

**ORDINANCE ADOPTING THE CITY OF FORT SMITH ANIMAL REGULATIONS (2023 EDITION); PROVIDING THAT SUCH REGULATIONS BE CODIFIED AS CHAPTER 4 OF THE FORT SMITH MUNICIPAL CODE; AND OTHER PROVISIONS RELATING THERETO**

**BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE CITY OF FORT SMITH, ARKANSAS, THAT:**

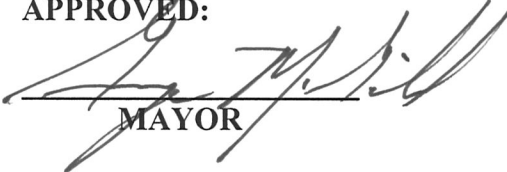
Section 1. The City of Fort Smith Animal Regulations (2023 Edition), three (3) copies of which have been and are now filed in the office of the City Clerk, are hereby adopted, and the provisions thereof shall be applicable within the limits of the City of Fort Smith, Arkansas

Section 2. Said City of Fort Smith Animal Regulations (2023 Edition) shall be codified as Chapter 4 of the Fort Smith Municipal Code, and the codifier is directed to replace the previous provisions in Chapter 4 of the Fort Smith Municipal Code with the 2023 Edition referenced in Section 1.

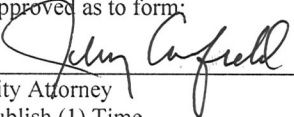
Section 3. All ordinances in conflict with the provisions of the City of Fort Smith Animal Regulations (2023 Edition) incorporated herein are hereby repealed to the extent required to resolve such conflict.

Section 4. The provisions of the City of Fort Smith Animal Regulations (2023 Edition) are severable. Any judicial termination that a portion of the City of Fort Smith Animal Regulations (2023 Edition) is invalid shall not affect the validity of any other provision thereof.

PASSED AND APPROVED THIS 21<sup>st</sup> day of March, 2023

APPROVED:  
  
MAYOR

ATTEST:  
  
CITY CLERK

Approved as to form:  
  
City Attorney  
Publish (1) Time

**CITY OF FORT SMITH ANIMAL REGULATIONS (2023 Edition)  
For Codification as Chapter 4 of the Fort Smith Municipal Code**

**CHAPTER 4 - ANIMALS<sup>[1]</sup>**

**Footnotes:** (1) **State Law reference**— Authority to legislate on matters pertaining to municipal affairs, A.C.A. § 14-43-601 et seq.; general authority to regulate animals, A.C.A. §§ 14-54-103(7), (11), 14-54-1101 et seq.; cruelty to animals, A.C.A. § 5-62-102 et seq.

**ARTICLE I. – ANIMALS IN GENERAL**

Sec. 4-1. - Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Aggressive animal* means any animal which displays or has a tendency, disposition or propensity to:

(1) Bare its teeth or approach in a menacing manner a person or domestic animal that is not provoking the animal;

(2) Attack, chase, charge or bite a person or domestic animal (under circumstances not requiring medical attention to a person or domestic animal) in a menacing manner, or attempt to do so;

(3) Attack any person upon the streets, sidewalks, or any other public ground or place; or

(4) Attack without provocation, human beings or domestic animals.

(b) *Animal control officer*. The person and the person's deputies who shall be authorized by the city administrator as the agent for the city for the purpose of providing and fulfilling the services of the animal control officer as set forth in [chapter 4](#) of the Fort Smith Municipal Code.

(c) *Cat or dog*. Terms, used in the singular or plural, as defined in A.C.A. § 20-19-302(2) and (3).

(d) *City*. A term referring to the City of Fort Smith, Arkansas.

(e) *City approved/contracted impoundment facility* means the place provided for animal control for the impounding of dogs and other animals.

(f) *Collar* means any collar constructed of nylon, leather, or similar material specifically designed to be used for the animal for which it is intended.

(g) *Dog or cat pet identification*. A tag identifying the dog or cat and the owner of same, complete with contact information for the owner.

(h) *Feral cat* means the offspring of lost or abandoned pet cats or other feral cats that are not spayed or neutered. They are not accustomed to contact with people and are typically too fearful

and wild to be handled. Feral cats do not easily or may never adapt to living as pets in close contact with people. Their kittens, if they survive, will become feral without early contact with people.

(i) *Harness* means a restraint which encircles the neck and the torso of an animal with connecting straps between them for reinforcement.

(j) *Licensed veterinarian* means a practitioner of veterinary medicine who holds a valid license to practice his profession in any part of the United States.

(k) *Microchip*. An identifying integrated circuit placed under the skin of an animal.

(l) *Owner* means every person or entity having a right of property in a dog or other animal or who keeps or harbors a dog or other animal, routinely feeds or has it in his care, or acts as its custodian, or knowingly permits a dog or other animal to remain on or about any premises occupied by him.

(m) *Pen* means an enclosure for domestic animals meeting the following requirements:

Square Feet	Weight of Animal in Pounds	Additional Square Feet Per Animal
48	1—25	24
80	<u>26</u> —40	40
100	41—70	50
120	71—90	60
144	91+	72

(1) In all pens, each domestic animal housed therein shall have room to stand, lie down, turn around and sit normally away from its own waste, and adequate coverage from inclement weather.

(2) All pens shall be a minimum of six feet in height.

(3) All pens shall be surrounded on all sides by chain-link fencing of at least No. 9 gauge, with steel ties, maximum 2 1/2-inch mesh, with concrete or similar flooring or with side fencing buried 18 inches into the ground, and with gates padlocked.

(n) *Properly fitted* means:

(1) With respect to a collar, to measure the circumference of an animal's neck plus at least one additional inch;

(2) With respect to a harness, to measure around the animal's chest and neck with an allowance for two fingers to fit between the animal and the harness; and

(3) Shall not be so tight as to cause discomfort or so loose that it can slide over the animal's head.

(o) *Run at large*. The state of freedom of any dog or cat not confined on the premises of the owner within a secure enclosure, house, or other building, or not restrained on the premises of the owner by a means sufficiently strong or secure to prevent the dog or cat from escaping and restricting it to the premises, or not confined by a leash or confined within an automobile when away from the premises of the owner.

(p) *Secure enclosure* means a fenced area or structure that:

(1) Is locked or has a self-locking gate that is engaged at all times;

(2) Is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design that is capable of preventing an animal from climbing, digging, jumping or otherwise escaping of its own volition;

(3) Has all gates and the height of the fence and the size of openings in the fence appropriate for the type of dog confined within the fence;

(4) Is appropriately maintained to prevent a dog from getting can get through, over, or under the fence; and

(5) Is capable by electronic or similar means of restricting a dog to the owner's property.

(q) *Trap, neuter, and release*. The process of live-trapping feral cats, having them spayed or neutered, ear-tipped for identification, vaccinated, and released back into the area from which they were trapped. (s) *Vaccination* means the injection, subcutaneously or otherwise, of antirabic vaccine, as approved by the United States Department of Agriculture or the state veterinarian and administered by a licensed veterinarian.

