

ORDINANCE NO.

1 AN ORDINANCE AMENDING SECTIONS 3-1-1 AND 3-2-3 OF THE CITY  
2 CODE RELATING TO COMMERCE IN LIVE ANIMALS; AND AMENDING  
3 THE FEE SCHEDULE OF ORDINANCE NO. 20090914-004 TO INCREASE THE  
4 FEE FOR TRADING DOGS AND CATS THAT ARE NOT NEUTERED OR  
5 SPAYED AND TO ESTABLISH A FINE FOR FAILURE TO COMPLY.  
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:  
8

9 PART 1. Section 3-1-1 (*Definitions*) of the City Code is amended to amend the  
10 following definition:

- 11 (9) PET TRADER means a person who exchanges for consideration more than  
12 fifteen dogs or cats, regardless of the age of the dog or cat, including puppies  
13 and kittens, regardless of age of the puppy or kitten, or both, in a calendar  
14 year. The term excludes the animal shelter or a Town Lake Animal Center  
15 certified partner [person who makes an exchange that is not for profit] a not  
16 for profit 501(c) 3 animal welfare organization.

17 PART 2. Section 3-2-3 (*Commerce in Live Animals*) of the City Code is amended to  
18 amend Subsections (A), (B), (C) and (E) and add a new subsection (F) to read:

19 (A) A person commits an offense of this section if the person sells, trades,  
20 barter, leases, rents, gives away, offers, markets, or displays for a commercial  
21 purpose a live animal on a roadside, public right-of-way, or commercial parking  
22 lot, or at an outdoor special sale, swap meet, flea market, parking lot sale, or  
23 similar event.

24 (B) This section does not apply to:

25 (1) a sale of an animal other than a dog or cat when the sale is held on  
26 privately owned property with the permission of the owner and the sale is in  
27 compliance with applicable Land Use Development Code regulations;

28 (2) a sale in a parking lot where the seller has written proof of the owner's  
29 permission, the sale is in compliance with applicable Land Use Development Code  
30 regulations, and the principle use of the property is not pet trading; or

31 (3) an event primarily for the sale of agricultural livestock such as hooved  
32 animals or animals or fowl commonly raised for food, dairy, or fiber products.

1 (C) A pet trader who exchanges a dog or cat shall pay to the City an animal  
2 processing fee prescribed by ordinance, no later than ~~five~~ ~~seven~~ calendar days  
3 following the exchange for consideration of the dog or cat; except that the fee is  
4 not required if the pet trader documents that the dog or cat has been spayed or  
5 neutered by a licensed veterinarian prior to the pet trader exchanging the dog or cat  
6 for consideration, or if the [for a spayed female or neutered male dog or cat, or a]  
7 pet trader can document that the dog or cat has been [eertified] documented by a  
8 licensed veterinarian to be [~~incapable of breeding or being bred~~] sterile.

9 ~~(D) — A pet trader shall implant an identification microchip in the dog or cat~~  
10 ~~before an exchange.~~

11 (E) This subsection prescribes requirements for disclosure of information by a  
12 pet trader to a recipient of the dog or cat and to the City to document compliance  
13 with this chapter.

14 (1) A pet trader shall deliver to a recipient of a dog or cat at the time of  
15 exchange the following information on a form prescribed by the city manager:

16 (a) the breeder's name and address, if known, and if the person from  
17 whom the dog or cat is obtained is a dealer licensed by the United States  
18 Department of Agriculture, the dealer's name, address, and federal dealer  
19 identification number;

20 (b) the date of the dog or cat's birth, if known, and the date the  
21 trader received the dog or cat;

22 (c) the breed, sex, color, and identifying marks at the time of  
23 exchange, if any;

24 (d) a record of each inoculation and worming treatment  
25 administered, if any, to the dog or cat, including the date of administration and the  
26 type of vaccine or worming treatment;

27 (e) a record of veterinarian treatment or medication received by the  
28 dog or cat while in the possession of the pet trader; and

29 (f) a document signed by a veterinarian licensed in the State of  
30 Texas:

31 (i) stating that the dog or cat has no known disease or illness;  
32 ~~and that the dog or cat has no known congenital or hereditary condition~~ that  
33 adversely affects the health of the dog or cat at the time of the exchange or that is  
34 likely to adversely affect the health of the dog or cat in the future; or

1 (ii) describing any known disease, illness, ~~or congenital or~~  
2 ~~hereditary condition~~ that adversely affects the health of the dog or cat, or that is  
3 likely to adversely affect the health of the dog or cat in the future; and

4 (iii) stating that the veterinarian spayed or neutered the dog or  
5 cat; or

6 (iv) documenting that the dog or cat is intact.

7 (2) A pet trader shall sign the completed form to certify the accuracy of  
8 the information, and the recipient of the dog or cat shall sign the completed form to  
9 acknowledge receipt of the information.

10 (3) In addition to providing the completed and signed form to the  
11 recipient, the pet trader shall verbally disclose the information on the form to the  
12 recipient.

13 (4) A pet trader shall:

14 (a) retain for a period of not less than two calendar years, a copy of  
15 each completed and signed form, with a copy of the check, credit card receipt or  
16 payment plan agreement and receipt documenting the fee paid for each dog or cat  
17 traded that was not spayed or neutered or documenting that no fee was paid  
18 because the dog or cat was spayed or neutered [ , for a period of not less than two  
19 years after the exchange of the dog or cat]; and

20 (b) make each completed and signed form available for inspection  
21 or copying by a humane officer, animal control officer, or law enforcement officer  
22 upon request during business hours; and

23 (c) provide a copy of each document required by (4)(a) to the City  
24 of Austin Health and Human Services Department at the end of each of the  
25 following fiscal year quarters: October 1 through December 31, January 1 through  
26 March 20, April 1 through June 30, and July 1 through September 30. Copies shall  
27 be mailed or delivered via hand-delivery or electronic mail no later than five  
28 calendar days after the ending date of each fiscal year quarter.

29 (F) OFFENSES AND REMEDIES.

30 (1) The city council has determined that this chapter is necessary to  
31 protect health, life, and property and to preserve the good government, order, and  
32 security of the City and its inhabitants.

1           (2) A person's failure to pay the fee for exchange for consideration of  
2 a dog or cat that is not spayed, neutered, or sterile is a prima facie violation of this  
3 section.

4           (3) A person's failure to produce the records required by (E) 4(a), (b),  
5 or (c) above, is prima facie evidence of a violation of this section.

6           (4) A person's failure to pay the fee for the exchange for  
7 consideration of an intact dog or cat is prima facie evidence of a violation of this  
8 section.

9           (5) A person who continues to violate this chapter after being notified of  
10 the offense in writing by an authorized City representative is subject to a civil  
11 penalty of not less than \$100 nor more than \$500 for each day the violation occurs.

12           (6) The City may file suit to enforce this section or collect a civil penalty.

13           (7) The City may seek to enjoin violations of this section.

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15 **PART 3.** — The Fiscal Year 2009-2010 Fee Schedule of Ordinance No. 20090914-004 is  
16 amended to increase the Health and Human Services Department animal processing fee  
17 from \$50 to \$100.

18 This ordinance takes effect on \_\_\_\_\_, 2010.

19 **PASSED AND APPROVED**

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21 \_\_\_\_\_, 2010

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\_\_\_\_\_  
Lee Leffingwell  
Mayor

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28 **APPROVED:** \_\_\_\_\_  
29 David Allan Smith  
30 City Attorney

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28 **ATTEST:** \_\_\_\_\_  
29 Shirley A. Gentry  
30 City Clerk