculture Ordinance is being considered. This is why I am "walking" this ordinance on to our agenda.

I prefer for our ordinances to be consistent. Passing the Urban Agriculture ordinance without considering the implications that it could have on Animal Services would, in my opinion, be unwise.

Therefore, I have asked our city attorney to draft changes to chapter 92 so that we can maintain consistency in our code of ordinances by considering the Urban Agriculture ordinance in unison with the changes to chapter 92.

I have drafted this memo in accordance with our resolution that requests any alderman or staff member to give an explanation as to why they feel that it is necessary to "walk an item" on to the agenda.

Sincerely,



Alan T. Long

City of Fayetteville

Alderman, Ward 4, position 2

**Williams, Kit**

**From:** Alan Long <longward4@gmail.com>  
**Sent:** Thursday, February 06, 2014 2:24 PM  
**To:** Marr, Don  
**Cc:** Williams, Kit; Nierengarten, Peter; Pate, Jeremy; Fields, Yolanda; Smith, Sondra  
**Subject:** Re: Urban Agriculture and chapter 92 on Animal Services

These are the changes to chapter 92 that I would like to see added:

- **Add Definition of Livestock:** Any sheep, jenny, goat, hog or fowl.
- **Modify Section 92.23A to say:** The Fayetteville Animal Shelter is authorized to accept from the animal control officer or any private citizen, and to impound, any dog, or cat or livestock found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.
- **Add #4 under Section 92.23B: (4) Fees for Livestock.** An owner reclaiming livestock shall pay the cost for such impoundment. Said cost are hereby ascertained to be \$10.00 for the first impoundment and \$50.00 for any subsequent impoundments of that animal within a twelve (12) month period.

Any input would be appreciated.

Thank you,  
Alan

On Thu, Feb 6, 2014 at 12:35 PM, Marr, Don <[dmarr@fayetteville-ar.gov](mailto:dmarr@fayetteville-ar.gov)> wrote:

Kit - Per Alderman Long's request in the email below - Alderman Long is requesting a change to Chapter 92 as it relates to the newly proposed Urban Agriculture Ordinance. Will you please contact him or assign a staff member from the City Attorney's office to do so - so that an agenda item can be developed for him to introduce at agenda session.

Thanks  
Don

Sent from my iPhone

On Feb 6, 2014, at 12:26 PM, "Longward4" <[longward4@gmail.com](mailto:longward4@gmail.com)> wrote:

After review the proposal and looking at the implications for compliance in animal services, I would like to see the changes to chapter 92 happen at the same time as the Urban Agriculture ordinance. I think that this will prevent challenges from becoming an issue if even one case of compliance is presented.

Can we have changes to chapter drafted to match the Urban Agriculture ordinance?

Thank you for all you do.

Sincerely,

Alan Long  
City of Fayetteville, AR  
City Council, Alderman- Ward 4



**Kit Williams**  
*City Attorney*

**Jason B. Kelley**  
*Assistant City Attorney*

**TO: Mayor Jordan**  
**City Council**

**CC: Peter Nierengarten, Director of Sustainability & Resilience**

**FROM: Kit Williams, City Attorney**

A handwritten signature in blue ink, appearing to read 'Kit Williams', with a long horizontal flourish extending to the right.

**DATE: February 18, 2014**

**RE: Amendments to Chapter 92 Animals**

Alderman Long desires to amend Chapter 92 **Animals** in conjunction with the Urban Agriculture Ordinance now being proposed. I have drafted an enacting ordinance pursuant to his directions.

This proposed ordinance amends § 92.23 **Impoundments** (A) to add "livestock" to the animals that can be impounded. It also amends "private citizen" to "private citizen of Fayetteville" from which animals may be accepted by the shelter to reflect that the Washington County Animal Shelter now handles animals from outside of Fayetteville which we used to accept.

The proposed ordinance further requires impoundment fees for livestock in a revised section (3). The old subsection (3) has been moved to (4) but remains "Boarding Fees." It has been amended to include "fowl" in the cat and dog boarding fee of \$10.00 per day and now includes a \$25.00 fee for "other livestock" which includes all livestock except "fowl".

Finally, I moved the possible fee for a necessary rabies vaccination out of "Boarding Fee," and into its own subsection (5). The rabies vaccination will be given at the Fayetteville Veterinarian's discretion depending upon proof (or lack of proof) of a prior, but not out of date, rabies vaccination.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE TO AMEND § 92.01 **DEFINITIONS**, § 92.23 **IMPOUNDMENT** AND § 92.24 **REDEMPTION OF ANIMALS** OF THE FAYETTEVILLE CODE TO AUTHORIZE THE ANIMAL SHELTER TO ACCEPT LIVESTOCK AND SET THE REDEMPTION FEE FOR THEIR RELEASE

**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 amends § 92.01 **Definitions** of Chapter 92 Animals to add a definition of livestock as follows:

*“Livestock*     *“Any sheep, jenny, goat, hog or fowl.”*

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby amends § 92.23 **Impoundment** by repealing (A) in its entirety and enacting a replacement (A) as shown below:

*“The Fayetteville Animal Shelter is authorized to accept from the animal control officer or any private citizen of Fayetteville, and to impound, any dog, or cat or livestock found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request have confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.”*

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby amends § 92.24 **Redemption of Animals** by repealing subsection (3) in its entirety and enacting a replacement (3) under (B) Redemption Fees as shown below:

*“(3) Fees for Livestock. An owner reclaiming livestock shall pay the cost for such impoundment. Said cost are hereby ascertained to be \$10.00 for the first impoundment and \$50.00 for any subsequent impoundments of that animal within a twelve (12) month period.”*

**Page 2**  
**Ordinance No.**

Section 4. That the City Council of the City of Fayetteville, Arkansas hereby enacts a new subsection (4) to § 92.24 **Redemption of Animals** as shown below:

(4) Boarding Fees. In addition to the impoundment and sterilization fees as provided in subsections (B) (1), (2), and (3) of this section, a boarding fee of \$10.00 per day for cats, dogs, and fowl and \$25.00 per day for other livestock shall be charged for each day the animal is sheltered by the City.

Section 5. That the City Council of the City of Fayetteville, Arkansas hereby enacts a new subsection (5) to § 92.24 **Redemption of Animals** as shown below:

(5) Rabies vaccination. The City Veterinarian may determine that an animal needs to be vaccinated for rabies and vaccinate such animal. The cost of this vaccination must be paid by the owner as part of the Redemption Fee.

**PASSED** and **APPROVED** this 18<sup>th</sup> day of February, 2014.

APPROVED:

ATTEST:

By: \_\_\_\_\_  
**LIONELD JORDAN, Mayor**

By: \_\_\_\_\_  
**SONDRA E. SMITH, City Clerk/Treasurer**

Add "Livestock" definition

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 harbinger, 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 harbinger thereof and accompanied by the owner or harbinger.

*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.

*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.

*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.

*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.

*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 harbinger. 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 harbinger.

*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.



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TITLE IX GENERAL REGULATIONS

showing payment of said fee or receipt of such duplicate tag. No tag shall be transferable from one animal to another. No refunds shall be made on any fee from one animal to another. No refunds shall be made on any fee because of the death of the animal or because the owner leaves the city before the expiration of the license period.

(Ord. No. 3557, 7-16-91; Ord. No. 3588, §2, 1-21-92; Code 1991, §92.21; Ord. 5002, 4-17-07)

**Cross reference(s)**--Penalty, §92.99.

**State law reference(s)**--"Rabies Control Act", A.C.A. §20-19-301 et seq; Vaccination dogs & cats required, A.C.A. §20-19-305.

### 92.22 Running At Large Prohibited

- (A) It shall be unlawful for the owner or person in charge of any horse, mule, colt, sheep, cow, calf, bull, jack, jenny, goat, hog, or swine of any kind to permit or suffer the same to run at large within the corporate limits of the city at any time.
- (B) It shall be unlawful for any person owning or having control of any chickens, turkeys, or other fowl to permit the same to run at large within the city.
- (C) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to run at large within the corporate limits of the city at any time.
- (D) It shall be unlawful for the owner or person having charge of any dog or cat to permit or allow such dog or cat to be without proper restraint at a public event.
- (E) The term "permit" shall include the failure of the owner or person having charge of said animal to physically restrain the animal. The animal control officer shall be authorized to enter onto private property for the purpose of impounding an animal found running at large.
- (F) Every female dog or cat in heat or estrous shall be confined in a building or secure enclosure in such a manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.22; Ord. 5002, 4-17-07)

**Cross reference(s)**--Penalty, §92.99.

### 92.23 Impoundment

- (A) The Fayetteville Animal Shelter is authorized to

accept from the animal control officer or any private citizen, and to impound, any dog or cat found running at large in violation of this subchapter. The animal control officer shall not be required to respond to requests to pick up unconfined cats until the person making the request has confined or restrained the animal so that it can readily be taken into custody by the animal control officer. The animal control officer may use humane animal traps or tranquilizers to assist in confining the cat.

*Amend to add  
11 verstock*

- (B) Whenever any animal in the animal shelter bears a city tag, it shall be the duty of the animal control officer to notify the owner or the person to whom the tag was issued, if such person or owner can be found, that the animal has been taken up and placed in the animal shelter and will be destroyed or placed for adoption within 10 days unless the fee hereinafter prescribed is paid. If the owner or person to whom the tag was issued cannot be found, the animal control officer shall, by registered mail sent to said person's last known address, notify said person that the animal has been impounded at the animal shelter, and will be destroyed or placed for adoption within 10 days if the fee hereinafter prescribed is not paid. For the purpose of this section, the first day of taking up shall be counted as the first day of the impoundment period provided herein.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.23; Ord. 5002, 4-17-07)

### 92.24 Redemption Of Animals

- (A) After the expiration of ten (10) days impoundment in the case of a microchipped animal, or the expiration of five (5) days impoundment in the case of a non-microchipped animal, said animal shall become the property of the City, and the City shall be empowered to place for adoption or to destroy and dispose of said animal as provided for in §92.23 (B) above. The animal control officer is hereby authorized to place for adoption or to destroy such animal and dispose of the carcass. For the purpose of this section, the day of taking up shall be counted as the first day of the impoundment.