(r) *Vaccination certificate* means a written or printed certificate showing that the animal described thereon has received an inoculation of antirabic vaccine in an amount sufficient to produce immunity and bearing the signature of a licensed veterinarian.

(s) *Vicious animal* means, unless otherwise stated in [section 4-7](#), any animal which:

(1) Without provocation, bites or attacks a human being or domestic animal on public or private property;

(2) Causes a life-threatening injury, broken bone, multiple sutures, or any injury requiring medical attention to a person or domestic animal, without provocation, on public or private property;

(3) Kills a domestic animal, without provocation, on public or private property;

(4) Is owned or harbored primarily or in part for the purpose of fighting or is trained for fighting.

(Code 1976, § 4-1; Code 1992, § 4-1; Ord. No. 16-91, § 1, 4-2-1991; Ord. No. 105-06, § 1, 11-7-2006; Ord. No. 27-11, 4-19-2011; Ord. No. 100-12, § I, 12-27-2012; Ord. No. 9-13, §§ 1, 2, 2-19-2013; Ord. No. 73-19, § 1, 8-20-2019)

#### Sec. 4-2. - Interference with enforcement.

It shall be unlawful for any person to interfere with or attempt to prevent the animal control officer or other authorized persons from seizing and impounding any animal which is authorized to be impounded under the provisions of this chapter. It shall be unlawful for any person to refuse to deliver any unlicensed or unvaccinated animal observed by an animal control officer to be running at large to the animal control officer or other authorized person upon demand for impounding.

(Code 1976, § 4-2; Code 1992, § 4-2; Ord. No. 100-12, § I, 12-27-2012)

#### Sec. 4-3. - Livestock at large.

Any horses, cattle, mules, goats, asses or other animals of like kind shall not be suffered or permitted to run at large or to be pastured or staked out, except in a securely fenced enclosure, within the limits of the city. It shall be unlawful to herd or drive the animals above enumerated, on the streets within the city limits, except those designated by the chief of police, unless such animals are on a lead.

(Code 1976, § 4-3; Code 1992, § 4-3; Ord. No. 100-12, § I, 12-27-2012) **State Law reference**— Authority to prevent animals to run at large, A.C.A. §§ 11-54-102, 14-54-1101.

#### Sec. 4-4. - Fowl at large.

It shall be unlawful for any person owning, possessing or having control of any chickens, ducks, geese, turkeys, guineas or other fowl to permit same to run at large within the city limits.

(Code 1976, § 4-4; Code 1992, § 4-4)

#### Sec. 4-5. - Keeping swine.

(a) No person shall collect or keep a hog or swine within the limits of the city.

(b) The provisions of subsection (a) of this section shall not be applicable to a commercially operated abattoir, packing house or central kill station, where such commercial establishments must collect hogs or swine for the purpose of commercial slaughter; providing, however, that no such commercial establishment shall be permitted to keep or hold a hog or swine which may be collected for the purpose of slaughter for a longer period than 48 hours. Any such commercially operated establishment shall comply with the terms of [chapter 10](#), and the terms of that chapter and this section shall not be so construed as to be in conflict one with the other.

(Code 1976, § 4-5; Code 1992, § 4-5)

Sec. 4-6. - Bird sanctuary.

(a) The entire city is hereby designated, and shall hereafter constitute, a sanctuary for wild birds of all species except blackbirds, crows, starlings, house sparrows and common pigeons.

(b) It shall be unlawful for any person to catch, kill, injure, pursue or possess, either dead or alive, or purchase, expose for sale, transport or ship to a point within or without the city, or receive or deliver for transportation any species of wild fowl, except blackbirds, crows, starlings, house sparrows or common pigeons, unless authorized to do so by a validly adopted regulation of the state game and fish commission or by a federal regulation constitutionally adopted and imposed.

(c) Nothing contained in the provisions of this section shall prohibit any person or institution from collecting wild birds or their nests or eggs, except birds protected by federal or state game laws, for scientific study, school instruction, or other educational uses. Any person desiring to collect such birds or their nests or eggs shall comply with the provisions of A.C.A. § 15-45-210.

(Code 1976, §§ 4-19—4-21; Code 1992, § 4-6) **State Law reference**— State to be wild fowl sanctuary, A.C.A. § 15-45-210.

Sec. 4-7. - Aggressive or vicious animals.

(a) The following procedure shall be followed for classifying an animal as vicious or aggressive:

(1) The animal control officer shall be authorized initially to classify an animal as aggressive or vicious. The animal control officer may find and declare an animal to be vicious or aggressive if the officer has probable cause to believe that the animal falls within the definition set forth in [section 4-1](#). The finding must be based upon:

- a. The sworn written complaint of a citizen who is willing to testify that the animal has acted in a manner which causes it to fall within the definition of [section 4-1](#);
- b. A report establishing probable cause filed with the animal control officer or any law enforcement officer; or
- c. Actions of the animal witnessed by the animal control officer or by any law enforcement officer.

(2) The classifying of an animal as vicious or aggressive shall be in writing and shall be served on the owner by one of the following methods:

- a. Certified mail to the owner's last-known address; or
- b. Personally.

(b) Appeal of determination. Any person who has received notice that his or her animal has been deemed a vicious or aggressive animal may appeal such decision to the city police department's animal control unit supervisor. The appeal must be in writing and made within five business days of the day the notice was provided in accordance with this section.

(1) The supervisor shall schedule and hold a hearing, within five business days after receiving the written appeal, to review the initial classification. The supervisor's decision shall be considered the final decision of the city as to whether the animal is a vicious or aggressive animal.

(2) If the initial classification is not appealed or if the right to appeal is waived, the initial classification shall be considered the final decision of the city as to whether the animal is a vicious or aggressive animal.

(3) An appeal from the decision of the supervisor may only be made to a court of competent jurisdiction.

(c) During the entire appeal process, it shall be unlawful for the owner appealing the classification of vicious or aggressive animal to allow or permit the animal to:

(1) Be unconfined on the premises of the owner; or

(2) Go beyond the premises of the owner unless such animal is securely leashed and humanely muzzled or otherwise securely restrained.

(d) The animal control officer or supervisor of the animal control unit may require temporary confinement of the animal pending the determination required in this section. If the owner does not comply immediately with the temporary confinement requirements, the animal shall be impounded as provided in [section 4-32](#).

(e) It shall be unlawful for any person to own, possess or cause to be in the city any animal which has been determined to be a vicious animal.

(f) No person shall own, possess or cause to be in the city any animal which has been determined to be an aggressive animal, unless it is restrained, confined or muzzled so that it cannot charge, attack, bite or cause injury to any person or domestic animal, and unless it is maintained at all times in compliance with any order of compliance issued under this article.

(g) Upon determination that an animal is aggressive, the animal control officer shall issue an order of compliance requiring the owner immediately to confine, muzzle or restrain the animal sufficiently to protect all persons and domestic animals, and otherwise to comply completely with the terms of this article. Coming into full compliance with this article shall not exceed 45 business days from the date of issuance of the order of compliance.

