

THE COUNCIL

The City of New York

Int. No. 168

February 26, 1998

Introduced by Council Member Freed; also Council Members Marshall, Miller, O'Donovan and Sabini—read and referred to the Committee on Health.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the spaying and neutering of dogs and cats and the harboring, breeding, sale and adoption of unaltered dogs and cats.

Be it enacted by the Council as follows:

1 Section 1. **Legislative findings.** The City Council hereby finds that the serious
2 overpopulation of unwanted dogs and cats in New York City is a matter of vital concern
3 affecting the public health, safety and welfare of all New Yorkers. The regulation of the
4 spaying and neutering of dogs and cats and the harboring, breeding, sale and adoption of
5 unaltered dogs and cats is necessary in order to reduce the overpopulation of unwanted
6 dogs and cats which is creating a potentially unhealthy and dangerous situation. It is
7 estimated that between thirty and forty thousand unwanted dogs and cats are euthanized
8 each year at animal shelters in New York City. Additionally, many thousands of dogs
9 and cats, reproducing at alarming rates, wander our city streets. Many of these animals
10 are suffering from exposure to the elements, lack of food and water, accidents and mis-
11 treatment. Dog packs are threatening some of our neighborhoods, the risk of rabies is on
12 the increase, and vehicular accidents involving these animals are frequent. Given the
13 large number of unwanted dogs and cats and the population of New York City, the
14 Council believes that this law is necessary to protect the health, safety and welfare of its

1 residents.

2 § 2. Chapter 3 of title 17 of the administrative code of the city of New York is
3 hereby amended by adding thereto a new subchapter 8, to follow subchapter 7, to read as
4 follows:

5 **SUBCHAPTER 8**

6 **DOG AND CAT OVERPOPULATION CONTROL LAW**

7 § 17-355 *Short title.* This subchapter shall be known and may be cited as the "Dog
8 and Cat Overpopulation Control Act."

9 § 17-356 *Definitions.* Whenever used in this subchapter, the following terms shall
10 be defined as follows:

11 a. "Adoption" means the delivery by an animal shelter to any individual, eigh-
12 teen years of age or older, of any dog or cat, whether such dog or cat was surrendered
13 or seized, for the limited purpose of harboring such animal as a companion animal.

14 b. "Animal shelter" means a facility in the city where homeless, stray, aban-
15 doned or unwanted animals are received, harbored, maintained or made available for
16 adoption to the general public and which is owned, operated, or maintained by the city
17 or by a duly incorporated humane society, animal welfare society, society for the pre-
18 vention of cruelty to animals, or other organization devoted to the welfare, protection or
19 humane treatment of animals.

20 c. "Breeder" means any Person who causes or allows a dog or cat to breed.

21 d. "Person" means any individual, partnership, firm, joint stock company, cor-
22 poration or employee thereof, or other legal entity, unless otherwise stated.

23 e. "Pet dealer" means any person who in the ordinary course of business
24 engages in the sale of more than nine dogs or cats per year for profit to the public. Such
25 definition shall include breeders of dogs and cats who sell such animals directly to a

1 consumer but it shall not include animal shelters which make dogs or cats available for
2 adoption whether or not a fee for such adoption is charged.

3 **§ 17-357 Spaying and neutering requirements: unaltered animal permit required.**

4 a. No person shall own or harbor any dog or cat over the age of six months that has not
5 been spayed or neutered unless such person holds an unaltered animal permit issued by
6 the department for each such animal. (i) Persons who own or harbor guide dogs, hear-
7 ing dogs, service dogs or police work dogs, as such terms are defined in section 108 of
8 the agriculture and markets law; (ii) individuals who are non-residents of the city and
9 reside temporarily therein for a period not exceeding thirty days; and (iii) animal shel-
10 ters, veterinary hospitals and college and research institutions that harbor dogs and
11 cats, are exempt from the requirements of this subdivision.

