

1 BY AUTHORITY

2 ORDINANCE NO.
3 SERIES OF 2009

COUNCIL BILL NO. 348
COMMITTEE OF REFERENCE:
Greenprint Committee

6 **A BILL**

7 **For an ordinance concerning the administrative assessment of civil penalties**
8 **by the department of environmental health and fee setting regarding animals.**
9

10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** Division 1 (Authority of the Board of Environmental Health) of Article
12 1 (In General) of Chapter 24 (Health and Sanitation), DRMC, shall be and is hereby amended by
13 enacting and adding Section 24-5 (Administrative assessment of civil penalties) to read and be
14 read as follows:

15 **24-5. Administrative assessment of civil penalties.**

16 (a) Any person who violates any provision of Chapter 8 (Animals), excluding the provisions of
17 sections 8-48 (Damaging property), 8-51 (Dog attack or bite), 8-52 (Dangerous dogs), 8-55 (Pit
18 bulls prohibited), 8-131(a) (Cruelty to animals prohibited)), 8-134 (Abandonment), and 8-135
19 (Keeping place for fighting animals), Article II of Chapter 27 (Housing Code), or Chapter 36
20 (Noise Control), shall also be subject to a civil penalty of not more than nine hundred and ninety-
21 nine dollars (\$999.00) per violation.

22 (b) Any person who violates any order issued by the manager of the department of
23 environmental health shall also be subject to a civil penalty of not more than nine hundred and
24 ninety-nine dollars (\$999.00) per violation.

25 (c) Each day a violation exists or continues shall constitute a separate and distinct violation.

26 (d) Enforcement actions are intended to be cumulative in nature. The city may pursue one
27 (1) or more civil, criminal, and administrative actions, fees, fines, sentences, penalties,
28 judgments, and remedies and may do so simultaneously or in succession.

29 (e) The manager of the department of environmental health shall determine the amount of,
30 and may administratively assess, civil penalties. In determining the propriety and amount of civil
31 penalties, the manager may consider the potential harm to public and/or animal health and
32 safety or the environment that may result from the violation, the history of previous violations, the
33 number of continuing rule or code violations cited in the order, the person's current status of
34 compliance with said chapters and rules promulgated thereunder, whether the violation occurred
35 because of negligent or intentional conduct, the effect of the penalty on the person or entity's

1 ability to pay or to continue in a business regulated by said chapters, and the demonstrated good
2 faith of the person or entity charged in attempting to achieve compliance promptly after
3 notification of a violation, and other facts and circumstances relevant to the violation.

4 (f) A civil penalty assessed by means of an administrative assessment shall be payable
5 directly to the manager of finance. If not timely paid, a late fee of up to twenty-five dollars
6 (\$25.00) may be assessed and interest at the rate of ten percent (10%) per annum. If the
7 responsible party fails to pay all penalties and charges assessed within thirty (30) days of
8 assessment, the manager may refer the matter for collection by any and all means available to
9 the city.

10 (g) Any person who disputes a violation for which a civil penalty has been assessed by or on
11 behalf of the city pursuant to the authority of the manager, may petition the board of
12 environmental health for a hearing in accordance with Article I of Chapter 24, D.R.M.C. and rules
13 and regulations adopted and promulgated thereunder except as provided in this section 24-5. If
14 the hearing is conducted by a hearing officer, the hearing officer's recommended decision shall
15 be deemed to be the decision of the board unless a petition to review the hearing officer's
16 recommended decision is filed with the board within ten (10) calendar days of service of the
17 decision. If received five (5) working days before the next regularly scheduled meeting of the
18 board, review of the hearing officer's recommended decision will be conducted at such meeting
19 unless continued for good cause; otherwise, the review will be conducted at the next following
20 regularly scheduled meeting of the board unless expedited or continued for good cause. The
21 board's review will be on the administrative record established at the underlying hearing.
22 Compliance with the provisions of this subsection shall be a jurisdictional prerequisite to any
23 request for hearing or appeal brought under the provisions of this section, and failure to comply
24 shall forever bar any such action.

25 (h) The decision of the board is the final decision which may be appealed to Denver district
26 court under the provisions of Colorado Rule of Civil Procedure 106(a)(4) within thirty (30) days of
27 the date the order becomes final.

28 (i) A stay of any order of the manager pending judicial review shall not relieve any person
29 from any liability under subsection (a) or (b).

