ORDINANCE NO. 11-

AN ORDINANCE AMENDING CHAPTER 14, CITY CODE; ADDING A NEW SECTION REQUIRING OWNERS OF CATS AND DOGS RESIDING IN THE CITY TO HAVE THEM SPAYED OR NEUTERED; PROVIDING EXCEPTIONS FOR MEDICAL REASONS AND FOR CERTAIN SHOW, BREEDING, LAW ENFORCEMENT, HUNTING, HERDING, AND SERVICE ANIMALS; REQUIRING THE OWNERS OF CERTAIN EXCEPTED ANIMALS TO OBTAIN AN UNALTERED ANIMAL PERMIT AND ESTABLISHING A PERMIT FEE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 14, City Code, currently provides for the control of animals within the City; and

WHEREAS, the City wishes to reduce the number of unwanted animals and resulting euthanasia of unwanted cats and dogs by establishing mandatory spay and neuter regulations; and

WHEREAS, the City finds that a mandatory spay and neuter ordinance furthers the health, safety, and welfare of its citizens and their animals.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF DAYTONA BEACH, FLORIDA:

SECTION 1. Chapter 14, City Code, is hereby amended to create a new section to read as follows:

Sec. 14-19. Mandatory spay and neuter.

(a) *Purpose.* The county has determined that the unintended or uncontrolled breeding of dogs and cats within the city leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays, suffering privation and death, being impounded and euthanized at great expense to the community, and constituting a public nuisance and public health hazard. It is, therefore, declared that every feasible means of reducing the number of unwanted dogs, cats, puppies, and kittens be encouraged.

(b) *Spaying, neutering of dogs and cats.*

(1) *Requirement.* No person may harbor a dog or a cat six months of age or older within the city that has not been spayed or neutered unless such person holds an unaltered animal permit for each unaltered dog or cat, unless the dog or cat is otherwise exempt under this section.

(2) *Unaltered animal permit.* The fee for an unaltered animal permit is $10, except that no fee shall be due for active law enforcement and service animals.

a. *Qualifications.* An owner of an unaltered dog or cat shall qualify for an unaltered animal permit if one of the following is satisfied:

1. *Shows and competitions.* The dog or cat is used to show, to compete, or to breed, which is of a breed recognized by and registered with the American Kennel Club (AKC), United Kennel Club (UKC), American Dog Breeders Association (ADBA), Cat Fanciers' Association (CFA), or other bona fide registry and meets one of the following requirements:

i. The dog or cat has competed in at least one show or sporting competition sanctioned by a bona fide national registry within the last 365 days;

ii. The dog earned conformation, obedience, agility, carting, herding, hunting, protection, rally, sporting, working or other title from a purebred dog registry, referenced above, or other registry or dog sport association; or

iii. The owner of the dog or cat is a member of, and the dog or cat is registered with, a bona fide purebred dog breed club or cat fancier's association which maintains and enforces a code of ethics for dog or cat breeding that includes restrictions from breeding dogs or cats with genetic defects and life threatening health problems that commonly threaten the breed, or the owner signs a statement under oath attesting that the dog or cat is being trained to comply with subsections i. or ii, above.

2. *Medical fitness.* A veterinarian licensed in the State of Florida certifies in writing that the dog or cat is medically unfit to undergo the required spay or neuter procedure because of a medical condition, including but not limited to age, which would be substantially aggravated by the procedure or would likely result in the death of the dog or cat. The certification must state the date, if any, by which the dog or cat may be spayed or neutered. As soon as the medical condition that prevents a dog or cat from being spayed

or neutered ceases to exist, it shall be the duty of the owner to have it spayed or neutered within 30 days.

3. *Law enforcement.* The dog is currently used by a law enforcement agency for law enforcement purposes or is part of a bona fide law enforcement animal breeding program.

4. *Service animals.* A dog or cat that is a service animal as defined in 28 C.F.R. § 36.104 and § 413.08(1)(d), Florida Statutes, or is part of a bona fide service animal breeding program.

5. *Breeders.* The owner demonstrates proof of a breeding contract for a particular dog or cat, membership in a bona fide national, state, or local organization for the perpetuation of a given breed of dog or cat, or proof of a litter produced by breeding of the dog or cat within the last 365 days.

6. *Hunting and herding dogs.* The dog is currently used as, or trained to be, a hunting or herding dog and the dog is registered with a bona fide national, state, or local hunting or herding dog association. Alternatively, the owner of the dog signs a statement under oath attesting that the dog is used, trained, or will be trained to be a hunting or herding dog.

b. *Deadline.* The owner of a dog or cat governed by this section shall have the animal spayed or neutered or, if eligible, shall obtain an unaltered animal permit within 30 days of the dog or cat becoming six months of age or by September 1, 2011, whichever is later in time. In the case of an owner who acquires a dog or cat which is six months of age or older, the owner shall comply within 30 days of acquisition.

c. *Microchipping.* As a condition to obtaining an unaltered animal permit, an eligible dog or cat must be implanted with an identifying microchip and the owner must provide the microchip number to the animal control division. This requirement shall not apply to hunting, herding, and sporting dogs.

d. *Place of residence.* The address of the owner of an unaltered animal shall be presumed to be the residence of the dog or cat. All changes of address must be reported within 30 calendar days following such change.

e. *Change in ownership.* An unaltered animal permit holder shall notify the national registry applicable to the implanted microchip in writing of any change in ownership of a dog or cat within 30 calendar days.

f. *Term of permit.* An unaltered animal permit shall be valid for the life of the dog or cat.

g. *Revocation.* Upon receipt of information of violation of this section, the city may issue a notice of revocation to a permit holder. The notice of revocation shall provide a summary of the information of the violation and shall be sent by certified mail, return receipt requested, by hand delivery, or by posting of the property at the address listed in the permit application. Any request for hearing shall be filed by the permit holder within ten days after the permit holder's receipt of the notice. The permit holder shall set forth the reasons why the permit holder believes the revocation would be an error. Failure to timely request a hearing shall render the revocation final. All hearings shall be conducted by the hearing officer within 30 days after the receipt of a request for hearing and in accordance with section 14-57. The original of the hearing officer's written decision shall be filed with the city clerk, and copies shall be mailed to the permit holder.

h. *Penalty.* Any person who violates any provision of this section is subject to the enforcement procedures of this chapter. These penalties shall not preclude the issuance of a notice of revocation to a holder of an unaltered animal permit for violations of this section.

(3) *Exemptions.* A dog or cat that meets the following criteria shall be exempt from this section and not be required to obtain an unaltered animal permit:

a. A dog or cat temporarily harbored within the city for less than 120 days within any calendar year.

b. The dog or cat is being harbored by a lawful humane society or animal shelter, whether public or private, whose principal purpose is securing the adoption of dogs or cats or offering sanctuary for dogs or cats and which certifies in writing that it does not engage in the breeding of dogs or cats, provided that the requirements of § 823.15, Florida Statutes, are satisfied.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. This Ordinance shall take effect immediately upon its adoption.