

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
SEPTEMBER 2, 2014 AGENDA**

Subject:	Type:	Submitted By:
AMEND THE MUNICIPAL CODE; CHAPTER 95 ANIMALS	RESOLUTION ◆ ORDINANCE RECEIVE/FILE DISCUSSION	BOB LAUSTEN POLICE CHIEF

SYNOPSIS

An ordinance has been prepared for consideration regarding establishment of a feral cat colony caretaker permit.

FISCAL IMPACT

The Nebraska Humane Society will administer the program and collect the fee for the permit

RECOMMENDATION

N/A

BACKGROUND

This item comes before the Council for second reading.

The police department was contacted by a resident who lives on Brentwood Drive in Val Vista whose property backs up to the railroad tracks. She has been feeding a group of feral cats for the past two years. "Feline Friendz" (a volunteer cat rescue organization) assisted in getting the cats spayed and neutered along with working to find homes for the feral cats. There has been a call from another resident complaining about the cat colony and the feeding of the cats.

The city of Omaha, and most recently Bellevue (Feb 2014), with the assistance of the Nebraska Humane Society, have passed feral cat ordinances to regulate the issue.

Discussion has been held at two La Vista City Council meetings regarding a proposed feral cat ordinance. The La Vista City Council has directed staff to prepare an ordinance for consideration. Additionally, any differences between Omaha's and Bellevue's approved ordinances were to be noted.

The proposed La Vista ordinance is slightly different than Omaha's and Bellevue's ordinances. Staff worked with the Nebraska Humane Society to address a neighborhood concern of potential feral cat nuisance. Therefore, "nuisance" is defined specifically for the La Vista ordinance as well as an abatement process for the nuisance. Bellevue's ordinance makes reference to discontinuing feeding feral cats "if such feeding causes a nuisance to neighbors..." but does not describe specifically what a nuisance is or any abatement process. Omaha's ordinance does not specifically address any nuisances. Attached are both the Omaha and Bellevue feral cat ordinances.

ORDINANCE NO. 1223

AN ORDINANCE TO AMEND SECTIONS 95.30, AND TO ADD SECTION 95.33 OF THE LA VISTA MUNICIPAL CODE, RELATING TO LICENSE APPLICATIONS AND FERAL CAT COLONY CARETAKER PERMITS; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

SECTION 1. AMENDMENT OF SECTION 95.30. Section 95.30 of the La Vista Municipal Code is hereby amended to read as follows:

§ 95.30 LICENSE APPLICATION.

No persons shall own, keep or harbor any cat within the city limits unless such cat is licensed as herein provided. Written application for such license shall be made to the City Clerk and shall state the name and address of the owner and the name, breed, color, age, sex and any other information as may identify the cat. The license fee shall be paid at the time of making application, a numbered receipt given to the applicant and a numbered identification tag shall be given to the owner. This section shall not apply to any cat which has not reached the age of 16 weeks or to holders of feral cat colony caretaker permits for cats that are part of the colony for which such holder has such a permit.

('79 Code, § 6-104) (Ord. 186, passed - -) Penalty, see § 95.99

SECTION 2. Enactment of Section 95.33 of the La Vista Municipal Code is hereby enacted, to read as follows:

§ 95.33 FERAL CAT COLONY CARETAKER PERMIT.

(A) *Purpose of Permit.* The purpose of providing for the permitting of feral cat colony caretakers is to decrease the number of feral cats and feral cat colonies through the humane methods of trap, neuter and return (TNR), attrition, and relocation.

(B) *Permit Required:* A permit is required for any person who cares for but does not own feral cats that are part of a feral cat colony. It shall be unlawful for any person to care for a feral cat colony without first obtaining a permit under this section. A person who obtains a feral cat colony caretaker permit for the purposes stated under this section shall not be considered an "owner" of the feral cats under his or her care as that term is defined in Section §95.09 of this chapter. It shall be unlawful to relocate any feral cat into the City.