12 b. Any dog or cat over the age of six months that is adopted from an animal
13 shelter shall be spayed or neutered before transfer to the adopter unless the animal
14 shelter has written certification from a licensed veterinarian stating that due to old age
15 or other health considerations, spaying or neutering would endanger the life of the dog
16 or cat and may not take place either during the lifetime of such animal or at that time. If
17 such certification states that spaying or neutering may not take place at such time, the
18 certification should specify the estimated date after which the dog or cat may be spayed
19 or neutered. Such dog or cat must be spayed or neutered within thirty days from such
20 date. The animal shelter shall extend the thirty-day period if the adopter provides writ-
21 ten certification from a licensed veterinarian that due to health considerations, spaying
22 or neutering would continue to endanger the life of the dog or cat at that time. Written
23 certification from a licensed veterinarian stating that the dog or cat was spayed or
24 neutered or that due to health considerations such procedure would endanger the life of
25 the dog or cat at that time shall be provided by the adopter to the animal shelter within

1 *ten days from the expiration of the thirty-day period or any extension of such period*
2 *granted hereunder by the animal shelter in which the spaying or neutering was required*
3 *to take place.*

4 *c. Any dog or cat that is six months of age or under that is adopted from an*
5 *animal shelter and that is not spayed or neutered prior to the transfer to the adopter*
6 *shall be spayed or neutered within thirty days after a specified date estimated by the*
7 *animal shelter in a written adoption agreement to be the date an adopted dog or cat*
8 *becomes six months of age. However, if the animal shelter has a written policy recom-*
9 *mending the sterilization of certain infant dogs and cats at an age of less than six*
10 *months, it may instead require spaying and neutering within thirty days after a specified*
11 *date estimated by such shelter in a written adoption agreement to be the date an adopt-*
12 *ed dog or cat becomes the age contained in such written policy.*

13 *The animal shelter shall extend the thirty-day period if the adopter pro-*
14 *vides the animal shelter with written certification from a licensed veterinarian stating*
15 *that due to health considerations, spaying or neutering would endanger the life of the*
16 *dog or cat at that time. Such written certification shall specify the estimated date after*
17 *which the dog or cat may be spayed or neutered. Such dog or cat must be spayed or*
18 *neutered within thirty days from such date. The animal shelter shall extend the*
19 *thirty-day period if the adopter provides written certification from a licensed veterinari-*
20 *an that due to health considerations, spaying or neutering would continue to endanger*
21 *the life of the dog or cat at that time. Written certification from a licensed veterinarian*
22 *stating that the dog or cat was spayed or neutered or that due to health considerations*
23 *such procedure would endanger the life of the dog or cat at that time shall be provided*
24 *by the adopter to the animal shelter within ten days from the expiration of the thirty-day*
25 *period or any extension of such period granted hereunder by the animal shelter in which*

1 the spaying or neutering was required to take place.

2 *Nothing herein shall be construed to Prohibit animal shelters from having*
3 *dogs and cats under the age of six months of age and in their custody spayed or*
4 *neutered by a licensed veterinarian prior to releasing such dogs or cats for adoption.*

5 *d. Animal shelters shall collect a spay/neuter deposit of not less than*
6 *twenty-five dollars nor more than fifty dollars when arranging the adoption of any*
7 *unspayed or unneutered dog or cat unless prior thereto the animal shelter has written*
8 *certification from a licensed veterinarian stating that spaying or neutering would*
9 *endanger the life of the dog or cat and may not take place for the lifetime of such ani-*
10 *mal. Such deposit shall be refundable to the adopter only if the adopter provides the*
11 *animal shelter with written certification from a veterinarian indicating that (i) due to*
12 *health considerations, spaying or neutering would endanger the life of the dog or cat*
13 *and may not take place for the lifetime of such animal; or (ii) the dog or cat was spayed*
14 *or neutered within the thirty-day period or the extension of such period established pur-*
15 *suant to the requirements set forth in subdivisions b or c of this section and written cer-*
16 *tification from a licensed veterinarian was provided to the animal shelter in accordance*
17 *with the requirements set forth in subdivisions b or c of this section.*

18 *e. Within thirty days prior to the date an animal is required to be spayed or*
19 *neutered, animal shelters shall remind the adopter of such animal of his or her obliga-*
20 *tions under this section and his or her opportunity to receive a refund of the spay/neuter*
21 *deposit by sending written notification to such adopter or by such other means as deter-*
22 *mined by the animal shelter.*