30 (j) The city may also petition the district court for the issuance of a preliminary or permanent
31 injunction, or both, as may be appropriate, restraining any person from continued violation.

32 **Section 2.** Section 8-4 (Definitions) of Chapter 8 (Animals), Denver Revised Municipal
33 Code (DRMC), shall be and is hereby amended by deleting the language stricken below and
34 adding the language underlined below to read and be read as follows:

1 **8-4. Definitions.**

2 For purposes of this chapter, the words, phrases and terms found in this section shall be defined
3 as follows:

4 (1) *Altered or Sterilized* shall mean a dog or cat that has been spayed or neutered.

5 (2) *Approved animal adoption or humane organization* shall mean any organization that
6 meets all the criteria set out in subsections 8-153.5(e) and has agreed to participate in the
7 Denver municipal animal shelter animal adoption network.

8 (43) *Attack* shall mean violent or aggressive physical contact with a person or animal, or
9 violent or aggressive behavior that confines the movement of a person, including, but not limited
10 to, chasing, cornering or encircling a person.

11 (4) *Board* shall mean the board of environmental health of the City and County of Denver.

12 ~~(2) *Inoculation* shall mean the inoculation of a dog or cat with a vaccine licensed by the
13 United States Department of Agriculture for use in the prevention of rabies.~~

14 (35) *Manager* shall mean the manager of environmental health or the manager's designee.

15 (46) *Owner* shall mean any person who owns, possesses, keeps, exercises control over,
16 maintains, harbors, transports or sells an animal.

17 ~~(57) *Permit* shall mean to allow or let happen and shall not include a state of mind
18 requirement.~~

19 (68) *Pit bull* shall mean an animal as defined in section 8-55(b)(2).

20 ~~(7) *Approved animal adoption or humane organization* shall mean any organization that
21 meets all the criteria set out in subsections 8-153.5(e) and has agreed to participate in the
22 Denver municipal animal shelter animal adoption network.~~

23 (89) *Running at large* shall mean any dog deemed to be running at large by section 8-16(b).

24 (910) *Vaccination or vaccination for rabies* shall mean the inoculation of a dog or cat with a
25 vaccine licensed by the United States Department of Agriculture for use in the prevention of
26 rabies, distemper, parvovirus, panleukopenia, bordatella, and other diseases.

27 **Section 3.** Article I, (In General) of Chapter 8 (Animals), DRMC, shall be and is hereby
28 amended by enacting and adding Section 8-5 (Fees) to read and be read as follows:

29 **Sec. 8-5. Fees.**

30 The board is hereby authorized to establish, by rules and regulations, a reasonable amount to be
31 assessed as the fees authorized by this Chapter. The manager may, in the manager's
32 discretion, waive any and all fees authorized under the provisions of this Chapter, in whole or in
33 part, where the payment of such fees is a demonstrated financial hardship or the waiver is
34 otherwise in the public interest. The fee structure adopted by the board may be adjusted after

1 three year periods based upon the change in the Consumer Price Index for the Denver-Boulder
2 area.

3 **Section 4.** Section 8-34, (Manager to prepare certificates, etc.) of Chapter 8 (Animals),
4 Denver Revised Municipal Code (DRMC), shall be and is hereby amended by deleting the
5 Section in its entirety.

6 ~~**Sec. 8-34. Manager to prepare certificates, etc.**~~

7 ~~(a) The manager shall authorize vaccination certificates and corresponding vaccination tags.~~
8 ~~These certificates shall provide spaces for information necessary to identify the animal and the~~
9 ~~type of vaccine used and such other information the manager shall require consistent with this~~
10 ~~chapter, to be provided by or under the direction of a licensed Colorado veterinarian.~~

11 ~~(b) The tag shall be made of durable material suitable to be attached to the collar or harness~~
12 ~~of the inoculated dog or cat. Such tag shall state the year for which issued and the series~~
13 ~~number of the certificate and tag. Such tags and certificates shall be prepared and distributed~~
14 ~~without charge by the manager to licensed Colorado veterinarians for the purpose of vaccinating~~
15 ~~dogs and cats owned by Denver residents.~~

16 **Section 5.** Section 8-38, (Vaccination without cost at discretion of manager) of Chapter
17 8 (Animals), Denver Revised Municipal Code (DRMC), shall be and is hereby amended by
18 deleting the language stricken below and adding the language underlined below to read and be
19 read as follows:

20 ~~**8-38. Vaccination Fees**~~ **without cost at discretion of manager.**

21 A vaccination fee shall be assessed for vaccinations administered by the department or its
22 designee. ~~The manager shall, at the manager's discretion, provide for the vaccination of any dog~~
23 ~~or cat without cost to the owner or harbinger thereof in hardship cases and in such instances that~~
24 ~~vaccination service is not available elsewhere for a reasonable fee.~~

25 **Section 6.** Section 8-73, (Violation) of Chapter 8 (Animals), Denver Revised Municipal
26 Code (DRMC), shall be and is hereby amended by deleting the language stricken below and
27 adding the language underlined below to read and be read as follows:

28 **8-73. Violation.**

29 Notwithstanding the provisions of section 1-13(a), a criminal citation for violation of this article
30 shall be ~~any person cited with violation of this article shall have his or her citation~~ dismissed if
31 there is proof of compliance with the terms of this article within thirty (30) days of the date of the
32 summons or impoundment.

1 **Section 7.** Section 8-65, (Fees; exemptions) of Chapter 8 (Animals), Denver Revised
2 Municipal Code (DRMC), shall be and is hereby amended by deleting the language stricken
3 below and adding the language underlined below to read and be read as follows:

4 **Sec. 8-65. License fees ~~Fees; exemptions.~~**

5 (a) A license fee for dogs and cats shall be assessed annually or triennially to the owner of
6 the animal. The manager shall assess additional fees for the same day issuance of a license,
7 and replacement of a lost, misplaced or destroyed license. ~~The annual license fee for dogs and~~
8 ~~cats shall be ten dollars (\$10.00) and the fee for a three-year license shall be thirty dollars~~
9 ~~(\$30.00), except that an additional fee of five dollars (\$5.00) may be imposed for applicants~~
10 ~~requesting same day issuance.~~

11 (b) The following categories of animals shall be exempt from the licensing fee:

- 12 (1) One (1) ~~neutered~~ sterilized dog and/or one (1) ~~neutered~~ sterilized cat owned by any
13 person sixty-five (65) years of age or older shall be exempt;
- 14 (2) Guide dogs for the blind and deaf;
- 15 (3) Service dogs used by the handicapped;
- 16 (4) Police service dogs;
- 17 (5) Rescue dogs.

18 **Section 8.** Section 8-67, (Duplicate tags and certificates) of Chapter 8 (Animals),
19 Denver Revised Municipal Code (DRMC), shall be and is hereby amended by deleting the
20 section in its entirety:

21 ~~**Sec. 8-67. Duplicate tags and certificates.**~~

22 ~~If the license tag issued in accordance with this article is lost or destroyed, a duplicate tag and/or~~
23 ~~certificate may be issued for the payment of a fee of three dollars (\$3.00). Duplicate tags for~~
24 ~~animals exempted from licensing fees in section 8-65 shall be issued without the payment of a~~
25 ~~duplicate tag fee.~~

26 **Section 9.** Section 8-91, (Livestock or fowl permit required) of Chapter 8 (Animals),
27 Denver Revised Municipal Code (DRMC), shall be and is hereby amended by deleting the
28 language stricken below and adding the language underlined below to read and be read as
29 follows:

30 **Sec. 8-91. Livestock or fowl permit required.**

31 It shall be unlawful for any person to keep, maintain, possess or harbor on any property within
32 the city any livestock or fowl such as, but not limited to, horses, mules, donkeys, burros, cattle,
33 sheep, goats, swine, chickens, geese, ducks or turkeys, unless a livestock or fowl permit therefor

1 has been issued by the manager. Such permit is required to be renewed annually. A fee shall be
2 assessed for a fee of fifty dollars (\$50.00) for each new and renewal permit application.

3 **Section 10.** Section 8-152, (Release of Impounded Animals) of Chapter 8 (Animals),
4 Denver Revised Municipal Code (DRMC), shall be and is hereby amended by deleting the
5 language stricken below and adding the language underlined below to read and be read as
6 follows:

7 **Sec. 8-152.** Release of impounded animals.