(C) *Application for permit; issuance; fee:* Any person over the age of 18 desiring a feral cat colony caretaker permit shall file an application with the animal control authority for issuance of the permit. A feral cat caretaker permit shall not be issued to any person who relocates any feral cat into the City. The authority shall inspect for and consider the applicant's compliance with this chapter in determining whether to issue the permit. Conviction of a violation of this Chapter within the past ten years shall be grounds for denial of a permit. The applicant must present:

- (a) a detailed description of each feral cat in the colony;
- (b) proof that such feral cats in the colony have been sterilized, ear-tipped, and vaccinated against rabies, or are being actively trapped to perform sterilization, ear-tipping and vaccination;
- (c) the address of the private property at which the colony is maintained;
- (d) written proof of permission from the private property owner to maintain the colony at such address;
- (e) contact information for the applicant; and
- (f) such other information as may be required by the animal control authority.

A permit fee/initial inspection fee in the amount stated in the Master Fee Schedule shall be paid at the time of application. In addition a permit/inspection fee in the amount stated in the Master Fee Schedule shall be paid by the applicant biennially on the anniversary of the issuance date of the permit. The animal control authority shall have the right to inspect the address of the private property at which the colony is maintained at reasonable hours from time to time to ascertain that

the premises are suitable for feral cat colony caretaking. No feral cat colony caretaker permit shall be issued for an address located on public property.

(D) *Duration; renewal of permit; revocation.* Such feral cat colony caretaker permit shall allow the applicant to maintain the feral cat colony for a period of up to two years unless said permit is revoked. Such permit shall be renewed biennially. The following shall constitute cause for revocation of such permit:

(a) conviction, in a court of law, of any violation of this chapter,

(b) failure to adequately resolve any nuisance within 30 days after being given written notice thereof.

(c) failure to permit biennial or other inspections of the address at which the feral cat colony is maintained,

(d) inability of the caretaker to provide care for the feral cat colony, or

(e) failure of the caretaker to actively work toward decreasing the number of feral cats within the colony through the humane method of trap, neuter and return (TNR), the continual presence of kittens in the feral cat colony and/or failure to sterilize adult cats who become members of the colony.

(f) failure of the caretaker to actively work toward the relocation of the feral cat colony.

Within 60 days of revocation, the holder of the revoked caretaker permit must relocate the feral cats within the colony to the care of one or more other feral cat colony caretaker permit holders.

(E) *Reclamation from animal control authority.* The holder of feral cat colony caretaker permit may reclaim from the animal control authority a feral cat, belonging to the colony for which the permit is issued and which has been described on the permit application, without proof of ownership. The fees specified in section §95.15 shall not be required for the return of feral cats from a registered colony.

(F) *Colony size, care and feeding.* The holder of a feral cat colony caretaker permit may maintain a feral cat colony of: (i) no more than 20 adult feral cats at an address in areas zoned residential, or (ii) no more than 30 adult feral cats at an address in areas zoned commercial, provided, that the permit holder for any feral cat colony must establish that at least eighty percent (80%) of the adult feral cats in the colony have been spayed neutered and ear tipped prior to renewal of the permit.

Any shelters provided for the feral cats by the feral cat colony caretaker shall not be unsightly to the general public nor interfere with the enjoyment or use of adjoining properties and shall blend in with the colony's surroundings. Feeding feral cats shall be discontinued if such feeding causes a nuisance to neighbors or creates a condition that is contrary to the health safety and welfare of the community.

(G) *Nuisance defined.* Nuisance means, for purposes of this section, conduct by stray or feral cats that includes, but is not limited to, causing damage or loss of property, endangering or injuring persons, interfering with enjoyment of property, recurring howling, crying or screaming, or habitually and significantly destroying, desecrating or soiling property against the wishes of the owner of the property.

(a) animal control officers or police officers shall investigate any nuisance complaint allegedly caused by a feral cat.

(b) in the event that an animal control officer or police officer finds that a feral cat or feral cat colony has created a nuisance, the animal control officer or police officer shall advise the city's animal control authority and colony caretaker in writing of the nuisance.

(c) the colony caretaker shall have 30 days to correct the nuisance. If the colony caretaker fails to correct the nuisance, the city's animal control authority shall have the right to remove the cat or revoke the feral cat colony caretaker permit.

