



## Legislation Text

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Int. No. 1478

By Council Members Brannan, Holden, Koslowitz, Lander, Powers, Kallos, Adams, Dromm, Rosenthal, Cabrera, Levine, Moya, Reynoso, Grodenchik, Chin, Richards and Cornegy

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of a department of animal welfare

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 561 of the New York city charter, as amended by local law number 132 for the year 2013, is amended to read as follows:

§ 561. Permits. a. The board of health in its discretion may grant, suspend or revoke permits for businesses or other matters in respect to any subject dealt with in the health code and regulated by the department, except for permits to operate animal shelters under the jurisdiction of the department of animal welfare pursuant to subparagraph 5 of subdivision a of section 582, and may prescribe reasonable fees for the issuance of said permits. Whenever the board of health in the health code authorizes the issuance, suspension or revocation of a permit by the commissioner, [his] the commissioner's action shall be subject to review by the board of health upon an appeal by the party aggrieved under such rules as the board may provide. Such rules may provide in what cases an appeal may stay the action of the commissioner until final determination by the board of health, but notwithstanding any such rule the board of health shall have power to grant or refuse a stay in any particular case.

§ 2. The New York city charter is amended by adding a new chapter 23 to read as follows:

### CHAPTER 23

### DEPARTMENT OF ANIMAL WELFARE

§ 581. Department; commissioner. There shall be a department of animal welfare, the head of which shall be the commissioner of animal welfare. The commissioner may appoint deputies within available appropriations.

§ 582. Powers and duties. a. The department shall have the power to perform the following functions and operations relating to animal welfare:

1. to oversee animal shelters, facilities that receive homeless, lost, stray, abandoned, seized, surrendered or unwanted animals and field services that pick up such animals, and to enforce laws, rules and regulations that relate to the operation and maintenance of such shelters, facilities and services, and the care and treatment of animals in their possession;

2. to receive and expend funds made available for the operation and maintenance of animal shelters pursuant to law, including funds received pursuant to article 7 of the agriculture and markets law, for the operation of other facilities or services that possess or care for homeless, lost, stray, abandoned, seized, surrendered or unwanted animals;

3. within the appropriated amounts, to enter into contracts for the rendition of services or operation of facilities to care for and house homeless, lost, stray, abandoned, seized, surrendered or unwanted animals;

4. to prepare and submit reports on the management and operation of animal shelters and related services and facilities, and the conditions, care and disposition of the animals in the possession of animal shelters or other facilities or service providers in possession of homeless, lost, stray, abandoned, seized, surrendered or unwanted animals;

5. to issue, renew, revoke or deny permits for the operation of animal shelters, and to set reasonable fees for the administration, oversight and enforcement of such permits;

6. to promulgate rules where provided for by law; and

7. to develop and carry out programs to promote public interest in issues of animal welfare and awareness of resources available for the care or treatment of homeless, lost, stray, abandoned, seized,

surrendered or unwanted animals.

b. The department shall collaborate with the department of health and mental hygiene to enforce animal sterilization laws, rules and regulations, and whenever necessary to perform any other functions and operations assigned to the department.

§ 583. Animal welfare advisory board. There shall be an animal welfare advisory board consisting of 11 members, of whom six shall be appointed by the mayor and five by the speaker of the council. At least six members of the board shall be representatives of animal welfare stakeholders with offices in the city. All members shall serve for a term of three years and may be removed by the appointing official for cause. Members of the advisory board shall elect by majority vote one such member to serve as chairperson and one such member to serve as vice-chairperson, each to serve in that capacity for one-year terms. In the event of a vacancy on the advisory board during the term of office of a member by reason of removal, death, resignation or otherwise, a successor shall be chosen in the same manner as the original appointment. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. The advisory board shall (i) advise the commissioner on all matters within the jurisdiction of the department; (ii) hold at least one meeting open to the public in each borough on an annual basis, with notice of each public meeting provided in accordance with the public notice requirements of article 7 of the public officers law, and with each public meeting recorded and broadcast in accordance with subdivision d of section 1063 of the charter; (iii) keep a record of its deliberations; (iv) determine its own rules of procedure; and (v) submit an annual report of its activities to the mayor and the council on or before December 31 of each year. Such annual report should include policy and legislative recommendations for the department of animal welfare and the council.

§ 3. Section 17-101 of the administrative code of the city of New York, subdivisions (b) and (c) of such section as amended by local law number 22 for the year 2002, is amended to read as follows:

§ 17-101 Definitions. [Whenever] Except where otherwise provided, whenever used in this title the following terms [shall] have the following meanings:

[(a) “Board”] Board. The term “board” means the board of health.

[(b) “Commissioner”] Commissioner. The term “commissioner” means the commissioner of [the department of] health and mental hygiene.

