

Nathan J. Winograd

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Sally Stephens, Chair
Commission of Animal Control & Welfare
1 Dr. Carlton B. Goodlett Place, Room 362
San Francisco, CA 94102

Dear Madam Chair and Members of the Commission,

Thank you for the opportunity to address the Commission today. I was asked to speak on the following topics:

1. What is the history of No Kill in San Francisco?
2. What is happening nationally in other communities?
3. Is the term "No Kill" misleading?
4. Is there pet overpopulation in San Francisco?
5. Can San Francisco reclaim its national stature? And if so, how?

The History of No Kill in San Francisco.*

Throughout the 1980s, the San Francisco SPCA (SPCA) ran animal control under contract with the City, and it was impounding tens of thousands of animals annually, putting most of them to death. The City, however, was consistently underpaying/refusing to pay what it costs to administer the animal control program and in 1989, the SPCA relinquished the contract, requiring the City to build and run its own department—San Francisco Animal Care & Control (ACC). Freed of its subsidy of animal control, the San Francisco SPCA began significantly ramping up its lifesaving efforts through adoption, spay/neuter and other lifesaving programs including many first in the nation programs: offsite adoptions, foster care, behavior advice, Trap-Neuter-Release for feral cats, socialization and training, behavior and medical rehabilitation, pediatric neutering, no-cost neutering, and a whole series of programs and services I collectively call the "No Kill Equation."

And the results were dramatic. Intakes in San Francisco, including the city shelter, were cut in half, to about 13,000 per year. Deaths of healthy animals fell to a trickle. And San Francisco was ready to take next bold leap: A lifesaving guarantee for all healthy dogs and cats in San Francisco, no matter which San Francisco shelter they entered, no matter how many there were, or how long it took to find them a home. Under the terms for such an agreement, the SPCA would *guarantee* to take every healthy dog and cat the city shelter could not place and would find them all homes. The SPCA would also take thousands of sick and injured animals as well, working to eliminate their deaths entirely also. The SPCA would take on all the costs and responsibility. In return, city shelter staff would not kill these animals, and the animals would be saved. It should have been easy to come to this agreement. But ACC turned out to be a roadblock.

The leadership of ACC claimed an adoption guarantee would lead to increased pet abandonment because the "threat of a death sentence was what kept pets in their homes" and that "people would think pet overpopulation was solved and would no longer spay or neuter their animals." In other words, ACC

* A detailed history of the No Kill revolution in San Francisco can be found in chapter two of my book, *Redemption: The Myth of Pet Overpopulation & The No Kill Revolution in America*, a copy of which I provided to each of you several months ago.

leadership argued that they should continue to kill animals so people will be scared to surrender them to the shelter and continue to spay/neuter—a patently unethical position.

Undeterred, the San Francisco SPCA appeared before the San Francisco Animal Welfare Commission (AWC) proposing an “Adoption Act,” a law that would make it illegal for ACC to kill an animal if the SPCA was willing to save him/her. Ironically, every Bay Area shelter director opposed it, fearful that if it was successful it would bring public scrutiny to their own failures to save lives. Unwilling to choose sides, the Chair of the AWC told the leadership at both ACC and the SPCA to come to a voluntary agreement. After several delays and the SPCA’s threat of a public initiative, ACC backed down and signed an agreement that has come to be known as the Adoption Pact.

The Adoption Pact required the San Francisco SPCA to accept all animals ACC classified as healthy and it could not or would not place, and thousands of treatable animals with a goal of zeroing their deaths as well. In its first year, the number of animals in San Francisco shelters killed as healthy (“Available” under ACC terminology) dropped to zero. The number of animals killed as treatable (“Sick 1,” “Injured 1,” and “Behavior 1”) dropped by 50%. In short, San Francisco became the first city in the U.S. saving all healthy dogs and cats, and the first to dramatically cut the deaths of sick and injured animals. It became the safest community in the United States for homeless animals, proving the viability of the No Kill philosophy and creating a model of sheltering that makes it possible. But it stopped short of the goal of saving all savable animals, including sick and injured treatable ones, and healthy and treatable feral cats; and then abandoned it entirely.*



What is happening nationally in other communities?

When Richard Avanzino’s retired as the President of the San Francisco SPCA, our hopes for a truly No Kill San Francisco appeared to be lost. New SPCA leadership began to move away from the nuts and bolts programs which brought No Kill within reach and finally abandoned the goal altogether. And while save rates have continued to slowly climb (as they have all other country) the goal of a No Kill San Francisco has remained out of reach. In 2000, I left the San Francisco SPCA after it became clear that leadership was not committed to doing so, and took the San Francisco model to a rural community in Upstate New York, achieving unprecedented results. Tompkins County became the nation’s first No Kill community, saving 93% of all animals using the San Francisco model of the No Kill Equation.

Since that time, other communities have achieved similar success, surpassing San Francisco’s rate of lifesaving. The No Kill revolution may have been started by the private San Francisco SPCA in the mid-1990s, but it is now being driven by progressive animal control agencies around the country: Tompkins County, Charlottesville, Virginia, and Reno, Nevada are but a few. Recently, Porter County Animal Control in Indiana reduced killing rates by 94%, Montgomery County Animal Control in Texas went from an 80% rate of killing to an 18% rate of killing, Caddo Parish Animal Control in Louisiana has seen adoption/redemption rates increase 245%, and others are striving equally hard toward No Kill.

Some of these communities are in the North, some in the South. Some are urban, some rural. Some are public shelters, some are private. Some are in what we call “blue” or left-leaning states, and some are in very conservative parts of the country—at least one is in the reddest part of the reddest state.

And every single one of these communities (and others in Utah, Colorado, North Carolina, and elsewhere) are using the model created in San Francisco. A model which this city should be proud of, should embrace, and should lead. It should be a source of community pride. It was the first, it was the best, and it should still be number one, but it is not.

* A No Kill community is one in which all savable dogs and cats are saved. This occurs when a shelter saves roughly 90% of all impounded animals. For a definition of savable animals, please see the Matrix found at Appendix II.

Admittedly, I am used to working in communities that start out saving 40% or 50% or in one case, only 12% of the animals, so it is a little off putting addressing a community saving roughly 80% of dogs and cats, and in the low 70th percentile of all animals. But compared oneself to other communities who are doing poorly (the national average is 59%) can lull you into a false sense of comfort. San Francisco should not be comparing itself to poorly performing communities. It should strive to be the best. San Francisco is a leader in human rights, in civil rights including marriage equality, in universal healthcare, in environmentalism, and it should also lead the way in animal welfare.

In addition, there are still lives being needlessly lost in San Francisco because the City stopped short of the goal line—settling for “good enough.” As an animal advocate, I must put the animal’s first and feel duty-bound to speak up wherever lives are being needlessly lost as they are in San Francisco. Good enough is not good enough; not in San Francisco, and frankly not anywhere else when lives are in the balance.

Moreover, compared to the best performing communities in the nation, San Francisco is second rate. This is not acceptable for the birthplace of the modern No Kill movement. This is not acceptable for one of the most progressive, educated, enlightened, and generous cities in the country. This is not acceptable for a community which had a 10-plus year head start on the communities it has fallen behind. Despite the San Francisco SPCA’s claim that this is the “safest community” in the U.S., it is not. It used to be, but it hasn’t been for at least seven years. San Francisco can be, and should be, and I sincerely hope it chooses to be.



Is the term “No Kill” misleading?

This argument is a distraction. The term “No Kill” is not going away and focusing on the term is nothing more than elevating form over substance. Moreover, those communities which are sincerely striving to achieve No Kill or which have in fact achieved it do not see the term as controversial. In fact, they embrace it regardless of whether they are private shelters or public animal control ones. Indeed, they wear it as a badge of honor. In these communities, the term is not controversial. The only shelters and communities advancing the “No Kill is misleading” argument are those whose shelter directors are failing to achieve it, because the demands of accountability it makes on shelter leadership is threatening to them. It represents a goal and an achievement that shines the light of public scrutiny on how they are performing. And in order to shield themselves from accountability, they obfuscate what should be straightforward and hope to keep the debate focused on meaningless semantics rather than on what their shelter should be doing—but is failing to—in order to save more lives.

The real focus should be on whether shelters are doing enough to save all the lives at risk, not what the effort to do so should be called. It is an attempt by those hostile to the life-affirming philosophy that No Kill represents to take the focus off their own failures or refusal to meet their primary mandate to save lives. The debate is also not principled as it ignores the misleading terms of which many shelters are particularly fond of such as “putting them to sleep,” “euthanasia,” and that “open admission” shelters are necessarily better.