(h) The order of compliance may, in the reasonable discretion of the animal control officer, require that:

(1) When outside of the walls of the owner's home, the dog shall be confined in a pen as set forth in the definition of the term "pen" in this section, except when entering or exiting the pen.

(2) It shall be unlawful for an aggressive animal to be outside of a dwelling or enclosure unless it is necessary for the owner thereof to obtain veterinary care for the aggressive animal or to

sell or give away the aggressive animal or to comply with commands or directions of the animal control officer with respect to the aggressive animal. In such event, the aggressive animal shall be securely muzzled and restrained with a chain leash not exceeding four feet in length, and shall be under the direct control and supervision of an individual capable of restraining and controlling the aggressive animal.

(3) The owner's home and the animal's pen shall be posted with firmly attached and prominently displayed signs warning the public that the dog is aggressive. These signs shall be furnished by the city and will be distributed upon payment of any license fee required to be paid pursuant to this section.

(4) The owner of a vicious animal shall remove the animal from the corporate city limits.

(5) The owner of a vicious animal shall provide proof upon request by an animal control officer or law enforcement officer that the animal has been removed from the corporate city limits.

(i) Upon a determination that an animal is an aggressive animal, the owner shall present the animal for photographing by the animal control officer sufficient to identify the animal for city records and have a microchip identification implanted by a licensed veterinarian.

(a) By continuing to be an owner of an animal within the city which has been determined to be aggressive, the owner shall be deemed to have given implied consent to reasonable inspections by the animal control officer of the animal and of the premises where it is kept.

(b) If the owner fails to meet fully the animal control unit's requirements for temporary confinement and restraint, including any schedule of construction of pen or restraints, or fails to maintain full compliance with the order of compliance, the animal control officer may seize and impound the animal, and may after five business days have it humanely euthanized by an appropriate service provider.

(c) If the owner demonstrates full compliance with the requirements for temporary confinement and the order of compliance, then the animal may be returned to the owner after payment of all impoundment costs and fees and verification that the animal has been microchipped and spayed or neutered.

(j) A determination that an animal is aggressive or vicious shall stand until the city police department's animal control unit determines otherwise by written finding.

(k) No person shall be an owner of or cause to be in the city:

(1) Any animal determined to be an aggressive animal by the animal control officer, unless an annual special license fee of \$500.00 shall have been paid to the city, and the animal has been microchipped and spayed or neutered; or

(2) Any animal classified vicious by the animal control officer.



(l) The owner of an animal in violation of any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by the assessment of a fine as specified in [section 1-9](#).

(m) If a complaint has been filed in the municipal district court against the owner of an impounded animal for violation of this section, the animal shall not be released except on the order of the court, which order may also direct the owner to pay a fine and all impoundment fees, including fees for microchipping and spaying or neutering, if applicable. Upon finding that the animal is vicious, the court may order it to be euthanized in a humane manner. Surrender of an animal by the owner thereof to an animal control officer shall not render the owner exempt from the fines and fees of this article.

(n) An owner of an aggressive or vicious animal, who desires to transfer possession of the animal shall, at least three days prior to the transfer, complete and return to the animal control unit a notarized transfer form provided by the animal control unit.

(o) Any notice required under this article shall be deemed delivered:

(1) Five business days after being mailed, first class postage prepaid, to the residential or business address of the owner;

(2) 24 hours after being posted at the location where the animal is held, unless it is impounded by the city; or

(3) Upon hand-delivery to the owner.

(p) It shall be an affirmative defense to prosecution under this article that the animal:

(1) Is owned by a law enforcement agency and used for law enforcement purposes;

(2) Directed its behavior at a person who was committing a willful trespass or other tort upon the property of the owner;

(3) Directed its behavior at a person who was committing a violent offense to the owner or animal when off the owner's property, but under restraint; or

(4) At the time of its behavior was in custody of a veterinarian or an animal shelter.

(Code 1992, § 4-7; Ord. No. 16-91, § 3, 4-2-1991; Ord. No. 13-00, 3-7-2000; Ord. No. 105-06, § 2, 11-7-2006; Ord. No. 100-12, § I, 12-27-2012; altered in 2019 recodification)

#### Sec. 4-8. - Fowl and rabbits.

(a) It shall be unlawful to keep on any residentially zoned real property of less than one-half acre or 21,780 square feet within the city any fowl or more than two rabbits. If two rabbits are kept, both rabbits shall be of the same sex or at least one of the rabbits shall be incapable of reproduction. School children actively enrolled in a 4-H, FFA (Future Farmers of America) or school-related projects involving the raising of fowl or rabbits shall be exempt from this

section. Any person possessing a valid state or federal permit or license to possess wildlife shall also be exempt from this section.

(b) Any person convicted of violating the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to punishment as set forth in [section 1-9](#).

(Code 1992, § 4-8; Ord. No. 49-94, §§ 1, 2, 9-13-1994; Ord. No. 30-00, 6-20-2000; Ord. No. 100-12, § I, 12-27-2012)

**Sec. 4-9. - Killing or slaughtering of animals prohibited; exceptions.**

It shall be unlawful to kill or slaughter any animal within the city limits of the city for food consumption purpose. This section shall not apply to commercial businesses engaged in meat cutting or processing or related businesses when such business is operating lawfully in the correct zone with a valid business license issued by the city.

(Code 1992, § 4-9; Ord. No. 57-05, § 1, 7-19-2005)

**Sec. 4-10. - Skinning, cutting up, dressing-out; display of carcasses.**

It shall be unlawful to skin, cut up, or dress-out any animal in public view within the city limits of the city; provided this section shall not apply to fish, fowl, or other game animals. It shall further be unlawful to place on public view the carcass of any animal, game or fowl, provided further, however, this section shall not apply to commercial businesses engaged in taxidermy, meat cutting, meat processing, or selling, or related businesses, and the work on the animals, game, or fowl is conducted inside such business, and such business is operating lawfully in the correct zone with a valid business license issued by the city.

(Code 1992, § 4-10; Ord. No. 57-05, § 1, 7-19-2005)

**Sec. 4-11. - Prohibiting the feeding or harboring of wildlife and stray animals.**

(a) No person shall keep or harbor any animal or fowl in the city so as to create noxious or offensive odors or unsanitary conditions which are a threat to the public health, safety or welfare of the public.

(b) No person shall provide and leave unattended food for stray dogs, stray cats, feral cats, deer, geese, ducks, raccoons, fowl or other wild animals or wildlife. Feeding does not include baiting in the legal taking of fish and/or game or baiting for purposes of the trap, neuter, and release of feral cats.

a. This section does not apply to animals owned by that person, or songbirds fed from a stationary bird feeder.

b. Stationary bird feeders must be placed at least four feet above ground and shall be placed where wildlife other than songbirds and backyard birds are unable to eat from them and to not become an attractant to wild animals.