[(c) “Department”] Department. The term “department” means the department of health and mental hygiene.

§ 4. Section 17-802 of the administrative code of the city of New York, as amended by local law number 7 for the year 2015, and subdivision b of such section as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-802 Definitions. For the purposes of this chapter, the following terms [shall be defined as follows] have the following meanings:

[a. “Adoption”] Adoption. The term “adoption” means the delivery of a dog or cat deemed appropriate and suitable by an animal shelter to an individual at least eighteen years of age who has been approved to own, care and provide for the animal by the animal shelter.

[b. “Animal rescue group”] Animal rescue group. The term “animal rescue group” means a duly incorporated not-for-profit organization that accepts homeless, lost, stray, abandoned, seized, surrendered or unwanted animals from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public.

[c. “Animal shelter”] Animal shelter. The term “animal shelter” means a not-for-profit facility holding a permit [in accordance with § 161.09 of the New York city health code] issued by the department of animal welfare where homeless, lost, stray, abandoned, seized, surrendered or unwanted animals are received, harbored, maintained and made available for adoption to the general public, redemption by their owners or other lawful disposition, and which is owned, operated, or maintained by a duly incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other organization devoted to the welfare, protection or humane treatment of animals.

[d. “Consumer”] Consumer. The term “consumer” means any individual purchasing an animal from a pet shop. A pet shop shall not be considered a consumer.

[f. “Full-service shelter”] Full-service shelter. The term “full-service shelter” means a person required to have a permit issued [pursuant to subdivision (b) of section 161.09 of the New York city health code] by the department of animal welfare to operate and maintain an animal shelter that houses lost, stray or homeless animals and:

(1) accepts dogs and cats twelve hours per day, seven days per week;

(2) has an adoption program available seven days per week; and

(3) provides sterilization services for dogs and cats and any other veterinary services deemed necessary by a licensed veterinarian at such shelter or at a veterinary facility.

[g. “Person”] Person. The term “person” means any individual, corporation, partnership, association, municipality[,] or other legal entity.

[h. “Pet shop”] Pet shop. The term “pet shop” has the same meaning as ascribed to such term [is defined] in section 17-371 of this title.

[i. “Sterilization”] Sterilization. The term “sterilization” means rendering a dog or cat that is at least eight weeks of age and that weighs at least two pounds unable to reproduce, by surgically altering such animal’s reproductive organs as set forth in the rules of the department or by non-surgical methods or technologies approved by the United States food and drug administration or the United States department of agriculture and acceptable to the department. Such definition [shall include] includes the spaying of a female dog or cat or the neutering of a male dog or cat.

[j. “Trap-neuter-return”] Trap-neuter-return. The term “trap-neuter-return” means a program to trap, vaccinate for rabies, sterilize and identify feral cats and return them to the locations where they were found.

§ 5. Section 17-804 of the administrative code of the city of New York, subdivisions b and c of such section as amended by local law number 7 for the year 2015, subdivision d of such section as added by local

law number 59 for the year 2011, subdivision e of such section as added by local law number 43 for the year 2012, and subdivision f of such section as amended by local law number 53 for the year 2015, is amended to read as follows:

§ 17-804 Sterilization required. a. No full-service shelter or other shelter for homeless animals required to have a permit issued [pursuant to subdivision (b) of section 161.09 of the New York city health code] by the department of animal welfare shall release a dog or cat to a person claiming ownership thereof, or to a person adopting such dog or cat, unless such dog or cat has been sterilized by a licensed veterinarian; provided, however, that such requirement shall not apply:

(1) if a licensed veterinarian certifies to such shelter that he or she has examined such dog or cat and found that because of a medical reason, the life of such dog or cat would be endangered by sterilization; provided, however, that such reason shall not consist solely of the youth of such dog or cat, if such dog or cat is at least eight weeks of age;

(2) in the case of a dog, if such dog, within the time period provided for by law, rule or regulation, is claimed by a person claiming ownership thereof, and such person demonstrates to the satisfaction of the shelter that such dog has a breed ring show record from the American Kennel Club or United Kennel Club or other similar, registry association, dated no more than twelve months prior to the date such dog entered such shelter, or such person claiming ownership is able to provide proof that such dog has successfully completed the requirements of the American Kennel Club or United Kennel Club or other similar, registry association, for the title Champion or its equivalent, at any time prior to the arrival of the dog at the shelter;

(3) in the case of a dog, if such dog, within the time period provided for by law, rule or regulation, is claimed by a person claiming ownership thereof, and such person demonstrates to the satisfaction of the shelter that such dog is a guide dog, hearing dog, service dog or police work dog; or