Webster’s dictionary, for example, defines “euthanasia” as “the act or practice of killing or permitting the death of hopelessly sick or injured individuals in a relatively painless way for reasons of mercy.” To constitute the dictionary definition, four elements must be met: 1. the animal must be hopelessly ill or injured; 2. the calculus must be based on an individual animal’s prognosis for rehabilitation; 3. the killing has to be painless; and, 4. it must be motivated by mercy. Killing savable animals is not “euthanasia.” As I argued in my book, euphemisms like “euthanasia” or “putting them to sleep” make the task of killing easier and obscure the gravity of what is actually occurring to avoid accountability for it.

This is also true of the idea that open admission shelters are somehow more ethical. The implication is that No Kill shelters can’t be open admission (a falsehood given No Kill animal control shelters in Charlottesville, Tompkins, Reno, Porter County and elsewhere) and that No Kill shelters which are not open admission are derelict because they refuse to kill animals. Finally, this misleading idea ignores that

most open admission shelters kill largely out of convenience because they refuse to put in place the programs and services which save lives—because they refuse to implement the San Francisco model of sheltering—essentially becoming little more than open doors to the unnecessary killing of animals.

But these misleading terms serve a purpose for shelters, whereas the term No Kill does not. This is also true of two misleading statements perpetuated by the San Francisco SPCA. On its *new* website, it states that “San Francisco [is] the nation’s safest city for homeless cats and dogs.” This is not true: Reno, NV takes in 16,000 animals per year, nearly double that of San Francisco and is saving a higher percentage of animals; Tompkins County has been saving over 90% for the last seven years, and there are others.

The San Francisco SPCA also claims that, “The San Francisco SPCA has moved beyond our vision of saving healthy dogs and cats to also include rehabilitating thousands of sick and injured animals—and going beyond the borders of San Francisco to help animals that may face euthanasia because of pet overpopulation.” Let’s put aside the misleading term “euthanasia” and, as demonstrated below, the false statement these animals face death because of “overpopulation,” rather than because those shelters are derelict in their duty to innovate and modernize by comprehensively putting in place the programs and services which save lives. The implication here is that the work of saving lives in San Francisco is done, that all the animals who can be saved are being saved. It also falsely implies the SPCA is moving into a *new* area.

In fact, the 1994 Adoption Pact specifically focused on *both* healthy and sick and injured but treatable animals, the San Francisco SPCA under Richard Avanzino built entire departments focused on rehabilitation of sick and injured animals, deaths of sick and injured treatable animals (what San Francisco ACC called “Sick 1” and “Injured 1” animals) fell by 50% in Year 1, and the majority of animals saved by the SPCA from ACC since the mid-1990s have been sick and injured. That was always the vision. Finally, saying they are going “beyond San Francisco” is a way to spin the abandonment of the No Kill goal in San Francisco, to pretend that all the savable animals in San Francisco are being saved and that therefore, now is the time to help others.

And although I would advise against spending time discussing semantics or about what terminology is or is not misleading, if the AWC chooses to do so, then in fairness, it should discuss them all, not just the ones that don’t serve the agenda of needless killing.

But back to the question: Is No Kill misleading? I would argue that it fits closer to the dictionary definition of “euthanasia” than the term used now by killing shelters (with the exception of aggressive dogs). I would also argue that since it the term the movement is using and as hard as the architects of the status quo try, it is gaining, not diminishing in popularity, it makes no sense to abandon it. Moreover, according to the *San Francisco Chronicle* pet writer on her blog, the term No Kill is powerful:

“That power is exactly why no-kill opponents are doing their level best to destroy the no-kill brand. They know it is probably the most positively-associated of all phrases for the general animal-loving public. Surrendering it would a huge mistake, and it would be to grant a victory to the enemies of no-kill that they have not honestly won. And worse, it would be an insult to the compassion of people like my friend, and the animals those people want to see not-killed. Think long and hard before you surrender that power.”

I hope the AWC does. I would hope the AWC avoids this distraction, and would rather see it spending its time *requiring* the shelters of San Francisco to make it their goal and to work rigorously to achieve it.



Is there pet overpopulation in San Francisco?

This is also a distraction, a way to deflect attention away from the real issues. The more apt question is “do San Francisco shelters have to kill savable animals?” and the answer is definitively, no. In fact, the San Francisco SPCA is importing animals from outside its jurisdiction. By doing so, it is essentially saying that

the problem in San Francisco is solved and that it has no choice but to get these animals elsewhere because there aren't any savable animals left in City shelters. I disagree with the assessment, but nonetheless even the SPCA agrees that there is no overpopulation in San Francisco or it wouldn't be seeking animals from outside the jurisdiction.

The SPCA's justification aside, *is San Francisco killing savable animals?* The answer has to be yes. First of all, ACC gives the SPCA a "pass" on animals, allowing them to change their categorization from adoptable to unadoptable for a few animals each month. This has nothing to do with whether the animals are actually savable. Furthermore, ACC is still killing healthy feral cats, some categories of animals have high death rates (e.g., 56% of all Pit Bulls), and it is only saving roughly 80% of dogs and cats (and less than that including other animals).*

Roughly speaking, a shelter achieves No Kill when it is saving about 90% of all animals. This comes from an analysis of dog bite rates (showing the incidence of aggression in dogs), and an analysis of sheltering intakes, as well as save rates at the best performing shelters in the country. For example, Reno saved 92% of dogs in 2007, but still admitted savable dogs were being killed (they believed they were 1-2% away from No Kill for dogs). By way of another example, Charlottesville saved 87% of cats and dogs in 2006 and admitted savable animals were still being killed (they did not claim No Kill for dogs until they hit a 92% save rate).

But let's look at the numbers. San Francisco ACC impounds roughly 6,000 dogs and cats annually. That's 7.5 dogs and cats for every 1,000 human residents. If you include all species of animals, it is still only an 8.5 per capita intake rate (although the save rate drops to the low to mid 70th percentile). Meanwhile, the national average is 15 dogs and cats for every 1,000 human residents. So San Francisco takes in half the national average. By contrast, Tompkins County takes in 26 per 1,000 and is saving over 90% and has been for seven years. Charlottesville also takes in 26 per 1,000 and is saving a greater percentage of animals than San Francisco. Washoe County, Nevada takes in 39/1,000—that's five times the rate of San Francisco. It also takes in almost three times the total number: 16,000 per year. Yet they are saving 90% of dogs and 83% of cats and expect 90% save rates for both this year despite an 11% unemployment and a foreclosure crisis. So regardless of what is happening outside San Francisco, San Francisco is at the bottom rate of intakes nationally. And therefore there can be only one conclusion: There is no overpopulation in San Francisco. It could take in five times the rate of animals it does now and should still be able to save a higher percentage of animals than it is.

Nationally, the numbers tell the same story. Roughly four million dogs and cats are killed annually. Every year, over two times the number of people are looking to bring a new dog into their home than the total number of dogs entering shelters, and more people are looking to bring a new cat into their home than the total number of cats entering shelters. On top of that, not all dogs and cats entering shelters need adoption: Some will be stray animals who will be reclaimed by their owners; some of the cats will be feral and do not need adoption, but need sterilization and release; and a small percentage of the dogs and cats will be hopelessly ill, injured or in the case of dogs, vicious with a poor prognosis for rehabilitation, and will be killed.

By contrast, there are 165 million animals in over 110 million households. The inventory of pet owning households is increasing both as to number of pets in a single household and number of households with pets. But there are only four million killed, of which 3.6 million are "savable," some of whom are feral cats who do not need a home. It is a very achievable goal. In the end, we need to increase market share only by about 3% nationally to eliminate all population killing in the U.S. These aren't just my conclusions; they are also the conclusion of the Humane Society of the United States:

- "By increasing the percentage of people who obtain their pets through adoption—by just a few

* ACC says it is saving 84% of all dogs and cats, but they specifically exclude animals whose owners request that they be killed, animals who die in their kennels, and missing animals who should not be swept under the rug.

percentage points—we can solve the problem of euthanasia of healthy and treatable dogs and cats.”

- “The *needless* loss of life in animal shelters is deplored by the American public. People deeply love their dogs and cats and feel that killing pets who are homeless through no fault of their own is a problem we must work harder to prevent. They want animals to have a second chance at life, not death by injection.”

Even HSUS, one of the chief architects of the current paradigm of killing, can no longer argue with the facts.