- (c) Any cat that is wild, stray or unowned shall be considered feral. A domestic cat turned wild shall be considered feral. Feral cats are not considered pets. Any wild animal or feral cat which is determined to be a nuisance to the public health, safety or welfare may be abated as provided by law or trapped and turned over to the proper agency. Trap, neuter, and release of feral cats is permitted.
- (d) No person shall feed cats or dogs outdoors on the property of another without prior written authorization from the property owner or authorized representative.
- (e) The feeding of cats or dogs outdoors shall take place during daylight hours only. Outdoor feeding shall be limited to an appropriate amount of food for daily consumption by the cat(s) or dog(s) intended to be fed. An appropriate amount of food shall mean no more than eight (8) cups of food for each dog within a twenty-four (24) hour period, and no more than four (4) cups of food for each cat within a twenty-four (24) hour period.
- (f) All cat food and dog food shall be stored in a manner so as to prevent access by animals other than the privately owned cat(s) or dog(s) for which the food is intended. Cat food and dog food shall be securely stored indoors to avoid attracting pests, rodents, or wildlife. No cat food or dog food shall be openly discarded outdoors.

Sec. 4-12. – Animals as prizes or incentives. Unlawful to offer any live animal as an incentive to buy an item or to offer any live animal as a prize; exemption.

- (a) It is unlawful to offer any live animal as an incentive to buy an item, or to offer any live animal as a prize in a contest, raffle, game of chance, or auction.
- (b) Section 4-12(a) shall not apply to livestock (horses, mules, cattle, bison, sheep, goats, swine, camelids), goldfish less than four inches in length, or to any FFA (Future Farmers of America) or 4-H-related animal activity, or to any federally recognized 501(c)(3) organization.

(Code 1992, § 4-11.5; Ord. 93-15, § 1, 12-15-2015)

Secs. 4-13—4-31. - Reserved.

## **ARTICLE II. - IMPOUNDMENT<sup>[2]</sup>**

**Footnotes:** --- (2) --- **State Law reference**— Impounding of animals, A.C.A. §§ 14-54-1101, 14-54-1102.

Sec. 4-32. - Authority—Generally.

The animal control officer shall seize and may impound at the city approved/contracted impoundment facility all dogs or cats found in violation of the provisions of this chapter. Except when impounding is required by other provisions of this [chapter 4](#), if the animal is microchipped and spayed or neutered the animal control officer shall make reasonable effort to return the dog or cat to its owner before transporting the dog or cat to the approved/contracted impoundment facility.

(Code 1976, § 4-66; Code 1992, § 4-32; Ord. No. 100-12, § I, 12-27-2012; Ord. No. 73-19, § 3, 8-20-2019)

Sec. 4-33. - Reserved.

**Editor's note**— Ord. No. 73-19, § 5, adopted Aug. 20, 2019, repealed § 4-33, which pertained to authority—City-approved animal impoundment facility and derived from Code 1976, § 4-67; Code 1992, § 4-33; and Ord. No. 100-12, § I, adopted Dec. 27, 2012.

Sec. 4-34. - Right of citizens.

Any person may take up and deliver to an animal control officer or to the city approved/contracted animal impoundment facility any animal which the animal control unit is, under the provisions of this chapter, authorized to impound.

(Code 1976, § 4-68; Code 1992, § 4-34; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-35. – Registry of animals.

Upon impounding any animal, the animal control officer shall make a complete registry, identifying the breed, color and sex of the impounded animal and whether the owner of such animal can be identified. If the owner of the animal has been identified, the animal control officer shall enter the name and address of the owner.

(Code 1976, § 4-69; Code 1992, § 4-35; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-36. - Notice; redemption period; disposition.

- (a) The city approved/contracted animal impoundment facility shall keep all impounded animals, except feral felines, for a period of five days from the date of impounding; the maximum hold period for feral felines one calendar day; and, during the period of impoundment, the city-approved animal impoundment facility shall notify or make diligent effort to notify the owner of such impounding, and of the proposed destruction or transfer/sale of the animal.
- (b) When an animal carries the owner's address or other contact information, the notice shall be by letter, telephone call, e-mail or other electronic means with proof of attempts kept as documentation. In all other cases, the animal warden shall make a diligent effort to notify the owner. If, at the expiration of the five days from notice, such impounded animal has not been redeemed by the owner, it shall be sold, adopted, transported or destroyed as hereinafter provided for.
- (c) Injured animals will be examined by the director of the impoundment facility as to the extent of injuries. Injured animals capable of being held in reasonable comfort will be held the complete five-day stray holding period. Severely injured animals may be subject to euthanasia prior to the completion of the five-day stray holding period when necessary to prevent animal suffering.
- (d) Diseased or vicious animals will not be subject to euthanasia prior to the expiration of the five-day stray holding period unless deemed humanely necessary by the impoundment

facility and its licensed veterinarian. The director of the impoundment facility will document the holding period and basis for euthanasia of all animals.

(Code 1976, § 4-70; Code 1992, § 4-36; Ord. No. 33-98, § 2, 4-21-1998; Ord. No. 32-10, 7-20-2010; Ord. No. 9-13, § 3, 2-19-2013; altered in 2019 recodification)

**Sec. 4-37. - Right to redeem.**

- (a) The owner of any animal which has been impounded under the provisions of this article shall have the right to redeem the same upon the payment of any and all fees which may be due and payable for the impoundment of such animal.
- (b) An animal will not be released from the shelter or impoundment facility until it is microchipped and spayed or neutered, if applicable. Any costs associated with such services will be included in the impoundment fees paid by the owner.
- (c) The payment of such impoundment fees shall not bar the imposition of any fine which may be imposed for the violation of this chapter.

(Code 1976, § 4-71; Code 1992, § 4-37)

**Sec. 4-38. - Fees for animal control services.**

Should a local veterinary clinic request disposal of an animal carcass, the following fee schedule shall apply: \$25.00 for disposal of any animal carcass that weighs 50 pounds or less; \$50.00 for disposal of any animal carcass weighing in excess of 50 pounds; and, if two or more carcasses are picked up during a service call to a veterinary clinic, the foregoing fee shall apply to the first animal carcass and a fee of \$10.00 shall be assessed for each and every additional carcass beyond the first carcass taken into custody and disposed.

(Code 1992, § 4-38; Ord. No. 8-09, § 1, 1-20-2009; Ord. No. 32-10, 7-20-2010; Ord. No. 100-12, § I, 12-27-2012; altered in 2019 recodification)

**Sec. 4-39. - Redemption of unvaccinated animal prohibited.**

Redemption of unvaccinated animals from the city approved/contracted impoundment facility is not permitted. Upon intake at the shelter/impoundment facility, animals will be evaluated for microchip, spay/neuter, vaccinations and general health. Before an animal can be redeemed by its owner, such owner must provide a certificate of vaccination. If not properly vaccinated upon intake or by proof of the owner, the animal will be vaccinated and the fees associated with such vaccinations shall be included in the amount payable for redemption of the animal. If the owner is unwilling to provide proof of vaccination or pay the fees associated with vaccinating the animal within five days of the animal arriving at the shelter, ownership of the animal will be forfeited to the shelter/impoundment facility.