23 *f. Upon redemption of any impounded, unspayed or unneutered dog or cat, the*
24 *owner will be required to pay a spay/neuter deposit of not less than twenty-five dollars*
25 *nor more than fifty dollars in addition to any other fee required by law for the redemp-*

1 tion of such animal. Such animal shall be spayed or neutered in accordance with the
2 same requirements applicable to animals adopted from animal shelters as set forth in
3 subdivisions b and c of this section. Such deposit shall be refundable subject to the same
4 requirements as are provided in subdivision d of this section.

5 g. Animal shelters shall maintain the written certifications from veterinarians
6 required pursuant to this section and such certifications shall be made available by the
7 animal shelters for inspection by persons authorized to enforce this subchapter.

8 h. Any unredeemed spay/neuter deposit shall be used by animal shelters to
9 carry out the provisions of this subchapter.

10 **§ 17-358 Breeders' and sellers' permits required.** a. No person who owns or har-
11 bors a dog or cat shall cause or allow such dog or cat to breed unless such person holds
12 a breeder's permit issued by the department.

13 b. No person shall sell an unaltered dog or cat of any age unless such person
14 holds a seller's permit issued by the department.

15 c. Animal shelters that make dogs and cats available for adoption, whether or
16 not a fee for the adoption is charged, shall not be required to purchase a seller's permit.

17 **§ 17-359 Permit fees.** a. The annual fee for an unaltered animal permit shall be
18 fifty dollars.

19 b. The annual fee for a breeder's permit shall be one hundred fifty dollars.

20 c. The annual fee for a seller's permit shall be one hundred fifty dollars.

21 d. The annual fee for a combined seller's and breeder's permit shall be two
22 hundred fifty dollars.

23 **§ 17-360 Standards.** a. Every pet dealer who sells an unaltered dog or cat,
24 regardless of the age of the animal, shall, in addition to obtaining a seller's permit from
25 the department, be required to: (i) pay a fee of twenty-five dollars to the department for

1 each unaltered dog or cat sold and (ii) file with the department notice of such sale
2 which shall include the name and address of the buyer of such unaltered animal; the
3 species, breed, sex and age of such unaltered animal; the name and address of the per-
4 son from whom such animal was obtained by the pet dealer, and such other information
5 as shall be required by the commissioner.

6 b. Every person required to obtain a seller's or combined seller's and breed-
7 er's permit pursuant to the requirements of this subchapter, shall:

8 1. provide the purchaser of the dog or cat with a written notice as pre-
9 scribed by the commissioner pursuant to rules to be promulgated hereunder setting forth
10 the requirements contained in this subchapter for persons who own unaltered dogs and
11 cats and for persons who wish to breed or sell unaltered dogs or cats. Such notice shall
12 also include information summarizing the health benefits to dogs and cats of spaying
13 and neutering and information about the serious dog and cat overpopulation problem;
14 and

15 2. maintain such records of sale as the commissioner shall prescribe in
16 rules to be promulgated hereunder.

17 c. No person who is required to obtain an unaltered animal permit, a seller's
18 permit or a combined seller's and breeder's permit pursuant to the requirements of this
19 subchapter, shall publish or advertise the availability of any unneutered or unspayed
20 dog or cat unless the publication or advertisement includes the seller's or combined
21 seller's and breeder's permit number and, if the animal is over the age of six months,
22 the unaltered animal permit number issued in connection with that animal.

23 d. No person subject to the requirements of this subchapter shall allow the
24 whelping of more than one litter per each female dog or cat owned or harbored by such
25 person, in any twelve month period.

1 e. Dogs and cats in the custody of an animal shelter shall be made available
2 for adoption only to persons who are eighteen years of age or older who agree in writ-
3 ing to harbor such dogs and cats as companion animals and no dog or cat in the custody
4 of an animal shelter shall be transferred or otherwise made available to any person for
5 the purpose of research, experimentation, testing, teaching, practice or demonstration.