Can San Francisco reclaim its national stature? And if so, how?

The answer of course, is a resounding yes. The AWC should look into several issues if it wants to really understand the increasing irrelevance of San Francisco in the larger No Kill movement and if it wants to get a handle on the lost potential for achieving No Kill in this City.

First, the AWC should investigate the issue of the San Francisco SPCA impounding of animals from out of county while animals die in San Francisco shelters. It should also investigate why ACC has such a low number of adoptions. ACC should not rely on the SPCA and rescue groups solely to keep lifesaving rates where they are. Rescue transfers should be “additive” or supplemental to an animal control shelter’s own comprehensive adoption effort. It is too easy to blame the SPCA, but ACC has abdicated its responsibility for too long using rescue groups and the SPCA as a crutch by threatening to kill animals they don’t rescue. And by choosing to build a police agency, rather than becoming a true adoption agency.

When it suits them, they’ll tell you they are focused on public safety not lifesaving. When it suits them, they’ll brag about their level of lifesaving. They play it both ways depending on which way the wind is blowing. The AWC needs to tell them that both efforts need to be addressed and that high rates of adoption are not incompatible with public safety, as other communities have proven.

The AWC must also not accept budget cuts as a reason to expect less lifesaving in San Francisco by keeping in mind that other communities which are more successful than San Francisco get far less per capita for animal control than ACC even with any budget cuts. Moreover, ACC is also leaving money on the table. Maddie’s Fund offered ACC \$20,000 to publish their numbers in a very specific format when the recently retired director was in charge, but he refused. Maddie’s Fund also offered the new director \$40,000 to do so, but she also has not done so. Finally, if they publish those statistics, they offered an additional minimum of \$700,000 and up to \$2,000,000 (depending on various factors) to be shared among ACC, the SPCA, and even the rescue groups as a lifesaving award. So far, ACC has not agreed to do so and it has been “under consideration” for over a year. That money can be used to bump up the save rate to No Kill levels. ACC is taking that money away from rescue groups, away from the SPCA, away from the animals that depend on them. And it is intolerable, as they complain how budget cuts will impact their lifesaving efforts. You should force them to do so.

Second, the AWC should not accept the fiction that as a private shelter, the San Francisco SPCA is out of reach of its jurisdiction. That is patently false. The animals are held in trust for the people of San Francisco. The SPCA holds the power of life and death. The City has a right to regulate private animal shelters the same way San Francisco regulates private hospitals and private businesses.

Third, San Francisco proved the viability of the No Kill model. At one time, it showed other communities how to achieve it and many communities have, surpassing San Francisco in that goal. The AWC should not offer excuses for the SPCA’s and ACC’s failures. It should stop debating semantics about overpopulation and the term “No Kill.” It should focus on forcing shelters in this City to do all they can to save lives.

These shelters are being paid for by the citizens of San Francisco, through their tax and philanthropic

dollars. These shelters do not belong to their directors, to the staff, or to the Board members. They belong to the people. And they should fully reflect the humane values this City is known for, for which the City of St. Francis is named—the patron saint of the animals. The people have a right to reclaim these institutions for the animals who depend on them. As the AWC represents the people, it would be speaking for them by embracing and demanding a No Kill San Francisco.

Finally, in *Redemption*, I wrote that,

No Kill is only succeeding in some communities because of the commitment by individual shelter leaders, who are few and far between. Traditional sheltering, by contrast, is institutionalized. In a shelter reliant on killing, directors can come and go and the shelter keeps killing, local government keeps ignoring that failure, and the public keeps believing “there is no other way.” By contrast, the success of an organization’s No Kill policies depends on the commitment and vision of its leader. When that leader leaves the organization, the vision can quickly be doomed. It is why an SPCA can be progressive one day, and moving in the opposite direction the next.

That is why the AWC should focus on institutionalizing No Kill through shelter reform legislation (like the enclosed model law, The Companion Animal Protection Act). Legislation is needed to force ACC to put “saving lives” on an equal footing with “public health/safety,” and to force them to focus more on adoptions. The law would force both shelters to be rigorous in implementing all the programs that make No Kill possible and to eliminating killing for all but hopelessly ill or injured animals. It would open up their operations to the full light of public scrutiny, and give citizens an integral voice in how these shelters operate.

By adopting this approach, you will force shelter leadership to embrace No Kill and to run their shelters in a progressive, life-affirming way, removing the discretion which has for too long allowed shelter leaders to ignore what is in the best interests of the animals and kill them needlessly, even in spite of tremendous public opposition and hunger for change.

This law would be the first of its kind in the nation. It would reignite the pride we all felt when San Francisco was the crown jewel of the No Kill movement. It would be ground-breaking, consistent with the City’s progressive history. And it would once again make San Francisco a beacon of light for the nation.

I believe the members of the AWC owe it to the animals of San Francisco, to the animal lovers of San Francisco, and to yourselves to do so. You’ve been given a great trust on this Committee. I urge you to leave a mark that will help pave the way for our nation’s inevitable No Kill future. The City once led the No Kill movement, and it is up to you whether it will again.

Very truly yours,

A handwritten signature in black ink, reading "Nathan J. Winograd". The signature is written in a cursive, flowing style with a large, stylized 'N' and 'W'.

Nathan J. Winograd

Appendix I: The Companion Animal Protection Act

Please note: The ideal animal control law would ban the killing of savable dogs and cats, and would prohibit the impounding of feral cats except for purposes of spay/neuter and release. Given that local governments are not likely to enact such laws, the Companion Animal Protection Act was written to provide animals with maximum opportunities for lifesaving. No law can anticipate every contingency and the Companion Animal Protection Act is no exception. It is not intended to be complete or eliminate the need for other animal protection laws. Nor is it intended to reduce stronger protections that animals may have in a particular jurisdiction. The legislation can and should be modified in these circumstances.

The people of the City of _____ do enact as follows:

Part 1. Purpose and Intent.

SECTION 1(a) It is the intent of the City Council to end the killing of savable animals in the city. In order to accomplish this, the City Council finds and declares:

- (1) protecting animals is a legitimate and compelling public interest;
- (2) the killing of savable animals in city shelters is a needless tragedy that must be brought to an end;
- (3) no animal should be killed if the animal can be placed in a suitable home, if a private sheltering agency or rescue group is willing to take care and custody of the animal for purposes of adoption, or, in the case of feral cats, if they can be sterilized and released to their habitats;
- (4) animals held in shelters deserve proper care and humane treatment including prompt veterinary care, adequate nutrition, shelter, exercise, environmental enrichment, and water;
- (5) shelters have a duty to make all savable animals available for adoption for a reasonable period of time;
- (6) owners of lost animals should have a reasonable period of time within which to redeem their animals;
- (7) shelters should not kill savable animals at the request of their owners;
- (8) all efforts should be made to encourage the voluntary spaying and neutering of animals;
- (9) government is obligated to taxpayers and community members to spend tax monies on programs and services whose purpose is to save and enhance the lives of animals;
- (10) when animals are killed, it should be done as humanely and compassionately as possible;
- (11) taxpayers and community members deserve full and complete disclosure about how animal shelters operate;
- (12) citizens have a right to ensure that agencies follow the law;
- (13) saving the lives of animals, identifying and eliminating animal neglect and abuse, and protecting public safety are compatible interests; and,
- (14) policies that undermine the public's trust in animal shelters should be eliminated; and,

(b) The City Council further finds and declares that all public and private sheltering agencies that operate within the city shall:

- (1) commit themselves to ending the killing of savable animals in their care and custody;
- (2) work with other animal adoption organizations to the fullest extent to promote the adoption of animals and to reduce the rate of killing;
- (3) provide every animal in their custody with individual consideration and care, regardless of how many animals they take in, or whether such animals are healthy, unweaned, elderly, sick, injured, traumatized, feral, aggressive, or of a particular breed;
- (4) not ban, bar, limit or otherwise obstruct the adoption of any animal based on arbitrary criteria, such as breed, age, color, or any other criteria unrelated to the individual animal's medical condition or temperament.

(c) The City Council further finds and declares that all public sheltering agencies that operate within the city shall:

- (1) be open to the public for adoption seven days per week;
- (2) implement programs to save lives, including free and low-cost spay/neuter services for animals,

including feral cats; a foster-care network for animals needing special care, including unweaned, traumatized, sick and injured animals; comprehensive adoption programs that operate during weekend and evening hours and include adoption venues other than the shelter; medical and behavioral rehabilitation programs; pet-retention programs to solve medical, environmental, and behavioral problems and keep animals with their caring and responsible owners; and, volunteer programs to help socialize animals, promote adoptions, and assist in the operations of the shelter.