(Code 1976, § 4-74; Code 1992, § 4-39; Ord. No. 100-12, § I, 12-27-2012; altered in 2019 recodification)

**Secs. 4-40—4-60. - Reserved.**

### **ARTICLE III. - RABIES CONTROL<sup>[3]</sup>**

**Footnotes:** --- (3) --- **State Law reference**— Rabies Control Act, A.C.A. § 20-19-301 et seq.

#### **Sec. 4-61. - Quarantine—Generally.**

(a) Upon the request of any person who has been bitten by a dog or other animal within the corporate limits of the city (or by a parent or legal guardian of any person so bitten who is under a disability), the animal control officer shall take such dog or animal, or a plurality of same if they are reasonably suspected of the biting, into custody and confine it in quarantine under the supervision of a licensed veterinarian. Such quarantine period shall be ten days, or other such period as may be dictated by applicable state law.

(b) Any dog or animal having rabies, or symptoms thereof, or suspected of having rabies, or which has been exposed to rabies shall be immediately surrendered by the owner or custodian of such dog or animal to the animal control officer, and the animal control officer shall confine such dog or animal in quarantine.

(Code 1976, §§ 4-111, 4-112; Code 1992, § 4-61; Ord. No. 100-12, § I, 12-27-2012)

#### **Sec. 4-62. - Quarantine—Release.**

(a) Any veterinarian who is given custody of an animal under the provisions of this article shall keep such animal in quarantine until he shall issue a certificate that:

- (1) He has complied with the observation provisions of A.C.A. § 20-19-307; and
- (2) The animal appears to be free of infection of rabies (hydrophobia).

(b) When the licensed veterinarian supervising the quarantine of any animal quarantined under this article shall issue the certificate provided for in subsection (a) of this section, the owner of such animal may retake custody of it upon tender to such veterinarian and/or the city animal control unit of their customary and reasonable fees and charges for impounding, boarding and lodging, observing and testing. Provided, if a person who has been bitten by an animal (or the parent or legal guardian of such person) requests the confinement of the animal which has a current rabies vaccination and which, at the time of the biting incident, was in compliance with the running at large provisions of this chapter, and which the animal is subsequently found to be without rabies infection, the customary and reasonable fees and charges for impounding, boarding and lodging, observing and testing by the veterinarian and/or animal control unit shall be paid by the person who has been bitten (or by either a parent or a legal guardian of such person) and the animal shall be released to the custody of the owner of such animal upon issuance of the certificate provided for in subsection (a) of this section.

(Code 1976, §§ 4-113, 4-114; Code 1992, § 4-62; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-63. – Vaccination against Rabies.

It shall be unlawful for any dog or cat owner to knowingly keep, harbor or maintain any dog or cat four months of age or more within the corporate limits of the city, unless the dog or cat owner shall have caused such dog or cat to be given a one year or three year vaccination against rabies by a licensed veterinarian. The veterinarian giving such vaccination shall issue to the owner of such vaccinated dog or cat a vaccination certificate describing such dog or cat, giving the date of vaccination and the name and address of the owner. The vaccination certificate shall be signed by the licensed veterinarian.

(Code 1976, § 4-35; Code 1992, § 4-63; Ord. No. 100-12, § I, 12-27-2012) **State Law reference**— Vaccination required, A.C.A. § 20-19-305.

Sec. 4-64. - Visiting dogs and cats.

- (a) Every person visiting the city for a period of 30 days or less shall be deemed in compliance with [section 4-63](#), providing that a current and valid certificate of antirabic vaccination is furnished upon request by an animal control officer or law enforcement officer; otherwise, the animal must receive an inoculation by a licensed veterinarian.
- (b) Every animal within the city limits for more than 30 days is considered relocated to the city and its owner must comply with all animal care and control ordinances of the city.

(Code 1992, § 4-64; Ord. No. 100-12, § III, 12-27-2012)

Secs. 4-65—4-106. - Reserved.

**ARTICLE IV. – DOGS and CATS.**

Sec. 4-107. – Microchip identification of dogs and cats required.

- (a) All domestic dogs and cats within the city shall be fitted with a microchip for identification purposes unless secured at all times on a leash or within a secured building, enclosure or yard.
- (b) It shall be unlawful for any dog or cat owner to possess a dog or cat without a microchip and some secondary form of identification such as a collar and tag, which must provide the following information:
  - (1) The owner's name;
  - (2) The owner's address;
  - (3) The owner's telephone number; and
  - (4) The dog or cat's name.
- (c) If a dog or cat owner is cited for their dog running at large as set forth in [section 4-109](#) and the dog or cat has no microchip or secondary form of identification, a citation will be issued

for lack of identification. If the owner receives citations for their dog or cat running at large and lack of identification simultaneously, it shall be mandated that the dog or cat be microchipped and spayed or neutered, if applicable. The city will hold the citation for 15 days; upon proof of microchipping and spaying or neutering. If proof of compliance is provided, the city prosecutor may choose not to pursue charges for lack of identification.

(Code 1992, § 4-121; Ord. No. 100-12, § III, 12-27-2012)

Sec. 4-108. - Spay or neuter of dogs and cats required.

- (a) In order to control the pet population, dogs and cats kept as pets within the corporate limits of the city must be sterilized/altered. Female dogs and cats having reached reproductive age must be spayed and male dogs and cats having reached reproductive age must be neutered unless secured at all times on a leash or within a secured building, enclosure or yard.
- (b) Any altered animal impounded by the city may be released to the owner upon verification that the animal is microchipped and payment of any associated fines or impoundment fees. Any fines or fees against the owner shall not be discharged until such time as the owner provides proof of compliance with the provisions of this chapter.
- (c) Any unaltered animal impounded by the city will be spayed or neutered, and may be released to the owner upon verification that the animal is microchipped and payment of any associated fines, impoundment fees, and fees associated with altering the animal. Any fines or fees against the owner shall not be discharged until such time as the owner provides proof of compliance with the provisions of this chapter. An owner seeking to redeem his or her animal from the impoundment facility must pay the fee to alter such animal, or else forfeit ownership of the animal to the ownership of the facility.
- (d) Any unaltered, unclaimed animals delivered to the shelter or impoundment facility will not be released or adopted out until they are both microchipped and altered.
- (e) Exceptions to the spay/neuter requirements herein may be granted upon certification by a licensed veterinarian that sterilization surgery is of significant health risk to a specific animal due to age or health condition.
- (f) The city may make available vouchers toward the spay or neuter of dogs or cats. Animal owners may request such vouchers from the Chief of Police (or designee) which shall distribute any available vouchers on a first come, first served basis, limited to one voucher per pet per household per calendar year. The number and amount of vouchers may vary from year to year depending upon funds available and budgeted for such purpose.
  - a. Upon providing sufficient proof of residency and income, any qualified resident of the City of Fort Smith may obtain from the Chief of Police (or designee) a voucher toward the cost of sterilization surgery performed within the corporate boundaries of the city by a participating veterinarian or animal organization with surgical capabilities for an animal owned by the resident.