SECTION 3. Repeal of Section 95.30 as Previously Enacted. Section 95.30 of the La Vista Municipal Code as previously enacted is hereby repealed.

SECTION 4. Severability Clause. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have enacted this ordinance and each section, subsection, sentence clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 5. Effective Date. This ordinance shall be in full force and effect from and after passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 20__.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

OMAHA MUNICIPAL CODE

Sec. 6-161. Feral cat colony caretaker permit.

(1) **Purpose of Permit.** The purpose of providing for the permitting of feral cat colony caretakers is to decrease the number of feral cats and feral cat colonies through the humane methods of trap, neuter and release (TNR), attrition, and relocation.

(2) **Permit required.** A permit is required for any person who cares for, but does not own feral cats that are part of a feral cat colony.

(3) **Application for permit; issuance; fee.** Any person over the age of 18 desiring a feral cat colony caretaker permit shall file an application with the authority for issuance of the permit. The authority shall inspect for and consider the applicant's compliance with this chapter in determining whether to issue the permit. Conviction of a violation of this Chapter within the past ten years shall be grounds for denial of a permit. The applicant must present (a) a detailed description of each feral cat in the colony; (b) proof that such feral cats in the colony have been sterilized, ear-tipped, and vaccinated against rabies, or are being actively trapped to perform sterilization, ear-tipping and vaccination; (c) the address of the private property at which the colony is maintained; (d) written proof of permission from the private property owner to maintain the colony at such address; (e) contact information for the applicant; and (f) such other information as may be required by the animal control authority. A permit fee/initial inspection fee of \$25.00 shall be paid at the time of application. In addition, a permit/inspection fee of \$25.00 shall be paid by the applicant biennially on the anniversary of the issuance date of the permit. The authority shall have the right to inspect the address of the private property at which the colony is maintained at reasonable hours from time to time to ascertain that the premises are suitable for feral cat colony caretaking. No feral cat colony caretaker permit shall be issued for an address located on public property.

(4) **Duration; renewal of permit; revocation.** Such feral cat colony caretaker permit shall allow the applicant to maintain the feral cat colony for a period of up to two years unless said permit is revoked. Such permit shall be renewed biennially. The following shall constitute cause for revocation of such permit: (a) conviction, in a court of law, of any violation of this chapter, (b) failure to permit biennial or other inspections of the address at which the feral cat colony is maintained, (c) inability of the caretaker to provide care for the feral cat colony, (d) failure of the caretaker to actively work toward decreasing the number of feral cats within the colony through the humane method of trap, neuter and release (TNR), the continual presence of kittens in the feral cat colony and/or failure to sterilize and relocate adult cats who become members of the colony, or (e) failure of the caretaker to actively work toward the relocation of the feral cat colony. Within 60 days of revocation, the holder of the revoked caretaker permit must relocate the feral cats within the colony to the care of one or more other feral cat colony caretaker permit holders.

(5) **Reclamation from animal control authority.** The holder of feral cat colony caretaker permit may reclaim from the animal control authority a feral cat, belonging to the colony for which the permit is issued and which has been described on the permit application, without proof of ownership. The fees specified in sections 6-48 and 6-50 shall not be required for the return of feral cats from a registered colony.

(6) **Colony size.** The holder of a feral cat colony caretaker permit may maintain a feral cat colony of:

- (a) no more than 20 adult feral cats at an address in areas zoned residential, provided, that if such colony is composed of more than ten adult feral cats, the permit holder must reduce the number of such cats to ten prior to renewal of the permit; or

(b) no more than 30 adult feral cats at an address in areas zoned commercial, provided, that if such colony is composed of more than 15 adult feral cats, the permit holder must reduce the number of such cats to 15 prior to renewal of the permit. (Ord. No. 37716, § 6, 5-1-07)

Sec. 6-103. Required--Generally.