(d) The City Council further finds and declares that ending the killing of savable animals will occur when all public and private sheltering agencies and rescue groups work together to achieve this goal, and therefore expects private sheltering agencies and rescue groups to:

(1) be open to the public during hours that permit working people to adopt animals during non-working hours;

(2) implement programs to save lives, including free and low-cost spay/neuter services for animals, including feral cats; a foster-care network for animals needing special care, including unweaned, traumatized, sick and injured animals; comprehensive adoption programs that operate during weekend and evening hours and include adoption venues other than the shelter; medical and behavioral rehabilitation programs; pet-retention programs to solve medical, environmental, and behavioral problems and keep animals with their caring and responsible owners; and, volunteer programs to help socialize animals, promote adoptions, and assist in the operations of the shelter.

Part II. Definitions.

SEC. 2 (a) For purposes of this Act, the following definitions shall apply:

(1) a *Public Sheltering Agency* is a public animal control shelter or private shelter, society for the prevention of cruelty to animals, humane society, or animal adoption group that receives city funding and/or has a contract with the city under which it accepts stray or owner-relinquished animals.

(2) a *Private Sheltering Agency* is a shelter, society for the prevention of cruelty to animals, humane society, or animal adoption group, which is designated as a non-profit under Section 501(c)(3) of the Internal Revenue Code, and: (a) which does not receive city funding or have a contract with the city under which it accepts stray or owner-relinquished animals; (b) accepts animals into a physical facility other than a private residence; and, (c) places into new homes stray and/or owner-relinquished animals and/or animals who have been removed from a public or private sheltering agency.

(3) a *Rescue Group* is a collaboration of individuals not operated for a profit, whose primary stated purpose is animal protection, which places into new homes stray and/or owner-relinquished animals and/or animals who have been removed from a public or private sheltering agency. Individual rescuers who keep animals in their own homes but are not part of a larger collaboration are not a rescue group for purposes of this Act.

(4) an *Animal* is any domestic non-human living creature normally kept as a pet, or a feral cat.

(5) an *Impounded animal* is any animal who enters a public or private sheltering agency or rescue group regardless of whether the animal is a stray, owner-relinquished, seized, taken into protective custody, transferred from another private or public sheltering agency, or is an animal whose owner requests that the animal be killed, except for any animal presented to a medical clinic associated with such agencies for purposes of preventative or rehabilitative medical care, or sterilization.

(6) a *Stray animal* is any animal who is impounded without a known owner present at impound who is voluntarily relinquishing custody.

(7) a *Savable animal* is any animal who is either healthy or treatable, and is not a vicious or dangerous dog.

(8) a *Healthy animal* is any animal who is not sick or injured.

(9) a *Treatable animal* is any animal who is sick or injured, whose prognosis for rehabilitation of that illness and/or injury is excellent, good, fair, or guarded as determined by a veterinarian licensed to practice in this state.

(10) a *Non-rehabilitatable animal* is any animal with severe illness or injury whose prognosis for rehabilitation is either poor or grave as determined by a veterinarian licensed to practice in this state.

(11) an *Irremediably Suffering animal* is any animal with a medical condition who has a poor or grave prognosis for being able to live without severe, unrelenting pain, as determined by a veterinarian licensed to practice in this state.

(12) a *Feral Cat* is a cat who is free-roaming, unsocialized to humans, and unowned.

(13) a *Feral Cat Caregiver* is someone who cares for feral cats and has an interest in protecting the cats, but is not the owner of those cats.

(14) an *Unweaned* animal is any neonatal animal who, in the absence of his/her mother, requires supplemental bottle feeding by humans in order to survive. In the case of puppies and kittens, unweaned animals are animals who fit the above description and are from 0 to 4 weeks of age.

(15) a *Litter* of animals includes two or more animals who are under twelve weeks of age as determined by a veterinarian licensed to practice medicine in this state, or by a veterinary technician or veterinary assistant working under the direction of a veterinarian licensed to practice medicine in this state.

(16) a *Vicious Dog* is a dog who exhibits aggression to people even when the dog is not hungry, in pain, or frightened, and whose prognosis for rehabilitation of that aggression is poor or grave as determined by a trained behaviorist who is an expert on canine behavior.

(17) a *Dangerous Dog* is a dog adjudicated to be vicious by a court of competent jurisdiction and where all appeals of that judicial determination have been unsuccessful.

Part III. Sterilization Requirements.

SEC. 3(a) Except as otherwise provided in this section, no public or private sheltering agency or rescue group shall sell, adopt, or give away to a new owner any dog, cat, rabbit, or other animal who has not been spayed or neutered, except as follows:

(1) This section shall not apply to reptiles, amphibians, birds, fish, and small animals such as mice and hamsters, where the anesthesia or sterilization procedure is likely to result in the animal's death.

(b) If a veterinarian licensed to practice veterinary medicine in this state certifies that an animal is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the animal to be spayed or neutered, the adopter or purchaser shall pay the public or private sheltering agency or rescue group a deposit of not less than fifty dollars (\$50), and not more than one hundred dollars (\$100). This deposit shall be returned if the adopter or purchaser presents the entity from which the animal was obtained with proof that the animal has been spayed or neutered within 60 days of receiving the animal, or presents a signed letter from a veterinarian licensed to practice medicine in this state, certifying that the animal has died, including a description of the animal and most likely cause of death. This deposit shall also be returned upon the expiration the 60-day period if the adopter or purchaser presents a signed letter from a veterinarian licensed to practice medicine in this state, certifying that upon the expiration of the 60-day period, the animal remains too sick or injured, or that it would otherwise be detrimental to the health of the animal, to be spayed or neutered.

(c) The adopter or purchaser of an animal must spay or neuter that animal within 60 days of adoption, purchase, or receipt from a public or private sheltering agency, or rescue group, except as follows:

(1) If a veterinarian licensed to practice medicine in this state certifies that an animal is too sick or injured or that it would otherwise be detrimental to the health of the animal to be spayed or neutered within the time period, such animal shall be spayed or neutered within 30 days of the veterinarian certifying that the animal may safely be spayed or neutered.

(d) Notwithstanding subsection (b), if a veterinarian licensed to practice medicine in this state certifies that an animal is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to the health of the animal to be spayed or neutered, and that the animal is not likely to ever be healthy enough to be spayed or neutered, no deposit shall be required.

(e) For purposes of this section, a determination that a dog or cat is too sick or injured to be spayed or neutered, or that it would otherwise be detrimental to his or her health, may not be made based solely on the youth of the dog or cat, so long as the dog or cat is at least eight weeks of age.

(f) Notwithstanding the other requirements of this section, animals may be transferred to organizations listed on the registry required under Section 9 before they have been spayed or neutered and without a spay/neuter deposit, as long as the receiving organization represents that it will spay or neuter all animals before placing them into homes.

(g) Any funds from unclaimed deposits made pursuant to this section shall be expended only for programs to spay or neuter animals.

(h) A licensed veterinarian shall perform spay/neuter operations under this Act.

SEC. 4(a) A person is subject to civil penalties of not less than two hundred dollars (\$200) or more than five hundred dollars (\$500) if that person does any of the following:

- (1) falsifies any proof of spaying or neutering submitted for the purpose of compliance with this Act;
- (2) intentionally issues a check for insufficient funds for any spaying or neutering deposit required under this Act;
- (3) falsifies a signed letter from a veterinarian submitted for the purpose of compliance with this Act, certifying that an animal is too sick or injured to be spayed or neutered;
- (4) fails to sterilize the animal as required.

(b) An action for a penalty proposed under this section may be commenced in a court of competent jurisdiction by the administrator of the public or private animal sheltering agency or rescue group from which the recipient obtained the animal who is the subject of the violation.

(c) All penalties collected under this section shall be retained by the agency bringing the action under subsection (b) to be used solely for programs to spay or neuter animals.

Part IV. Feral Cats.

SEC. 5(a) Caretakers of feral cats shall be exempted from any provision of law proscribing the feeding of stray animals, requiring permits for the feeding of animals, requiring the confinement of cats, or limiting the number of animals a person can own, harbor, or have custody of, except as follows:

(1) Nothing in this section shall be construed to limit the enforcement of a statute having as its effect the prevention or punishment of animal neglect or cruelty, so long as such enforcement is based on the conditions of animals, and not based on the mere fact that a person is feeding feral cats in a public or private location.