- b. To be eligible for the voucher, the owner must provide proof that the animal is microchipped and has a current rabies vaccination. Redemption of the voucher requires that dogs/puppies have distemper/parvo and Bordetella vaccinations and cats/kittens have FVRCP and FELV vaccinations, and/or a protective titre test within thirty (30) calendar days.
- c. Such voucher shall be a three-part form.
  - i. Part 1 shall be retained by the City at the time of issuance.
  - ii. A participating veterinarian or animal organization in receipt of a sterilization surgery voucher shall complete the voucher certifying that the sterilization is complete, retaining Part 2 of the voucher for their records.
  - iii. The veterinarian or animal organization shall return Part 3 of the voucher to the City within thirty (30) days of the sterilization, after which the city will issue reimbursement at then-approved rate for each properly documented sterilization voucher.

Sec. 4-109. - Running at large; leash law.

- (a) It is unlawful for any owner of a dog or cat to allow his/her dog or cat to run at large within the city.
- (b) Dogs or cats must be on a leash and under the control of a person at all times when not in a secure enclosure as described in this chapter.
- (c) Persons who engage in the trap, neuter, and release process related to feral cats shall not be considered an owner for the purpose of this section.

(Code 1976, § 4-33; Code 1992, § 4-116; Ord. No. 105-06, § 3, 11-7-2006; Ord. No. 100-12, § I, 12-27-2012; Ord. No. 9-13, § 6, 2-19-2013; altered in 2019 recodification; Ord. No. 73-19, § 2, 8-20-2019) **State Law reference**— Authority to prevent dogs from being at large, A.C.A. § 14-54-1102.

Sec. 4-110. - Animal waste.

- (a) It shall be unlawful for any person who owns, keeps, maintains, harbors or walks an animal to cause or permit such animal to be on any property, public or private, not owned or possessed by such person unless such animal is accompanied by a person who has in his possession a device for the removal of excrement and a depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person.
- (b) It shall be unlawful for any person who owns, keeps, maintains, harbors or walks an animal to fail to immediately remove excrement left by such animal on property, public or private, not owned or possessed by such person. The excrement shall be removed to a proper receptacle. No person shall allow animal excreta to accumulate in any yard, pen or premises

in or upon which an animal shall be confined or kept to the extent that the stench becomes offensive to those residing in the vicinity or results in a health hazard or nuisance.

(Code 1992, § 4-130; Ord. No. 100-12, § III, 12-27-2012)

**Sec. 4-111. - Damaging shrubbery, plants, etc.; impoundment.**

It is hereby determined to be unlawful for any owner, possessor or person who harbors any animal to permit such animal, whether or not running at large, to destroy, damage or injure any shrubbery, plants, flowers, grass, lawn, fence, vehicle or anything whatsoever upon any public or private property owned or occupied by a person other than the owner, possessor or keeper of such animal, and the same is hereby declared to be a public nuisance and prohibited. Any animal found to be violating this section is subject to impoundment.

**Sec. 4-112. - Animals riding in cars and pickup trucks.**

When transporting an animal in an open-air vehicle or truck bed on the public streets, the animal must be secured in a container suitable to safely contain the animal and to minimize harm in the event of an accident and prevent its escape when stopped or moving. The container must be securely fastened within the vehicle to prevent its movement. If a person is found in violation, the person shall receive a citation for purposes of maintaining a log of infractions to prevent the continual endangerment to animals and persons in the vicinity and may be fined in accordance with other provisions of this chapter that may apply.

(Code 1992, § 4-122; Ord. No. 100-12, § III, 12-27-2012; Ord. No. 9-13, § 7, 2-19-2013)

**Sec. 4-113. – Cleanliness and condition of pen and premises.**

- (a) It shall be unlawful for any person keeping or harboring dogs or cats to fail to keep any pen or premises where such dogs or cats are kept free from offensive odors to the extent that such odors are disturbing to any person residing within reasonable proximity of the said premises;
- (b) It shall be unlawful to allow such premises where dogs or cats are kept to become unclean and a threat to public health by failing to diligently and systematically remove all animal waste from the premises.

(Code 1976, § 4-37; Code 1992, § 4-118)

**Sec. 4-114. -- 4-129. - Reserved**

**ARTICLE V. – Enclosures, Barking Dogs, and Tethering**

**Sec. 4-130. - Secure enclosure.**

- (a) It shall be unlawful for any person owning a dog to fail to provide a secure and appropriate enclosure on his or her property as a primary means of confinement to prevent the escape or

release of the dog. Confinement must be humane for the animal as well as secure and safe. All secure enclosures must meet the following guidelines:

- (1) Any and all gates must be self-locking or have a lock or latch that is engaged at all times;
- (2) The property or area must be completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design capable of preventing a dog from climbing, digging, jumping or otherwise escaping of its own volition;
- (3) All gates and the height of the enclosure and the size of openings in the enclosure must be appropriate for the type of dog(s) within the enclosure; and
- (4) All enclosures must be maintained to prevent a dog from getting through, over or under the enclosure.

(b) If an animal control officer picks up a dog (or cat) running at large and the animal is found to be microchipped and altered:

- (1) The dog (or cat) will be taken to its owner up to two times in any twelve (12) month period.
- (2) At each instance, an animal control officer will inspect the dog enclosure for compliance with this section.
- (3) If the owner is found to have an unsecure enclosure for his or her dog, a citation shall be issued to the owner of the dog.

(c) If an animal control officer picks up a dog (or cat) running at large and either no microchip is found or the animal is determined to be unaltered:

- (1) The dog (or cat) shall be taken to the city-approved animal impoundment facility until the owner redeems ownership of the animal. Animals taken to the impoundment facility will be microchipped and altered. The costs associated with microchipping and/or altering the animal shall be the responsibility of the animal owner.
- (2) Once ownership is established, an animal control officer will contact the owner to notify them that the animal is at the shelter, that it will be spayed and neutered, and that the owner may redeem possession of the animal upon paying all costs incurred by the shelter for spaying/neutering, boarding and any other associated costs.
- (3) The owner is deemed to have not secured the animal, and shall be issued a fine of five hundred (\$500) dollars for allowing a non-spayed or neutered animal to escape secured enclosure and become a stray.

Sec. 4-131. - Barking and howling dogs.

- (a) Between the daytime/evening hours of 7:00 a.m. and 10:00 p.m., it shall be unlawful for any person to keep on his or her premises or under his or her control any dog which by loud and frequent barking or howling shall disturb the peace and quiet of any other person who may reside or operate a business within reasonable proximity of a place where such dog is kept.
- a. Upon receiving three or more complaints of dogs barking or howling during daytime/evening hours within a 90-day period, with at least two being from separate households or businesses, the animal's owner or keeper may be cited for violation of this section.
  - b. Upon receiving a complaint of a dog barking or howling during the daytime/evening hours, combined with direct observation/verification by the Animal Control Warden (or a police officer) of such dog barking for more than twenty (20) minutes, the animal's owner or keeper may be cited for violation of this section.
- (b) Between the nighttime hours of 10:00 p.m. and 7:00 a.m., it shall be unlawful for any person to keep on his or her premises or under his or her control any dog which by loud and frequent barking or howling shall disturb the peace and quiet of any other person residing or operating a business within reasonable proximity of a place where such dog is kept. Upon observation of such disturbance of the peace by the Animal Control Warden (or a police officer) of such dog barking or howling, the animal's owner or keeper may be cited for violation of this section.