It shall be unlawful for any person to own, keep or harbor any dog or cat within the city unless such dog or cat has been licensed by the authority as required by the provisions of this article; provided, however, that this section shall not apply to any dog or cat which has not reached the age of 16 weeks or to holders of feral cat colony caretaker permits for cats that are part of the colony for which such holder has such a permit. (Ord. No. 36463, § 2, 12-16-03; Ord. No. 37716, § 3, 5-1-07)

BELLEVUE MUNICIPAL CODE

Sec 6-56 Purpose of permit

The purpose of providing for the permitting of feral cat colony caretakers is to decrease the number of feral cats and feral cat colonies through the humane methods of trap neuter and release (TNR) attrition and relocation.

Sec 6-57 Permit required

A permit is required for any person who cares for but does not own feral cats that are part of a feral cat colony. It shall be unlawful for any person to care for a feral cat colony without first obtaining a permit under this division. A person who obtains a feral cat colony caretaker permit for the purposes stated under this division shall not be considered an owner of the feral cats under his or her care as that term is defined in Section 60 of this chapter.

Sec 6-58 Application for permit issuance fee

Any person over the age of 18 desiring a feral cat colony caretaker permit shall file an application with the animal control authority for issuance of the permit. The authority shall inspect for and consider the applicant compliance with this chapter in determining whether to issue the permit. Conviction of a violation of this Chapter within the past ten years shall be grounds for denial of a permit. The applicant must present:

- (a) a detailed description of each feral cat in the colony
- (b) proof that such feral cats in the colony have been sterilized ear tipped and vaccinated against rabies or are being actively trapped to perform sterilization ear tipping and vaccination
- (c) the address of the private property at which the colony is maintained
- (d) written proof of permission from the private property owner to maintain the colony at such address
- (e) contact information for the applicant and
- (f) such other information as may be required by the animal control authority.

A permit fee initial inspection fee in the amount stated in the master fee schedule shall be paid at the time of application. In addition a permit inspection fee in the amount stated in the master fee schedule shall be paid by the applicant biennially on the anniversary of the issuance date of the permit. The authority shall have the right to inspect the address of the private property at which the colony is maintained at reasonable hours from time to time to ascertain that the premises are suitable for feral cat colony caretaking. No feral cat colony caretaker permit shall be issued for an address located on public property.

Sec 6-59 Duration renewal of permit revocation

Such feral cat colony caretaker permit shall allow the applicant to maintain the feral cat colony for a period of up to two years unless said permit is revoked. Such permit shall be renewed biennially. The following shall constitute cause for revocation of such permit:

- (a) conviction in a court of law of any violation of this chapter
- (b) failure to permit biennial or other inspections of the address at which the feral cat colony is maintained
- (c) inability of the caretaker to provide care for the feral cat colony or
- (d) failure of the caretaker to actively work toward decreasing the number of feral cats within the colony through the humane method of trap neuter and release TNR the continual presence of kittens in the feral cat colony and or failure to sterilize adult cats who become members of the colony.

Sec 6-60 Reclamation from animal control authority

The holder of feral cat colony caretaker permit may reclaim from the animal control authority a feral cat belonging to the colony for which the permit is issued and which has been described on the permit application without proof of ownership. The fees specified in section 6-52 shall not be required for the return of feral cats from a registered colony

Sec 6-61 Colony size care and feeding

- (a) The holder of a feral cat colony caretaker permit may maintain a feral cat colony of:
 - (i) no more than 20 adult feral cats at an address in areas zoned residential or
 - (ii) no more than 30 adult feral cats at an address in areas zoned commercial provided that the permit holder for any feral cat colony must establish that at least eighty percent 80 of the adult feral cats in the colony have been spayed neutered and ear tipped prior to renewal of the permit.
- (b) The holder of a feral cat colony caretaker permit shall remove all food and water containers set out for feeding feral cats within two 2 hours of the placement of such containers within the feral cat colony.
- (c) Any shelters provided for the feral cats by the feral cat colony caretaker shall not be unsightly to the general public, nor interfere with the enjoyment or use of adjoining properties, and shall blend in with the colony surroundings.
- (d) Feeding feral cats shall be discontinued if such feeding causes a nuisance to neighbors or creates a condition that is contrary to the health safety and welfare of the community