(b) In order to encourage spay/neuter of feral cats and to protect cats, public or private sheltering agencies or rescue groups shall not lend, rent, or otherwise provide traps to the public to capture cats, except to a person for the purpose of catching and reclaiming that person's wayward cat(s), to capture injured or sick cats or cats otherwise in danger, to capture feral kittens for purposes of taming and adoption, or, in the case of feral cats, for purposes of spay/neuter and subsequent re-release;

(1) For purposes of this subsection, the location of the cats, without more, does not constitute "otherwise in danger";

(2) A person is subject to civil penalties of not less than two hundred dollars (\$200) or more than five hundred dollars (\$500) if that person uses a trap from a public or private sheltering agency or rescue group for purposes other than those enumerated above.

(c) An action for a penalty proposed under this section may be commenced in a court of competent jurisdiction by the administrator of the public or private animal sheltering agency or rescue group from which the recipient obtained the trap that is the subject of the violation.

(d) All penalties collected under this section shall be retained by the agency bringing the action under subsection (c) to be used solely for programs to spay or neuter animals.

Part V. Holding Periods.

SEC. 6(a) The required holding period for a stray animal impounded by any public or private sheltering agency shall be five business days, not including the day of impoundment, unless otherwise provided in this section:

(1) Stray animals without any form of identification and without a known owner shall be held for owner redemption during the first two days of the holding period, not including the day of impoundment, and shall be available for owner redemption, transfer, and adoption for the remainder of the holding period;

- (2) Stray animals may be adopted into new homes or transferred to a rescue group or private sheltering agency for the purpose of adoption after the first two days of the holding period, not including the day of impoundment, except as provided in subsections (a)(3) to (9);
- (3) If a stray animal is impounded with a license tag, microchip, or other form of identification, or belongs to a known owner, the animal shall be held for owner redemption during the first three days of the holding period, not including the day of impoundment, and shall be available for owner redemption, transfer, and adoption for the remainder of the holding period;
- (4) Litters of animals or individual members of a litter of animals, including the nursing mother, and unweaned animals may be transferred to a private sheltering agency or rescue group for the purpose of adoption immediately after impound;
- (5) Individual members of litters of animals who are at least six weeks of age, including the mother, may be adopted immediately upon impound;
- (6) A feral cat caregiver has the same right of redemption for feral cats as an owner of a pet cat, without conferring ownership of the cat(s) on the caregiver;
- (7) Irremediably suffering animals shall be euthanized without delay, upon a determination made in writing and signed by a veterinarian licensed to practice medicine in this state. That certification shall be made available for free public inspection for no less than three years;
- (8) Dogs and cats with confirmed cases of parvovirus or cats with confirmed cases of panleukopenia may be euthanized without delay, upon a certification made in writing and signed by a veterinarian licensed to practice medicine in this state. That certification shall be made available for free public inspection for no less than three years;
- (9) Unweaned animals impounded without their mother may be killed so long as the shelter has exhausted all efforts to place the animals in foster care, made an emergency appeal under the requirements of Section 9, and certified that it is unable to provide the needed care and feeding in its facility. That certification shall also state in clear and definitive terms why the agency is unable to place the animals in foster care, which private sheltering agencies and rescue groups it made an appeal to, and what would be required in the future in order to provide the needed care and feeding in foster care or its facility, and what steps are being taken to do so. This certification shall be made in writing, signed by the director of the agency or by a veterinarian, and be made available for free public inspection for no less than three years.

SEC. 7(a) The required holding period for an owner relinquished animal impounded by public or private sheltering agencies shall be the same as that for stray animals and applies to all owner relinquished animals, except as follows:

- (1) Any owner-relinquished animal that is impounded shall be held for adoption or for transfer to a private sheltering agency or rescue group for the purpose of adoption for the entirety of the holding period;
- (2) Owner-relinquished animals may be adopted into new homes or transferred to a private sheltering agency or rescue group for the purpose of adoption at any time after impoundment.

(b) When an animal is surrendered or brought to a shelter to be killed at the owner's request, the animal shall be subject to the same holding periods and the same requirements of all owner relinquished animals notwithstanding the request.

(c) An animal seized by an officer of a public or private sheltering agency under the provisions of a state statute having as its effect the prevention or punishment of animal neglect or cruelty, or seized under the provision of state dangerous dog laws or under state quarantine or disease control regulations, shall be impounded and held as consistent with the requirements of those laws, except as follows:

- (1) Where any statute under the provisions of those laws permits a holding period, care, or disposition which affords an animal less protection than the mandates of this Act, this Act shall supersede those specific provisions regarding holding, care, and disposition.

Part VI. Animal Care Standards.

SEC. 8(a) Except as otherwise provided in this section, public and private sheltering agencies shall provide all animals during the entirety of their shelter stay with fresh food; fresh water; environmental enrichment

to promote their psychological well-being such as socialization, toys and treats; and exercise as needed; however, never less than once daily, except as follows:

(1) dogs who are vicious to people or dangerous dogs may but are not required to be exercised during the holding period.

(b) Notwithstanding subsection (a), public and private sheltering agencies shall work with a veterinarian licensed to practice medicine in this state to develop and follow a care protocol, which is consistent with the goals of this Act as defined in Part I, for animals with special needs such as, but not limited to, nursing mothers, unweaned animals, sick or injured animals, geriatric animals, or animals needing therapeutic exercise. This care protocol shall specify any deviation from the standard requirements of subsection (a) and the reasons for the deviation(s).

(c) During the entirety of their shelter stay, animals shall be provided prompt and necessary cleaning of their cages, kennels, or other living environments no less than two times per day, to ensure environments that are welcoming to the public, hygienic for both the public and animals, and to prevent disease. This cleaning shall be conducted in accordance with a protocol developed in coordination with a veterinarian licensed to practice medicine in this state, provided as follows:

(1) animals shall be temporarily removed from their cages, kennels, or other living environments during the process of cleaning, to prevent them from being exposed to water from hoses or sprays, cleaning solutions, detergents, solvents, and/or chemicals.

(d) During the entirety of their shelter stay, all animals shall be provided with prompt and necessary veterinary care, including but not limited to preventative vaccinations, cage rest, fluid therapy, pain management, and/or antibiotics, sufficient to alleviate any pain caused by disease or injury, to prevent a condition from worsening, and to allow them to leave the shelter in reasonable condition, even if the animals are not candidates for redemption, transfer, or adoption.

(e) Public and private sheltering agencies shall work with a veterinarian licensed to practice medicine in this state to develop and follow a protocol to prevent the spread of disease, including, but not limited to, appropriate evaluation and testing of newly impounded animals, administration of vaccines, proper isolation and handling of sick animals, and measures to protect those animals most vulnerable to infection.

Part VII. Additional Programs and Duties.

SEC. 9(a) All public and private sheltering agencies that kill animals shall maintain a registry of organizations willing to accept animals for the purposes of adoption, as follows:

(1) All public or private sheltering agencies, and rescue groups designated as non-profits by Section 501(c)(3) of the Internal Revenue Code, shall be immediately placed on this registry upon their request, regardless of the organizations' geographical location or any other factor except as described under subsection (a)(5);

(2) The public or private sheltering agency may, but is not required to, include on the registry any rescue groups that are not designated as non-profits under Section 501(c)(3) of the Internal Revenue Code;

(3) The registry shall include the following information as provided by the registered organization: organization name, mailing address, and telephone number; website and e-mail address, if any; emergency contact information for the organization; the types of animals about whom the organization wishes to be contacted, including species-type and breed; and whether or not the organization is willing and able to care for unweaned animals, sick or injured animals, and/or feral or aggressive animals;

(4) All public and private sheltering agencies shall seek organizations to include on the registry;

(5) A public or private sheltering agency may refuse to include an organization on the registry, or delete it from the registry, until such time as this is no longer the case, if any of the organization's current directors and/or officers have been convicted in a court of competent jurisdiction of a crime consisting of cruelty to animals or neglect of animals; or if such charges are pending against any of the organization's current directors or officers; or if that organization or its current directors or officers are constrained by a court order or legally binding agreement that prevents the organization from taking in or keeping animals. An agency may require an organization to disclose any or all convictions, charges, and legal impediments described in this subsection;

(6) A public or private sheltering agency may require that registered organizations provide the following summary information on no more than a monthly basis: the total number of animals the organization has taken from the agency who have been adopted, died, were transferred, were killed, and are still under the organization's care. This information may be provided in an informal format, such as via electronic mail;

(7) A public or private sheltering agency shall not demand additional information, other than that described in this section, as a prerequisite for including an organization on the registry or for continuing to maintain that organization on the registry.