(Code 1976, § 4-36; Code 1992, § 4-117; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-132. – Regulations for tethering dogs.

- (a) No person shall tether, fasten, chain, tie, or restrain a dog, or cause any dog to be tethered, fastened, chained, tied, or restrained to a dog house, tree, fence, or any other stationary object with the intent that the tethering will be the animal's primary means of permanent containment. Tethering an animal for longer than ten (10) days and nights, as observed by an Animal Control Warden and/or police officer, is a violation of this section.
- (b) Notwithstanding subsection (a) of this section, a person may do any of the following:
- (1) Attach a dog to a trolley system as long as the trolley system is not intended as a means of permanent containment; or
  - (2) Tether, fasten, or tie a dog to a stationary object no longer than is necessary for the person responsible for the dog to complete a temporary task (e.g., cutting the grass, washing a car, gardening). In such temporary event, the dog must have convenient access to a sheltered area and containers of food and water.

- (c) An acceptable trolley system is subject to the following requirements:

- (1) The trolley system must be at least five times the length of the dog's body, as measured from the tip of the nose to the base of the tail, it must terminate at both ends with a swivel, it must not weigh more than one-eighth of the dog's weight, it must be free of tangles, and, it must be attached at two permanent points elevated four to seven feet off the ground in a manner that allows the tether to move freely along the length of the cable;
  - (2) The tether must be connected to the dog by a properly fitted, buckle-type collar or body harness of a size appropriate for the animal. A tether shall not be connected by means of a choke-type, pinch-type or prong-type collar;
  - (3) The dog must be tethered to a trolley system in such a manner as to prevent injury, strangulation, or entanglement;
  - (4) The dog shall not be outside tethered to a trolley system during a period of extreme weather, including but not limited to, extreme heat or near-freezing temperatures, thunderstorms, or tornadoes;
  - (5) The dog must have access to food, water, shade, shelter and dry ground every day, at all times;
  - (6) Except as indicated hereafter, no person shall tether any dog outside to a trolley system unless the animal has been spayed/neutered. However, it is permissible to tether an intact dog when under the direct visual observation of the owner at all times the dog is tethered; it is also permissible to tether an intact dog if it is inside a completely fenced area that will prevent other dogs from coming into contact with the tethered intact dog; and
  - (7) No more than one dog at a time may be attached to the same trolley system.
- (d) An acceptable tether system for temporary purposes is subject to these requirements:
- (1) When tethered, fastened, chained, tied, or restrained to stationary object, the tether must allow the free and untangled movement of the dog;
  - (2) The tether must be connected to the dog by a properly fitted harness (recommended) or collar appropriate for the dog. The harness or collar must fit in such a manner as to prevent injury, harm, and strangulation to the dog or allow the contained dog to escape;
  - (3) The minimum length of a tether is ten feet;
  - (4) Except as indicated hereafter, no person shall tether any dog outside unless the animal has been spayed or neutered. However, it is permissible to tether an intact dog when under the direct visual observation of the owner at all times the dog is tethered; it is also permissible to tether an intact dog if it is inside a completely secured enclosure that will prevent other dogs from coming into contact with the tethered intact dog; and
  - (5) The dog is to be monitored at regular intervals, in no case less than once per day.

(Code 1992, § 4-120; Ord. No. 20-11, 3-15-2011; Ord. No. 100-12, § I, 12-27-2012)

Secs. 4-133—4-139. - Reserved.

## **ARTICLE VI. - PET SHOPS, KENNELS, AND BREEDERS**

Sec. 4-140. – Pet Shops.

*Pet shop or kennel* means and includes any person engaged in the raising, boarding, training, breeding, grooming, riding for hire, impoundment, showing to the public or selling of any and all types of animals.

(Code 1976, § 4-90; Code 1992, § 4-86; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-141. - Kennels.

- (a) Any person owning, keeping or harboring within the corporate limits of the city more than four dogs five months of age or over (regardless of the spaying or neutering of the dogs) shall be prima facie evidence that such owner is operating a dog kennel. The burden of proof shall be on the owner to establish the age of dogs maintained to be less than five months of age. Dog kennels may be operated only within the zones permitted by the zoning code of the city, [chapter 27](#) and the owner/operator of any such dog kennel shall pay an annual Kennel License fee of \$150.00 and comply with the city's business license requirements.
- (b) A person owning, keeping or harboring more than four dogs regardless of age, spayed or neutered, shall not be considered operating a kennel if it can be proven that the additional dogs are being temporarily maintained while a permanent home for the dog is being sought (commonly referred to as fostering). Prima facie evidence of fostering can be proven by documented inclusion of the animal at an established physical animal shelter or adoption facility.

(Code 1976, § 4-53; Code 1992, § 4-119; Ord. No. 13-01, § 1, 3-20-2001; Ord. No. 100-12, § I, 12-27-2012; altered in 2019 recodification)

Sec. 4-142. - Sale of diseased animals.

It shall be unlawful for any person or pet shop or kennel to knowingly sell, offer for sale or expose to the public any diseased animal.

(Code 1976, § 4-91; Code 1992, § 4-87)

Sec. 4-143. - Coloring animals.

It shall be unlawful for any person or pet shop or kennel to dye, color or in any other way artificially treat animals unless such animals are over six weeks of age.

(Code 1976, § 4-92; Code 1992, § 4-88)

Sec. 4-144. - Minimum age for sale.

It shall be unlawful for any person or pet shop or kennel to sell any mammal which is less than six weeks of age.

(Code 1976, § 4-93; Code 1992, § 4-89; Ord. No. 100-12, § I, 12-27-2012) **State Law reference**— Municipal authority to prevent cruelty to animals, A.C.A. § 14-54-103(7).

Sec. 4-145. - Sale to minors.

It shall be unlawful for any person or pet shop or kennel to sell any animal to any person who is less than 18 years of age.

(Code 1976, § 4-94; Code 1992, § 4-90; Ord. No. 100-12, § I, 12-27-2012; Ord. No. 9-13, § 4, 2-19-2013)

Sec. 4-146. - Sanitation; generally.

Every place used as a pet shop or kennel for any animal must be kept in a clean and sanitary condition, and no refuse or waste material shall be allowed to remain thereon for more than 24 hours.

(Code 1976, § 4-95; Code 1992, § 4-91)

Sec. 4-147. - Nutrition of animals.

All animals housed in a pet shop or kennel shall be nourished with food which is free from contamination and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition, age and size of the animal.

(Code 1976, § 4-96; Code 1992, § 4-92)

Sec. 4-148. - Isolation of diseased animals.

The owner of any animal or any pet shop or kennel shall properly isolate and seek treatment for any animal having a disease contagious to animal or human life, provided, any animal which is diseased and past the state of recovery shall be humanely euthanized.

(Code 1976, § 4-97; Code 1992, § 4-93; Ord. No. 100-12, § I, 12-27-2012)

Sec. 4-149. - Standards of care.

All pet shops and kennels shall comply with the following standards for the care of animals:

- (1) All animals shall be humanely treated.
- (2) Animals shall be provided with sufficient water and food daily.
- (3) Animals shall not be confined in one area in such numbers that access to food, water and clean, dry bedding is not readily accessible.

