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ORDINANCE NO. 09-O-2573

AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ADD REGULATIONS REGARDING THE BANNING OF ONYCHECTOMY (DECLAWING) AND FLEXOR TENDONECTOMY PROCEDURES WITHIN THE CITY

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS ORDAINS AS FOLLOWS:

Section 1. A new Article 6 (Ban on Onychectomy (Declawing)) is hereby added to Chapter 2 of Title 5 of the Beverly Hills Municipal Code to read as follows:

“Article 6. Ban on Onychectomy (Declawing)**5-2-600: Findings.**

A. There is a widespread misunderstanding in the community regarding a commonly performed surgical procedure known as onychectomy, or "declawing." Contrary to most people's understanding, declawing consists of amputating not just the claws but the whole phalanx (up to the joint), including bones, ligaments, and tendons.

B. Declawing is not a simple cosmetic procedure akin to a manicure or a pedicure. On the contrary, to remove a claw, the bone, nerve, joint capsule, collateral ligaments, and the extensor and flexor tendons must all be amputated. Thus, declawing is not a "simple," single surgery but ten separate, painful amputations of the third phalanx up to the last joint of each toe. In human terms, this is akin to cutting off the last joint of each finger.

C. Declawing robs an animal of an integral means of movement and defense. Because they cannot defend themselves adequately against attacks by other animals, declawed animals that are allowed outdoors are at increased risk of injury or death. Likewise, animals subjected to flexor tendonectomy, a procedure in which the animal's toes are cut so that the claws cannot be extended, are also robbed of an integral means of defense and thus imperils its health and safety.

D. Research has demonstrated that the rate of complication with onychectomy is relatively high compared to other procedures considered "routine." Complications can include excruciating pain, damage to the radial nerve, hemorrhage, bone chips that prevent healing,

painful re-growth of deformed claw inside of the paw which is not visible to the eye, necrosis, lameness and chronic back and joint pain as shoulder, leg and back muscles weaken.

E. Although there is a widespread belief that declawing makes cats more “house-friendly” and, therefore, less likely to be abandoned and subsequently euthanized, a survey conducted by Forgotten Felines and Friends of Caddo Parish in Louisiana found that approximately 70% of cats surrendered to the city shelter were declawed. Declawed cats are generally not adoptable from shelters because of their behavioral and other problems, and they are therefore usually euthanized.

F. There are a number of alternatives to onychectomy (declawing) and flexor tendonectomy that involve no physical harm to the animal. Harmless alternatives include training the pet to use a scratch post, use of deterrent pheromone sprays, covering furniture, restricting the pet's access to certain areas of the home, use of plastic nail covers, and more.

G. In addition to the harm these procedures cause to cats, they also have detrimental consequences for humans. Declawing unnecessarily increases public health and safety risks. Research indicates that a substantial number of declawed cats become more prone to biting as a form of defense. Research has also shown that declawed cats tend to avoid use of litter boxes because the rough surface hurts their paws, and this causes sanitation problems.

H. Considering the wide array of alternatives, the City Council finds that the mere convenience of the onychectomy (declawing) and/or flexor tendonectomy procedures to the pet's guardian does not justify the unnecessary pain, anguish and permanent disability caused the animal.

I. The City of Beverly Hills enacts this ordinance pursuant to the authority vested in the City by article XI, section 7 of the California Constitution allowing a city to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. At present, the law of the State of California does not prohibit the City from acting to prohibit onychectomy and flexor tendonectomy and therefore the City is not preempted by Business and Professions Code Section 460 from adopting this ordinance. See *also, California Veterinary Medical Ass'n v. City of West Hollywood*, 152 Cal.App.4th 536 (2007)(Court of Appeal held that the City of West Hollywood's ordinance prohibiting

onychectomy and flexor tendonectomy was within the City's police power to prevent animal cruelty and such an ordinance was not preempted by state law.).

J. The City Council finds that prohibiting these procedures will protect and promote the general health, safety and welfare of cats and humans alike.

5-2-601: Onychectomy (Declawing) Prohibited

No person, licensed medical professional or otherwise, shall perform or cause to be performed, assist in the performance of, or procure the performance of an onychectomy (declawing) or flexor tendonectomy procedure by any means on any cat or other animal within the City of Beverly Hills, except when necessary for a therapeutic purpose. "Therapeutic purpose" means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal. In the event that an onychectomy or flexor tendonectomy procedure is performed on any cat or other animal within the City of Beverly Hills in violation of this Section, each of the following persons shall be guilty of a violation of this section: (1) the person or persons performing the procedure, (2) all persons assisting in the physical performance of the procedure, and (3) all persons or entities that procured the procedure, including but limited to any animal guardian, owner or other person that ordered, requested or paid for the procedure."

Section 2. The City Council finds that it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment. The proposed ordinance regulates certain procedures used to declaw cats and other animals and bans declawing of cats and other animals within the City. A ban on declawing animals in the City will not result in any physical changes in the environment. The proposed ordinance is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations because it can be seen with certainty that there is no possibility that this ordinance will have a significant impact on the environment.

Section 3. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact

that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 4. The City Clerk is directed to forward a certified copy of this ordinance to the Director of the City of Los Angeles Department of Animal Services.

Section 5. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

PASSED, APPROVED and ADOPTED this 17th day of November, 2009.

NANCY KRASNE

Mayor of the City of

Beverly Hills, California

ATTEST:

_____ (SEAL)

BYRON POPE

City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

LAURENCE S. WIENER

RODERICK J. WOOD, ICMA-CM

City Attorney

City Manager

Susan Healy Keene, AICP

Director of Community Development