8 (a) It is the duty of the manager to release any impounded animal, except when an animal is
9 impounded at the request of law enforcement, by judicial order, or when an animal is a restricted
10 or illegal breed or species, from the municipal animal shelter upon receipt of satisfactory proof
11 that the person claiming the animal is the owner thereof, upon determination that the animal is
12 not infected with rabies, and upon completion of the following conditions~~payment of:~~

13 (1) in the event the impounded animal is a dog or cat, the owner shall: (i) present
14 satisfactory proof of a current license prior to release; or (ii) if proof of a current license is
15 not provided, license the impounded animal and pay the license fee; or (iii) be subject to
16 enforcement action for failure to comply with section 8-61 (License Required);

17 (2) payment of a shelter impound fee of forty dollars (\$40.00) for a licensed or an
18 unlicensed animal, which may be differentially established for restricted or illegal breed or
19 species;

20 (3) and upon payment of a maintenance or boarding fee of five dollars (\$5.00) for each
21 day or portion of each day such animal has been impounded;

22 (4) in the event the impounded animal is a dog or cat, the owner shall: (i) present
23 satisfactory proof of a rabies vaccination of the animal prior to release; or (ii) if proof of
24 vaccination is not provided, pay a vaccination fee for a rabies vaccine to be administered
25 while the animal is impounded; or (iii) be subject to enforcement action for failure to
26 comply with section 8-64 (Rabies Vaccination Requirement);

27 (5) payment of any fees for necessary veterinary medical services for the impounded
28 animal; and

29 (6) in the event the impounded animal is a dog or cat and is not sterilized, the owner
30 must either pay an intact animal permit fee and obtain issuance of the permit, or pay a
31 sterilization deposit fee upon the release of the impounded animal that shall be fully
32 refunded upon the owner providing, within a reasonable time to be established by
33 regulation adopted by the board, satisfactory proof of sterilization in the form of
34 certification from the veterinarian or other provider of such sterilization procedure.

1 ~~(c) The manager may, in the manager's discretion, waive any and all fees required under the~~
2 ~~provisions of this article without cost to the owner or harborer thereof where the payment of such~~
3 ~~fees would create unnecessary hardship.~~

4 ~~(db) In the event the impounded dog or cat has been impounded more than once in a six-~~
5 ~~month period, an additional escalating fee of twenty dollars (\$20.00) shall be assessed imposed~~
6 ~~for each subsequent impoundment.~~

7 ~~(c) In the event the impounded animal is a restricted or illegal breed or species, the animal~~
8 ~~may be released upon submittal of satisfactory proof that the animal will be permanently~~
9 ~~removed from the city to a jurisdiction where possession of the animal is legal, upon~~
10 ~~determination that the animal is not infected with rabies, and upon completion of the following~~
11 ~~conditions:~~

12 ~~(1) compliance with the conditions in paragraphs (a) (2) through (6) of this section;~~

13 ~~(2) payment of a fee for restricted or illegal breed or species evaluation if performed;~~

14 ~~and~~

15 ~~(3) payment of a fee to arrange the transfer of the animal out of the city.~~

16 **Section 11.** Section 8-153.5, (Conditions of Adoption) of Chapter 8 (Animals), Denver
17 Revised Municipal Code (DRMC), shall be and is hereby amended by deleting the language
18 stricken below and adding the language underlined below to read and be read as follows:

19 **Sec. 8-153.5.** Conditions of adoption.

20 (a) The manager may promulgate rules, regulations, policies and procedures pertaining to the
21 purchase, placement, adoption, acquisition and disposition of municipal animal shelter animals
22 by individuals, approved animal adoption and humane organizations, and other entities.

23 (b) The fees ~~for adoption shall be assessed subject to the following considerations to be paid~~
24 ~~pursuant to section 8-153 shall be:~~

25 (1) Adoptions by ~~By~~ or for persons with disabilities and by or for persons who are sixty-
26 five (65) years of age or older, ~~limited to one (1) dog or cat for each person, no fee; may be~~
27 ~~discounted by the manager; and~~

28 (2) Differential fees may be assessed for the adoption of different species and ages of
29 animals; ~~By all individuals and organizations other than those designated in (1), for spayed or~~
30 ~~neutered dogs and cats, and intact dogs and cats eighty dollars (\$80.00) per a spayed or~~
31 ~~neutered dog and forty dollars (\$40.00) per a spayed or neutered cat and forty dollars (\$40.00)~~
32 ~~per intact dog and twenty dollars (\$20.00) per intact cat.~~

33 (c) All municipal shelter dogs and cats shall be vaccinated for rabies prior to release by the
34 manager for adoption;

1 (d) All municipal shelter dogs and cats shall be licensed at the time of adoption.