6 f. The spaying and neutering of dogs and cats shall be performed only by
7 licensed veterinarians using appropriate and humane surgical procedures and anesthe-
8 sia. When permitted by law, licensed veterinary technicians may assist veterinarians
9 with such procedures.

10 g. Animal shelters, and those persons required to possess a breeder's, seller's
11 or combined seller's and breeder's permit pursuant to the provisions of this subchapter,
12 shall provide necessary and appropriate shelter, food and veterinary care to dogs and
13 cats in their custody pursuant to rules to be promulgated by the commissioner.

14 h. Euthanasia of dogs and cats in the custody of animal shelters or persons
15 required to possess a breeder's, seller's or combined seller's and breeder's permit pur-
16 suant to the requirements of this subchapter, shall be done only by an injection of sodi-
17 um pentobarbital administered by a person duly authorized to do so by law.

18 § 17-361 Rules. The commissioner shall, within ninety days after the effective date
19 of this local law, and with the advice of the advisory board hereinafter established, pro-
20 mulgate such rules and prescribe such forms as are necessary to effectuate the purpose
21 of this subchapter and to promote the health, safety and welfare of the public and of
22 dogs and cats.

23 § 17-362 Lost and found system. The department shall implement a lost and found
24 system that shall include the operation of a separate telephone number to enable the
25 public to readily report the loss or the finding of a dog or cat, thus facilitating the

1 reuniting of lost dogs and cats with their owners. Such system shall be computerized and
2 be able to track dogs and cats that are in animal shelters as well as dogs and cats that
3 are found by members of the public who call the lost and found telephone number to
4 report that they are in possession of a lost dog or cat.

5 **§ 17-363 Dog and cat overpopulation control fund.** *The fees and penalties col-*
6 *lected by the department pursuant to this subchapter shall be placed in a special fund to*
7 *be known as the dog and cat overpopulation control fund and used exclusively for the*
8 *administration and enforcement of this subchapter by the department and its designees;*
9 *any penalties not used for these purposes shall be used for the low-cost spaying and*
10 *neutering of dogs and cats harbored by low-income residents and by senior citizens and*
11 *for public education programs to prevent the overpopulation of dogs and cats and to*
12 *encourage licensing and the responsible treatment of such animals. In addition, other*
13 *tax-levy funds may be allocated in the expense budget of the city and the city may accept*
14 *funding from any public or private source for such low-cost spaying and neutering and*
15 *public education purposes.*

16 **§ 17-364 Record keeping and annual report.** *a. The department shall maintain*
17 *records of the total number of dogs and cats that are housed in animal shelters and the*
18 *number that are euthanized in such animal shelters. Such records shall also specify the*
19 *number of dogs and cats euthanized at their owner's request; the number of dogs and*
20 *cats euthanized because they were determined to be medically or temperamentally*
21 *unsuitable for adoption; the average length of time dogs and cats are held for adoption*
22 *beyond the legally required holding period; the number of lost dogs and cats that are*
23 *reunited with their owners; the number of dogs and cats that are adopted; the number of*
24 *dogs and cats that are seized by city personnel or persons designated by the City to per-*
25 *form this function; the number of dogs and cats that are voluntarily brought to animal*

1 *shelters; the number of unredeemed spay/neuter deposits collected by animal shelters*
2 *pursuant to the provisions of this subchapter; the amount of money the department col-*
3 *lected from pet dealers from their sale of unaltered dogs and cats; the number of breed-*
4 *er's, seller's and combined seller's and breeder's permits the department issued and the*
5 *amount of money the department collected from the issuance of these permits; the num-*
6 *ber of unaltered animal permits the department issued and the amount of money the*
7 *department collected from the issuance of these permits; the amount of money deposited*
8 *in the dog and cat overpopulation control fund established pursuant to this subchapter;*
9 *the amount of money from such fund that was spent by the department and a description*
10 *of how the department used the money. Not later than September of each year, the*
11 *department shall provide the city council with a comprehensive written report that*
12 *includes all of the information required by this subdivision for the preceding fiscal year.*
13 *Such annual report shall also includes recommendations for additional legislation to*
14 *reduce the euthanasia rates and the dog and cat overpopulation problem.*