(b) No public or private sheltering agency may kill an animal unless and until the agency has notified, or made a reasonable attempt to notify, all organizations on the registry described in subsection (a) that have indicated a willingness to take an animal of that type.

- (1) Such notification must take place at least two business days prior to the killing of the animal;
- (2) At a minimum, such notification shall include calling the organization's regular and emergency contact numbers, and sending an email to its email address, if any. Notification is considered complete as to each individual group when this has been accomplished;
- (3) No animal may be killed if an organization on the registry is willing and able to take the animal within two business days after being notified;
- (4) No fee may be assessed for animals released to organizations listed on the registry.

(c) No public or private sheltering agency may kill an animal unless and until the agency has notified, or made a reasonable attempt to notify, individual rescuers, rescue groups who are not designated as a non-profit under Section 501(c)(3) of the Internal Revenue Service, and the public at large so that they may consider adopting or rescuing the animal consistent with the agency's normal adoption or transfer protocols.

- (1) Such notification must take place at least two business days prior to the killing of the animal;
- (2) Such notification can be accomplished in any manner reasonably likely to lead to lifesaving, but must, at a minimum, include posting a notice in the shelter on the particular animal's cage or kennel, and on the agency's website that states: "This animal is to be killed on [date] and [time]."

(d) The following exceptions shall apply to the requirements of subsections (b) and (c):

- (1) All irremediably suffering animals shall be euthanized without delay. The determination that an animal is irremediably suffering shall be made in writing, signed by a veterinarian licensed to practice medicine in this state, and made available for free public inspection for no less than three years;
- (2) Dogs and cats with confirmed cases of parvovirus or cats with confirmed cases of panleukopenia may be euthanized without delay, upon a certification made in writing and signed by a veterinarian licensed to practice medicine in this state. Such certification shall be made available for free public inspection for no less than three years;
- (3) Dangerous dogs may, but are not required to be, released to organizations listed on the registry;
- (4) Upon the impoundment of unweaned animals without their mother, all public and private sheltering agencies which have not placed the animals into foster care or have not committed to provide supplemental feeding shall immediately make an emergency appeal to organizations on the registry that have indicated that they are willing and able to care for unweaned animals, and give such organizations a reasonable amount of time to respond to the appeal. Unweaned animals impounded without their mother may then be killed before the expiration of the two business days notification period if the requirements of Section 6(a)(9) are met.

(e) All public and private sheltering agencies shall require organizations taking animals under this section to sign a contract providing:

- (1) That the animals are being taken for the purposes of adoption;
- (2) That all animals taken from the agency will be spayed or neutered before adoption, unless a licensed veterinarian certifies that an animal is too sick to be spayed or neutered or that it would otherwise be detrimental to the health of the animal to be spayed or neutered as required under Section 3 of this Act.

SEC. 10(a) All public and private sheltering agencies shall take appropriate action to ensure that all animals are checked for all currently acceptable methods of identification, including microchips, identification tags,

and licenses. All public and private sheltering agencies shall maintain continuously updated lists of animals reported lost, and attempt to match these lost reports with animals reported found and animals in the shelter, and shall also post all stray animals on the Internet with sufficient detail to allow them to be recognized and claimed by their owners. If a possible owner is identified, the agencies shall undertake reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal. These efforts shall include, but are not limited to, notifying the possible owner by telephone, mail, and personal service to the last known address. Upon the owner's or caretaker's initiation of recovery procedures, the agencies shall retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact an owner or caretaker, and communications with persons claiming to be owners or caretakers, shall be recorded and be made available for free public inspection for no less than three years.

SEC. 11(a) Every public or private sheltering agency shall have adoption programs which include adoption programs to place animals into homes and to transfer animals to other private sheltering agencies or rescue groups for adoption; promotion of animals to the community through means such as the local media and the Internet; evening and weekend adoption hours; and, community-based adoption events or venues at locations other than the shelter.

(1) In addition to the requirements of subsection (a), all public sheltering agencies shall be open for public adoption seven days per week for a minimum of six hours per day, except on the following federally recognized holidays, when the shelter may, but is not required to, be open for adoptions: New Years Day, Independence Day, Thanksgiving Day, Christmas Day.

SEC. 12(a) No public or private sheltering agency shall ban, bar, limit or otherwise obstruct the adoption of any animal based on arbitrary criteria, such as breed, age, color, or any other criteria unrelated to the individual animal's medical condition and temperament.

SEC. 13(a) Every public sheltering agency shall provide the following public services:

- (1) low-cost spay/neuter services for animals;
- (2) volunteer opportunities for people to assist the shelter, including fostering animals, socializing animals, assisting with adoptions, and otherwise helping in the operations of the shelter;
- (3) programs to assist people in overcoming situations that may cause them to relinquish or abandon their animals, including, but not limited to, programs that address animal behavior problems, medical conditions, and environmental conditions.

(b) Nothing in this section shall prohibit an agency from enacting reasonable rules to facilitate the orderly operation of these programs, so long as the rules are designed to meet the goals of this Act, as defined in Part I.

SEC. 14(a) No person shall procure or use any living animal from a public or private sheltering agency or rescue group for medical or biological teaching, research or study. No hospital, educational or commercial institution, laboratory, or animal dealer, whether or not such dealer is licensed by the United States Department of Agriculture, shall purchase or accept any living animal from a public or private sheltering agency, rescue group, commercial kennel, kennel, peace officer, or animal control officer.

(b) No public or private sheltering agency, rescue group, commercial kennel, kennel, peace officer, or animal control officer shall sell, adopt, transfer, or give away any living animal to a person, hospital, educational or commercial institution, laboratory, or dealer in animals, whether or not such dealer is licensed by the United States Department of Agriculture, for purposes of medical or biological teaching, research or study.

SEC. 15(a) No savable animal in a public or private sheltering agency shall be killed simply because the holding period has expired. Before an animal is killed, all of the following conditions must be met:

- (1) there are no empty cages, kennels, or other living environments in the shelter;
- (2) the animal cannot share a cage or kennel with another animal;
- (3) a foster home is not available;

- (4) organizations listed on the registry described in Section 9 are not willing to accept the animal;
- (5) the animal is not a feral cat subject to sterilization and release;
- (6) all mandates, programs and services of the Act have been met; and
- (7) the director of the agency certifies he or she has no other alternative.

(b) The determination that all conditions of subsection (a) have been met shall be made in writing, signed by the director of the agency, and be made available for free public inspection for no less than three years.

SEC. 16(a) All animals impounded by a public or private sheltering agency or rescue group shall be killed, only when necessary and consistent with the requirements of this Act, by lethal intravenous injection of sodium pentobarbital, except as follows:

- (1) intraperitoneal injections may be used only under the direction of a licensed veterinarian, and only when intravenous injection is not possible for infant animals, companion animals other than cats and dogs, feral cats, or in comatose animals with depressed vascular function.
- (2) intracardiac injections may be used only when intravenous injection is not possible for animals who are completely unconscious or comatose, and then only under the direction of a veterinarian.

(b) No animal shall be allowed to witness any other animal being killed or being tranquilized/sedated for the purpose of being killed.

(c) Animals shall be sedated/tranquilized as necessary to minimize their stress or discomfort, or in the case of vicious animals, to ensure staff safety, except as follows:

- (1) neuromuscular blocking agents shall not be used.

(d) Following their injection, animals shall be lowered to the surface on which they are being held and shall not be permitted to drop or otherwise collapse without support.

(e) An animal may not be left unattended between the time procedures to kill the animal are commenced and the time death occurs, nor may the body be disposed of until death is verified.

(f) Verification of death shall be confirmed for each animal in all of the following ways:

- (1) by lack of heartbeat, verified by a stethoscope;
- (2) by lack of respiration, verified by observation;
- (3) by pale, bluish gums and tongue, verified by observation; and
- (4) by lack of eye response, verified if lid does not blink when eye is touched and pupil remains dilated when a light is shined on it.

(g) The room in which animals are killed shall be cleaned and regularly disinfected as necessary, but no less than once per day on days the room is used, except as follows:

- (1) The area where the procedure is performed shall be cleaned and disinfected between each procedure.

(h) The room in which animals are killed shall have adequate ventilation that prevents the accumulation of odors.