(4) in the case of a cat, if such cat within the time period provided for by law, rule or regulation, is claimed by a person claiming ownership thereof, and such person demonstrates to the satisfaction of such

shelter that such cat has a breed show record from the Cat Fancier Association or other similar, registry association dated no more than twelve months prior to the date such cat entered such shelter or such person claiming ownership is able to provide proof that such cat has successfully completed the requirements of the Cat Fancier Association or other similar, registry association for the title Champion, Grand Champion or its equivalent, at any time prior to the arrival of the cat at the shelter.

b. No pet shop shall release to a consumer a dog or cat that has not been sterilized by a licensed veterinarian. Such veterinarian shall provide to the pet shop a certificate, in such form and manner as determined by rules promulgated by the department, stating the date on which such sterilization was performed.

c. Every pet shop, in accordance with rules promulgated by the department, shall maintain records of all sales of dogs and cats, sterilization procedures performed at the request of the pet shop, and veterinarian letters and certificates received, and shall retain such records, letters and certificates for a period of five years. Such records, letters, and certificates shall be made available to the department according to rules promulgated by the department. The department may require that such documents be submitted by electronic means.

d. Every owner of a cat who permits such cat to roam outside the interior of the owner's dwelling shall have such cat sterilized. At the request of employees or authorized agents of the department or the department of animal welfare, owners shall provide proof satisfactory to the department that a cat found roaming has been sterilized. The [Department] department or the department of animal welfare shall not seize a cat solely on the ground that the cat has not been sterilized.

e. The department and the department of animal welfare shall post and maintain on [its] each such department's website a regularly updated list of organizations in [New York] the city that offer trap-neuter-return information and conduct trap-neuter-return activities.

f. A pet shop that allows an animal shelter or animal rescue group to use such pet shop's premises for the purpose of making animals available for adoption shall be exempt from the requirements of subdivisions b and c of this section with respect to such animals, provided such pet shop does not have an ownership interest

in any of the animals that are made available for adoption.

§ 6. Section 17-805 of the administrative code of the city of New York, as amended by local law number 59 for the year 2011, is amended to read as follows:

§ 17-805 Reporting requirements. The department of animal welfare, in collaboration with the department, shall provide the mayor and the city council with a report by February [twenty-eight] 28 of each year which shall set forth information regarding the management and operation of all full-service shelters performing services pursuant to a contract with the city of New York, including but not limited to:

a. The following information with respect to the previous calendar year:

- (1) the total number of animals accepted by each full-service shelter;
- (2) the total number of animals that were sterilized at each full-service shelter;
- (3) the total number of animals that were humanely euthanized at each full-service shelter;
- (4) the total number of healthy animals that were humanely euthanized at each full-service shelter;
- (5) the total number of animals that were adopted at each full-service shelter;
- (6) the total number of animals at each full-service shelter that were returned to their owner; and
- (7) the number of animals at each full-service shelter that were provided to other shelters for adoption.

b. The following information for each month of the previous calendar year:

- (1) the total number of animals, disaggregated by borough, picked up by field services during regular business hours and delivered to (A) receiving facilities and (B) full-service shelters;
- (2) the total number of animals, disaggregated by borough, picked up by field services during off hours and delivered to (A) receiving facilities and (B) full-service shelters;
- (3) the total number of animals taken in and transferred to a full-service shelter from each receiving facility; and
- (4) the staffing levels at all full-service shelters and receiving facilities.

c. The department of animal welfare, in collaboration with the department, shall report to the mayor and



the council each month the total number of healthy animals that were humanely euthanized at each full-service shelter during the previous month.

[d. No later than twenty-four months after the effective date of the local law that added this subdivision, the department shall provide to the mayor and the council a report that summarizes and describes trends in the reporting requirements provided annually in accordance with this section.]

§ 7. Section 17-807 of the administrative code of the city of New York, as amended by local law number 43 for the year 2012, is amended to read as follows:

§ 17-807 Rules. a. The commissioner may promulgate such rules as are necessary for the purposes of implementing and carrying out the provisions of this chapter that are under the jurisdiction of the department.

b. The commissioner of animal welfare may promulgate such rules as are necessary for the purposes of implementing and carrying out the provisions of this chapter that are under the jurisdiction of the department of animal welfare.

c. Rules promulgated by the commissioner of animal welfare that relate to the welfare of animals shall supersede inconsistent rules promulgated by the commissioner, provided that rules promulgated by the commissioner and the commissioner of animal welfare shall be construed harmoniously wherever possible.

§ 8. Section 17-809 of the administrative code of the city of New York, as added by local law number 59 for the year 2011, is amended to read as follows:

§ 17-809 No limitation on additional services. Nothing contained in this chapter shall be deemed to limit the [department's] authority of the department or the department of animal welfare to offer additional services or facilities to facilitate the decline in numbers of unwanted and uncared for animals in [New York] the city.

§ 9. This local law takes effect 120 days after it becomes law.

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