- (B) Redemption Fees

- (1) Fees for Sterilized Animals. An owner reclaiming a sterilized impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$10.00 for the first impoundment if the animal is sterilized and has a microchip currently registered with up-to-date contact information on file with the City Animal Services Division; \$25.00 for the first

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impoundment if the animal has no microchip or the animal's microchip is not registered with up-to-date contact information on file with the City Animal Services Division. The animal shall be microchipped at the time of redemption at the owner's expense. \$50.00 for the second impoundment of a sterilized and microchipped animal within a twelve (12) month period. \$100.00 for the third impoundment of a sterilized and microchipped animal within a twelve (12) month period. \$200.00 for the fourth impoundment of a sterilized and microchipped animal within a twelve (12) month period.

- (2) Fees for Unsterilized Animals. An owner reclaiming an unsterilized impounded animal shall pay the cost of such impoundment. Said costs are hereby ascertained to be \$100.00 for the first impoundment on an unsterilized animal with or without a microchip. The animal shall be microchipped at the time of redemption at the owner's expense. At the time of the first redemption the owner of an unsterilized animal shall be offered spay or neuter services at a reduced cost. If sterilization is performed, the impoundment fee will be reduced to \$10.00 for animals that are already microchipped and \$25.00 for animals that are not microchipped or animals whose microchips are not registered with up-to-date information on file with the City Animal Services Division. \$200.00 for the second impoundment within a twelve (12) month period. At such time the animal will be considered a public nuisance and shall be sterilized at the owner's expense. At such time that a third impoundment occurs, the owner shall be required to pay the fees as set forth for the third impoundment of a sterilized animal.

- (3) Boarding Fees. In addition to the impoundment fees as provided in subsections (B)(1) and (B)(2) of this section, a boarding fee of \$10.00 per day per animal shall be charged for each day such animal is impounded in the animal shelter, together with the cost of having an unvaccinated animal vaccinated for rabies.

- (C) The owner of an impounded animal who refuses to reclaim his animal may be proceeded against for abandonment under the provisions of §92.02.
- (D) No unclaimed dog or cat shall be released for adoption without being sterilized, or without a written agreement from the adopter guaranteeing that such animal will be sterilized, and after the adoption fee has been paid. A voucher will be

issued to the adopter and said voucher may be used at the time the animal is sterilized. An adopter who fails to comply with the sterilization provision of the agreement shall be guilty of a misdemeanor.

(Ord. No. 3588, §2, 1-21-92; Code 1991, §92.24; Ord. 5002, 4-17-07; Ord. 5466, 12-6-11)

**92.25 Confinement When Person Bitten**

Any animal suspected of biting a human shall be quarantined in accordance with the provisions of A.C.A. 20-19-301 (The Rabies Control Act).

(Ord. 5002, 4-17-07)

**92.26 Vicious Animals Restricted**

- (A) Once a citation has been issued by an Animal Services Officer or a complaint has been filed in the district court against the owner or harborer of an animal for violation of this section, the animal shall be relinquished by the owner or harborer to the animal services officer and kept at the animal shelter, the animal shall not be released except on order of the court, which order may also direct the owner or harborer to pay a fine, all impoundment fees, and/or obtain liability insurance in amount to be determined. Upon a finding that such animal is a vicious animal, the court may order the animal to be euthanized in a humane manner. Surrender of an animal by the owner or harborer thereof to the animal control officer shall not render the owner or harborer immune from the fines and fees prescribed by this chapter.
- (B) Once a complaint has been filed in the Fayetteville District Court and the alleged vicious animal is impounded at the Animal Shelter, the arraignment shall be held within seven calendar days and the trial of the charges shall be held within two weeks of the arraignment date unless the defendant/owner of the impounded animal requests a continuance and pays a cash deposit into court in an amount equal to the impoundment and board fees through the requested court date.
- (C) It shall be unlawful for a vicious animal to be outside of a dwelling or locked enclosure unless it is necessary for the owner or harborer thereof to obtain veterinary care for the vicious animal or to comply with commands or directions of an animal control officer with respect to the vicious animal; and, the owner or harborer of an animal in violation of this section shall be subject to criminal prosecution. In such event, the vicious animal shall be securely muzzled and restrained with a chain having a minimum tensile strength of 300 pounds and not exceeding three feet in length, shall be

Add (4)  
for  
overlook