(4) Any animal kept in an enclosure must be able to stand, turn or stretch to its full length, and suitable walking or running exercise must be allowed for animals at least once every 24 hours.

(Code 1976, § 4-98; Code 1992, § 4-94)

Sec. 4-150. - Right of entry for inspection.

It shall be a condition to the issuance of any animal license, or privilege license permit for a pet shop or kennel that a duly appointed representative of the city administrator shall be permitted to inspect at all reasonable times all animals and premises where such animals are kept. If permission for such inspection is refused, the license or permit may be revoked upon direction of the city administrator.

(Code 1976, § 4-99; Code 1992, § 4-95)

Sec. 4-151. – Sale or transfer of animals prohibited; exceptions.

(a) Except as provided in (b) of this Section, no person or entity shall sell, trade, offer as gift or give away any animal at any location in the corporate city limits of Fort Smith. The prohibition of this section shall apply to Transient Merchants licensed pursuant to Article XII of the Municipal Code and to holders of Temporary Use Permits pursuant to Section 27-327 of the Unified Development Ordinance (hereinafter “UDO”).

(b) The prohibition set forth in (a) shall not apply:

- (1) To a retail animal sales business operated from a permanent physical location owned or leased by the business, properly zoned pursuant to the UDO, and holding a properly issued business license;
- (2) To a home occupation location which provides animal ownership transfer activities solely from a permanent physical location owned or leased by the home occupation, properly issued a home occupation license after approval pursuant to Section 27-338 of the UDO, and holding a properly issued business license;
- (3) Any governmental, for profit, or non-profit entity operating an animal shelter pursuant to agreement with the City of Fort Smith which provides animal ownership transfer activities solely from a permanent physical location properly zoned pursuant to the UDO (persons fostering animals at their homes on behalf of a shelter must return the animal to the shelter for conveyance/transfer);
- (4) To a kennel licensed and operated pursuant to Section 4-141 of the Municipal Code which provides animal ownership transfer activities solely from the permanent physical location of the kennel;
- (5) To a person or entity holding and in compliance with a Breeder License issued pursuant to Municipal Code Section 4-160 which provides animal ownership transfer activities



- solely from a permanent physical location owned or leased by the person or entity, and properly zoned pursuant to the UDO; and
- (6) To a resident of the City of Fort Smith who owns an animal and who transfers ownership of the animal, not in the course of business, because of inability or absence of desire to care for the animal. Any second or subsequent such transfer of ownership of an animal during the period of six (6) months from the date of the initial transfer shall be deemed prima facia proof of acting in the course of business.
  - (7) To a resident of the City of Fort Smith who finds or takes in stray animals and/or litter of stray animals in an attempt to improve their health and find homes willing to take them as pets.
  - (8) Exceptions as noted in Section 4-12 of this Chapter.
- (c) No transfer of ownership of an animal by a person or entity not prohibited pursuant to (a) and (b) of this Section of this Ordinance shall be accomplished without the person or entity first causing the animal to receive age-appropriate immunization against common diseases pursuant to the directive of a licensed veterinarian.

(Code 1992, § 4-96; Ord. No. 13-01, § 2, 3-20-2001; Ord. No. 14-01, § 2, 3-20-2001)

Secs. 4-152—4-159. - Reserved.

Sec. 4-160. - Breeder license for dogs or cats.

- (a) A breeder license may be issued by the city for an intact dog or cat at a cost of \$1000.00 per dog or cat used for breeding purposes. A breeder license is in addition to and must be accompanied by a business license issued by the city.
- (b) Each breeder license shall be valid for one year from the date of issuance and must be renewed annually on or before its expiration date. A separate license must be obtained for each owned dog or cat that is used for breeding purposes. To obtain a breeder license, each dog or cat owner or possessor shall submit the following application information:
  - (1) The owner's name,
  - (2) Proof of rabies vaccination as required in [section 4-63](#) of this Code,
  - (3) The dog or cat owner's address,
  - (4) The dog or cat owner's phone number,
  - (5) The dog or cat's name, and
  - (6) The pet's general description (such as breed, color, etc.)

(c) Along with the information required above, each dog or cat owner or possessor shall present proof that the dog or cat has been microchipped, including the microchip number. Each dog or cat born to any licensed breeding dog or cat must be microchipped, and also sterilized upon reaching sufficient reproductive age.

(d) The city shall not knowingly issue a breeder license to a person who has been convicted of animal cruelty or neglect, or who has previously been determined to be in violation of the city's requirements for dogs or cats.

(e) A breeder license shall contain the following terms and conditions:

(1) No offspring may be sold, adopted, bartered, gifted or otherwise transferred whether for compensation or otherwise until it has reached the age of at least six weeks.

(2) No offspring may be sold, adopted, bartered, gifted or otherwise transferred whether for compensation or otherwise until immunized against common diseases as directed by a licensed veterinarian and sterilized if it has reached reproductive age. The transfer of a dog or cat shall include a statement signed by the transferor or transferee attesting to the signatory's knowledge of the dog or cat's health and the immunization history.

(3) Any holder of a breeder license who advertises to the public the availability of any dog or cat for sale, adoption, barter, gift, or transfer, whether for compensation or otherwise, must prominently display the breeder license number to any person who purchases, adopts or receives any dog or cat from the breeder license holder and include the breeder license number on any receipt of sale or transfer document, shall obtain a sales tax permit and comply with all regulations of the state of Arkansas Department of Finance and Administration then or thereafter in effect.

(4) Commercial establishments selling locally bred dogs or cats shall prominently display the breeder license number(s) of the breeder(s) whose dogs and cats are sold in that establishment. Commercial establishments selling dogs or cats not bred within the City of Fort Smith shall prominently display the name and address of the breeder(s) of such dogs or cats.

(5) Any breeder license holder selling or otherwise transferring a dog or cat, whether for compensation or otherwise, shall submit to the City Animal Control Department the name, address, and telephone number of the dog's or cat's new owner within five days from the sale or transfer.

(6) Any breeder license holder or commercial establishment selling or otherwise transferring dogs or cats, whether for compensation or otherwise, shall provide to the new dog or cat owner the information regarding the microchip requirements of the city.

Sec. 4-161. - Revocation.

Any kennel license or dog or cat breeder license issued pursuant to this article may be revoked by the city for violation by the holder thereof of any provision of this chapter or any other animal-related offense. The initial revocation shall be by the animal control officer. The revocation shall be subject to review on appeal by the city administrator.

**ARTICLE VII – Authority and Adoption.**

Sec. 4-162. - Authority.

The city administrator and his authorized agents, including the assigned animal control officer, shall take any and all necessary actions to provide appropriate documents for the enforcement of the provisions of this article and shall cause necessary arrangements to properly administer the provisions of this article.

(Ord. No. 73-19, § 4, 8-20-2019)

Sec. 4-163. - Adoption.

The provisions of this article are adopted pursuant to the police powers and taxing (licensing) authority of the city.

(Ord. No. 73-19, § 4, 8-20-2019)