2 ~~(e)(e)~~ All municipal shelter dogs and cats, except those specifically exempted by the manager,
3 shall be sterilized ~~spayed or neutered~~ prior to release by the manager for adoption; provided,
4 however, that, if the animal is too young, or is otherwise physically incapable of undergoing the
5 requisite sterilization procedure, it shall be released only upon the manager's first obtaining from
6 the adoptive owner:

7 (1) payment of a sterilization deposit fee that shall be fully refunded upon the owner
8 providing, within a reasonable time to be established by regulation adopted by the board,
9 satisfactory proof of sterilization in the form of certification from the veterinarian or other
10 provider of such sterilization procedure.

11 (2) a written agreement that the animal will be immediately ~~spayed or neutered~~
12 sterilized at the owner's expense when the animal both attains the age ~~of six months~~
13 which veterinarary science deems appropriate to sterilize, but not more than six (6)
14 months of age, and is physically capable of undergoing the requisite sterilization
15 procedure. The city shall not incur any cost, obligation or liability incident to the ~~spaying~~
16 ~~or neutering~~ sterilization of any animal, except that the city may ~~shall~~ provide
17 transportation service to and from locations within the city where such service is provided.
18 If the animal is permanently unable to be sterilized, and the animal is owned in the city,
19 the adoptive owner must obtain an intact permit for the stated fee.

20 ~~(df)~~ In the event ~~a person~~ an owner signs an agreement to ~~spay or neuter~~ sterilize an animal
21 pursuant to the provisions of subsection ~~(ee)~~ above, it shall be unlawful to violate such written
22 agreement by failing to ~~spay or neuter~~ sterilize and provide proof of sterilization within the time
23 established by the board, or fail to obtain an intact permit if the animal is permanently unable to
24 be sterilized. the animal upon the animal's attaining the age of six (6) months and becoming
25 physically capable of undergoing the requisite surgical procedures.

26 ~~(eg)~~ Unclaimed animals and animals that have not been adopted shall be managed ~~disposed~~
27 ~~of~~ in accordance with the directions of the manager. Notwithstanding the fee schedule provided
28 for in subsection (b) of this section, the manager may, without charge, allow the release of
29 unclaimed animals and animals that have not been adopted to any approved animal adoption
30 and humane organization which meets all of the following requirements:

31 (1) The primary purpose of the organization is the care and welfare of animals;

32 (2) All facilities operated by the organization meet criteria set forth in the state Pet and
33 Animal Care and Facilities Act as amended, currently codified at Colo. Rev. Stat. § 35-

1 80-101 et seq. and section 117 of the state Animal Care and Facilities Rules and
2 Regulations;

3 (3) The facility will allow the manager to inspect its facilities at all reasonable times,
4 with or without prior notice; and

5 (4) The organization follows all promulgated relevant shelter adoption network
6 regulations-policies.

7 **Section 12.** Article VIII, (Impoundment) of Chapter 8 (Animals), DRMC, shall be and is
8 hereby amended by enacting and adding Section 8-155 (Additional Services) to read and be
9 read as follows:

10 **Sec. 8-155. Additional Services.**

11 The manager may provide additional services and assess a fee therefor including, but not limited
12 to, the following:

13 (a) Owner-requested euthanasia;

14 (b) Microchip implant and registration;

15 (c) Management of an animal carcass;

16 (d) Veterinary medical services and supplies administered during or at the time of impoundment;

17 (e) Restricted or illegal breed or species evaluations;

18 (f) Photocopy or report reproduction;

19 (g) Animal quarantine;

20 (h) Restricted or illegal breed or species transfers;

21 (i) Rabies testing fee; and

22 (j) Filing of an appeal of a restricted or illegal breed or species evaluation.

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1 COMMITTEE APPROVAL DATE: Consent Agenda for the week of 06/08/09.
2 MAYOR-COUNCIL DATE: 06/16/09.
3 PASSED BY THE COUNCIL _____ 2009

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2009

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2009; _____ 2009

11 PREPARED BY: Jacqueline H. Berardini, Assistant City Attorney 06/18/2009

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
15 § 3.2.6 of the Charter.
16

17 David R. Fine, City Attorney

18 BY: _____, _____ City Attorney

19 Date: _____
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