(i) A veterinarian licensed to practice medicine in this state or a euthanasia technician certified by the state euthanasia certification program shall perform these procedures, except as follows:

- (1) If a state certification program does not exist, the procedure may be performed by a trained euthanasia technician working under the direction of a veterinarian.

Part VIII. Public Accountability.

SEC. 17(a) All public and private sheltering agencies must post, in a conspicuous place where animals are being relinquished by owners, a sign which is clearly visible and readable from any vantage point in the area, and at least 17 inches by 22 inches, which has all of the following information identified by species-type:

- (1) the number of animals impounded for the prior calendar year;

- (2) the number of animals impounded for the prior calendar year who were adopted;
- (3) the number of animals impounded for the prior calendar year who were transferred to other agencies for adoption;
- (4) the number of animals impounded for the prior calendar year who were reclaimed by their owners;
- (5) the number of animals impounded for the prior calendar year who died, were lost, and/or were stolen while under the direct or constructive care of the agency; and
- (6) the number of animals impounded for the prior calendar year who were killed by the agency, at the agency's direction, with the agency's permission, and/or by a representative of the agency.

(b) All public or private sheltering agencies must provide all owners who are relinquishing an animal with accurate information, in writing, about the likely disposition of their animal which includes, but is not limited to: (1) if the animal is the breed or type who is normally killed, (2) if the animal is likely to be killed because of some current, usual, or unusual circumstances, and (3) the information provided in Section 17(a)(1)-(6).

(c) Any owner surrendering an animal to a public or private sheltering agency must sign a statement on a form provided by the agency which includes the specific language: "I understand that the shelter may kill my pet." If such statements are provided on a form which has additional information, the owner must initial the statement where these words appear. If the person refuses to sign such statement, the shelter, or its agents, must recite the statement aloud to the owner and then write: "Refused to sign." Such statements must be kept on file for a period of no less than three years.

(d) All public and private sheltering agencies must make available for free public inspection the care protocol required under Section 8(b), the cleaning protocol required under Section 8(c), and the disease-prevention protocol required under Section 8 (e).

(e) All public and private sheltering agencies shall include on their websites and post, in a conspicuous place near the entrance of the shelter, a list of organizations included on the registry described in Section 9, as well as an invitation for all public or private sheltering agencies and rescue groups to inquire about being listed on the registry, so that they may be notified before any animal is killed. Such lists shall not include any contact information the registered organizations do not wish to make public.

SEC. 18(a) All public or private sheltering agencies shall provide to the City Council and, upon request, for free public inspection, a monthly summary by the tenth day of the month that includes the following information by species-type:

- (1) the number of animals impounded during the previous month;
- (2) the number of impounded animals sterilized and/or sterilized by contract with participating outside private veterinarians during the previous month;
- (3) the number of animals who were killed by the agency, at the agency's direction, with the agency's permission, and/or by a representative of the agency during the previous month;
- (4) the number of animals who died, were lost, and/or were stolen while in the direct or constructive care of such agency during the previous month;
- (5) the number of animals who were returned to their owners during the previous month;
- (6) the number of animals who were adopted during the previous month;
- (7) the number of animals who were transferred to other organizations for adoption during the previous month; and
- (8) the number of animals impounded into the reporting agency from outside the city during the previous month.

(b) Every public or private sheltering agency shall provide an annual summary by January 31 to the City Council and, upon request, for free public inspection, which includes the following information by species-type:

- (1) the number of animals impounded during the previous calendar year;
- (2) the number of impounded animals sterilized and/or sterilized by contract with participating outside private veterinarians during the previous calendar year;

- (3) the number of animals who were killed by the agency, at the agency's direction, with the agency's permission, and/or by a representative of the agency during the previous calendar year;
- (4) the number of animals who died, were lost, and/or were stolen while in the direct or constructive care of such agency during the previous calendar year;
- (5) the number of animals who were returned to their owners during the previous calendar year;
- (6) the number of animals who were adopted during the previous calendar year;
- (7) the number of animals who were transferred to other organizations for adoption during the previous calendar year; and
- (8) the number of animals impounded into the reporting agency from outside the city during the previous calendar year.

SEC. 19(a) Revenues from dog licenses, as required under any existing state or local laws, shall be deposited into an account for use by the public animal control agency as follows:

- (1) 60 percent shall be used exclusively for free and low-cost spay/neuter of feral cats and owned animals under the provision of subsection (b);
- (2) 40 percent shall be used exclusively for free and low-cost medical assistance, including vaccinations, of feral cats and owned animals under the provision of subsection (b).

(b) These funds shall be used to provide low-cost spay/neuter and medical care for animals if the owner or feral cat caretaker meets income guidelines set by the shelter or city except as follows:

- (1) These funds shall be used to provide free spay/neuter for animals if the owner is on public assistance or is eligible for any type of city, county, state, or federal aid of the kind that is normally given to individuals based on lack of sufficient income;
- (2) These funds shall be used to provide low-cost medical care, including vaccinations, for animals if the owner is on public assistance or is eligible for any type of city, county, state, or federal aid of the kind that is normally given to individuals based on lack of sufficient income;
- (3) These funds shall be used to provide free spay/neuter and vaccinations against rabies for feral cats regardless of the feral cat caretaker's income.

(c) These services shall be performed under the direction of a licensed veterinarian.

(d) These funds shall not be deducted from the public animal control agency's overall city budget.

SEC. 20(a) Any resident of the City may compel a public or private sheltering agency or rescue group to follow the mandates of this Act through a lawsuit asking a court of competent jurisdiction to grant declaratory and injunctive relief including, but not limited to: restraining orders, preliminary injunctions, injunctions, writs of mandamus and prohibition, and other appropriate remedies at law which will compel compliance with this Act.

(b) Any public or private sheltering agency or rescue group may compel a public or private sheltering agency to follow the mandates of this Act through a lawsuit asking a court of competent jurisdiction to grant declaratory and injunctive relief including, but not limited to: restraining orders, preliminary injunctions, injunctions, writs of mandamus and prohibition, and other appropriate remedies at law which will compel compliance with this Act.

SEC. 21(a) Any law, ordinance, or policy which requires the licensing of cats, the confinement of cats, limits the number of animals a household can own or care for, prohibits or requires permits for the feeding of stray domestic animals, or prohibits the adoption of specific breeds of dogs is hereby repealed as contrary to the public interest except as follows:

- (1) Nothing in this section shall be construed to limit the enforcement of a statute having as its effect the prevention or punishment of animal neglect or cruelty, so long as such enforcement is based on the conditions of animals or the environment, and not based on the mere fact that a household has a certain number of animals, a person is feeding stray domestic animals, and/or a dog is of a particular breed.

SEC. 22(a) If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Act shall be adjudged invalid by a court or other tribunal of competent jurisdiction, such determination, order, or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Act. Any such invalidity shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such determination, order, or judgment shall have been rendered.

Appendix II: Lifesaving Matrix

For well over a century, the killing of animals has been a central strategy of most SPCAs, humane societies and animal control facilities which contract with cities and towns to run shelters for animals who are stray or no longer wanted. They even created a euphemism—"putting them to sleep"—to make the task of killing easier. And, in the end, that's exactly what the humane movement has become: a movement of "euphemisms"—euphemisms such as "putting them to sleep," "euthanasia," and "humane death." These euphemisms have been created to obscure the gravity of what is actually occurring and to avoid accountability for it. In the age of No Kill, add one more: "unadoptable."

To shelters mired in reactionary philosophies, an "unadoptable" animal is interpreted very broadly. Some shelters, for example, consider a kitten with a minor cold or a dog older than five years old to be unadoptable.

Shelters with a highly restrictive, meaningless definition of "unadoptable" ignore the fact that some adopters want older animals who are less excitable and more sedate, to match their lifestyle. They ignore the fact that if shelters let people know how they can help, people respond. And they ignore the importance of people wanting to be heroic, to save the life of an animal who someone else failed to love. But the restrictive definition of what constitutes an "adoptable" animal is not simply a failure to overcome a personal bias. It also has an intentional and dark side: the label of "unadoptable" allows shelters to appear to be doing a better job than they are doing.

To the public, "unadoptable" implies a dog or cat who is hopelessly sick or injured, or in the case of dogs, who may be vicious and therefore pose a threat to public safety. That is what many of these shelters expect the public to believe: that they are, in fact, already meeting the dictionary definition of euthanasia ("the act or practice of killing hopelessly sick or injured individual animals in a relatively painless way for reasons of mercy") when they call a dog or cat "unadoptable." But that is not the criteria they are using to make those determinations. As a result, while shelters claim that they are saving "most adoptable animals," they are still killing as they have always done but only after unfairly labeling dogs "unadoptable."