15 *b. Not later than July 15 of each year, each animal shelter shall provide the*
16 *department with a comprehensive written report that includes all of the information for*
17 *the city's preceding fiscal year relating to the activities of such animal shelter described*
18 *in subdivision a of this section.*

19 **§ 17-365 Dog and cat overpopulation advisory board.** *a. There shall be a dog*
20 *and cat overpopulation advisory board in the department consisting of the commission-*
21 *er, or his or her designee, and six additional members, two of whom shall be appointed*
22 *by the mayor and four of whom shall be appointed by the speaker of the city council.*
23 *The membership of such board shall include two representatives of duly incorporated*
24 *humane organizations, at least one of which is an organization which operates an ani-*
25 *mal shelter, one licensed veterinarian, a person holding a valid permit to operate a pet*

1 *shop pursuant to the New York City health code, one representative from a pet registry*
2 *or fanciers club, and a member of the public involved in animal rescue work.*

3 *b. Each member of the advisory board, other than the commissioner, or his or*
4 *her designee, shall serve for a term of three years, without compensation.*

5 *c. The board shall be appointed and meet within sixty days after the effective*
6 *date of this local law.*

7 *d. The board shall make recommendations to the commissioner on rules neces-*
8 *sary to carry out the requirements of this subchapter and to promote the health, safety*
9 *and welfare of the public, and of coos and cats.*

10 *e. The board shall meet at least once every four months to assess the rules pro-*
11 *mulgated by the commissioner and to make further recommendations on rules necessary*
12 *to implement the requirements of this subchapter. The board shall issue a written report*
13 *describing its activities and plans to the commissioner one Year after the effective date*
14 *of this local law and each Year thereafter.*

15 **§ 17-366 Enforcement.** *This subchapter shall be enforced by the department and*
16 *other persons designated by the commissioner. Employees of the police department and*
17 *agents and officers of The American Society for the Prevention of Cruelty to Animals*
18 *and agents and officers of other duly incorporated societies for the prevention of cruelty*
19 *to animals shall also be empowered to enforce this subchapter within their territorial*
20 *jurisdiction.*

21 **§ 17-367 Violations.** *a. Any violation of this subchapter or any of the rules pro-*
22 *mulgated hereunder shall upon conviction thereof be punishable by a fine of not less*
23 *than fifty nor more than two hundred fifty dollars for each violation.*

24 *b. In lieu of criminal prosecution, violation of this subchapter or any of the*
25 *rules promulgated hereunder may be prosecuted as civil violations subject to a civil*

1 *penalty of not less than twenty-five dollars nor more than five hundred dollars for each*
2 *violation or by the suspension or revocation of a breeder's or seller's permit or com-*
3 *bined seller's and breeder's permit after a hearing. Civil violations, under this section*
4 *shall be adjudicated before the administrative tribunal established by the board of*
5 *health.*

6 *c. The department may dismiss any finding of violation if the alleged violator*
7 *demonstrates to the satisfaction of the department that the dog or cat which was the sub-*
8 *ject of the alleged violation was spayed or neutered within thirty days from the issuance*
9 *of the notice of violation or within ninety days after giving birth for dogs or cats for*
10 *which a notice of violation was issued.*

11 *d. Pet dealers who, in the time period specified by the commissioner in rules to*
12 *be promulgated hereunder, do not remit to the department the sum of twenty-five dollars*
13 *for each unaltered dog and cat that they sell, may in addition to any fine or penalty pre-*
14 *scribed in this subchapter be ordered an administrative tribunal to pay three times that*
15 *which is otherwise due by such pet dealer to the department.*

16 § 17-368 *Construction.* *The provisions of this subchapter shall not be construed to*
17 *prohibit the department or its designees, or The American Society for the Prevention of*
18 *Cruelty to Animals, and other duly incorporated societies for the prevention of cruelty*
19 *to animals from enforcing any law, rule or regulation relating to the seizure, licensing*
20 *or humane treatment of animals which they are respectively authorized to enforce.*

21 § 3. This local law shall take effect sixty days after its enactment into law.

Note: Matter in *italics* is new; matter in brackets [] to be omitted.