In order to create fair and realistic definitions, the No Kill Advocacy Center has developed a "matrix" for agencies to use in order to characterize which animals are savable. Instead of giving shelters an excuse to kill, this model matrix is focused on pushing shelters to save more lives:

"No matrix can conceivably cover every condition or combination of conditions that might affect an individual animal. These definitions should be utilized based on a candid and realistic assessment of each animal's condition and not based on subjective and often self-serving notions of adoptability. In cases of doubt, the default shall always be a preference for lifesaving."

Indeed, even if a condition is not treatable, the emphasis remains, where possible, on lifesaving. The document states that *"an animal deemed non-savable may still be successfully cared for, transferred or adopted to an individual or organization capable of providing hospice care."*

While some organizations try to define animals away so they can appear to be doing a better job than they are, the Matrix says that:

"Conditions such as fleas, ear mites, or pregnancy do not change the animal's status from being healthy since they are resolved through professionally standard routine shelter care, such as flea preventative and spay or neuter surgery, and do not require out of the ordinary care. Healthy also includes animals who are exhibiting behaviors considered normal for the species such as house soiling, territorial marking, barking, chewing, digging or scratching behavior..."

"An animal does not have to be cute and cuddly or easy to place to meet this definition. Healthy is not the same as easy to adopt. The animal may be blind, deaf, old, or missing a limb, but as long as the animal is healthy, she meets the definition."

By contrast, the definition of animals who are not savable is narrow, to avoid killing animals who can be saved. As a result, it utilizes the definition found in the No Kill Advocacy Center's model legislation, the Companion Animal Protection Act of 2007:

"Non-Savable" shall include: (1) animals who are severely sick or injured and whose prognosis for rehabilitation is poor or grave and (2) vicious or dangerous dogs."

"Non-savable animals include irremediably suffering animals. "Irremediably Suffering" shall include any animal with a medical condition who has a poor or grave prognosis for being able to live without severe, unrelenting pain."

In addition, the Matrix provides a list of common conditions as an example of who is savable.

Finally, unlike some other plans, the No Kill Advocacy Center requires healthy and treatable feral cats to be saved. The Matrix states:

Feral cats are savable or non-savable depending on their medical condition only. For purposes of providing accurate data, a shelter may subcategorize feral cats as "feral cats" and then further break them out into savable and non-savable depending on their medical condition. A feral cat with no known medical conditions, for example, is considered "feral cat/healthy." A feral cat with a respiratory infection is considered "feral cat/treatable." Both of these conditions are savable. In order to achieve No Kill, a shelter or community must "zero out" deaths in these categories as well, usually through Trap-Neuter-Release/Return programs.

Several notes of caution are in order. The Matrix's main purpose is to force accountability on shelters and their leadership who claim they are saving "adoptable" animals. In other words, if a shelter is killing animals in the "savable" category, it cannot claim they are "unadoptable" or that the shelter is "No Kill." The Matrix should not be one more layer of bureaucracy to be created before lifesaving begins.

Some agencies have indicated that "shelters must first determine exactly what animals are being euthanized and for what reasons. This information is essential in order for shelters to better direct their resources and efforts."

This is unnecessary, a needless delay, and a financially wasteful process for three reasons. The first reason is that every shelter which has not achieved No Kill is killing animals because they are not comprehensively implementing the programs of services necessary to achieve No Kill which are identified in the No Kill Advocacy Center's No Kill Equation. (Available at

www.nokilladvocacycenter.org). The No Kill Equation is the only national model which has allowed communities to achieve No Kill.

The second reason is that if a shelter embraces those programs, the issue will be addressed. The No Kill Equation provides for all categories of "at risk" animals, and resolves all of the reasons animals are being killed in shelters. There is simply no need for a study which will identify the cause of the problem as lack of the enclosed programs.

Third, a shelter will achieve No Kill and therefore "zero out" deaths in the savable category only when it saves approximately 90-95% of all animals it takes in. To put it bluntly: regardless of what claims shelters make, No Kill can only be achieved when at least 90% of all the animals impounded (regardless of reason) are saved. Anything short of that is mislabeling them as "unadoptable."

Lifesaving Matrix for Shelter Dogs & Cats

In order to facilitate accurate data collection and assure consistent reporting on the condition of individual animals in the community, the following definitions have been developed:

Savable		Non-Savable	
Healthy	Treatable	Irremediably Suffering	Vicious/Dangerous Dogs

No matrix can conceivably cover every condition or combination of conditions that might affect an individual animal. These definitions should be utilized based on a candid and realistic assessment of each animal's condition and not based on subjective and often self-serving notions of adoptability. In cases of doubt, the default shall always be a preference for lifesaving. Additionally and importantly, an animal deemed non-savable may still be successfully cared for, transferred or adopted to an individual or organization capable of providing sanctuary or hospice care.

Savable: "Savable" shall include animals who are healthy or who have treatable medical conditions.

Healthy: "Healthy" shall include any animal who is not sick or injured; or who is not a vicious dog.

Conditions such as fleas, ear mites, or pregnancy do not change the animal's status from being healthy since they are resolved through professionally standard routine shelter care, such as flea preventative and spay or neuter surgery, and do not require out of the ordinary care. Healthy also includes animals who are exhibiting behaviors considered normal for the species such as house soiling, territorial marking, barking, chewing, digging or scratching behavior. Likewise feral and free roaming cats who are inhibited in social interactions with humans are not exhibiting abnormal behavior for the species. As long as a feral or free roaming cat is healthy, he meets the definition.

An animal does not have to be cute and cuddly or easy to place to meet this definition. Healthy is not the same as easy to adopt. The animal may be blind, deaf, old, or missing a limb, but as long as the animal is healthy, she meets the definition.

Treatable: "Treatable" shall include any animal who is sick or injured, whose prognosis for rehabilitation of that illness and/or injury is excellent, good, fair, or guarded. An animal does not have to be "cured" to be treatable. For instance, a diabetic cat may never be cured but she is likely to live a normal life if given insulin shots.

Non-Savable: "Non-Savable" shall include: (1) animals who are severely sick or injured and whose prognosis for rehabilitation is poor or grave and (2) vicious or dangerous dogs.

Irremediably Suffering: Non-savable animals include irremediably suffering animals. "Irremediably Suffering" shall include any animal with a medical condition who has a poor or grave prognosis for being able to live without severe, unremitting pain.

Vicious Dog: "Vicious Dog" is a dog who has a propensity to or history of causing grievous bodily harm to people even when the dog is not hungry, in pain, or frightened, and whose prognosis for rehabilitation of that aggression is poor or grave.

Dangerous Dog: "Dangerous Dog" is a dog adjudicated to be vicious by a court of competent jurisdiction and where all appeals of that judicial determination have been unsuccessful.

Common Conditions: *Provided is a list of common conditions seen in shelter animals categorized appropriately.*

Savable – Healthy:

Age (senior/geriatric animals)

Behavior issues typical with dogs and cats such as house soiling issues, social shyness, barking, escaping

Blindness

Fleas

Ear mites

Missing limb

Pregnancy

Savable – Treatable:

Allergies, including dermatitis

Broken bones

Dental conditions

FelV, FIV, asymptomatic

Heartworm positive

Hyperthyroid

Lacerations

Mange, demodectic or sarcoptic

Motherless neonates

Ocular conditions such as "cherry eye"

Otitis

Respiratory infection such as kennel cough or URI

Ringworm

Separation anxiety

Conditions resolved by surgery

Food guarding

Urinary tract infections

Stomatitis

Diabetes

Abscesses

Canine parvovirus and feline distemper (adult animals)

Non-savable:

Canine parvovirus and feline distemper (puppies and kittens)

Vicious dogs

Cancer with a poor prognosis

FelV, symptomatic

Renal failure (end stage)

Feral cats are savable or non-savable depending on their medical condition only. For purposes of providing accurate data, a shelter may subcategorize feral cats as "feral cats" and then further break them out into savable and non-savable based on their medical condition. A feral cat with no known medical conditions, for example, is considered "feral cat/healthy." A feral cat with a respiratory infection is considered "feral cat/treatable." Both of these conditions are savable. In order to achieve No Kill, a shelter or community must "zero out" deaths in these categories as well, usually through Trap-Neuter-Release/Return programs.