

05 JUL 14 PM 12:38

INTRODUCED BY COUNCILMEMBER LARRY REID

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

Ordinance No. _____ C.M.S.

AN ORDINANCE AMENDING SECTION 6.04.020 OF THE OAKLAND MUNICIPAL CODE, DEFINITIONS; AMENDING SECTION 6.04.320 PROHIBITING THE KEEPING OF ROOSTERS IN THE CITY; ADDING SECTION 6.04.400 TO LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO THREE; AMENDING SECTION 6.04.050 MAKING CHIPPING REQUIRED FOR LICENSING, AND ADDING SECTION 6.04.410 TO ADD EXEMPTIONS TO THE PROVISIONS OF THIS ORDINANCE

WHEREAS, the City Council is concerned with protecting the quality of life, peace and quiet of all its residents; and

WHEREAS, it is the City Council's desire to address nuisances related to animal noise, smell, unhealthy and unsanitary conditions as swiftly as possible; and

WHEREAS, numerous complaints are received by the city related to the keeping of large numbers of dogs on (primarily) residential properties; and

WHEREAS, it is the City Council's desire to limit the number of dogs to 3 per household in order to promote sanitation and to protect the peace and quiet of all residents; and

WHEREAS, an overwhelming number of complaints about noise and smell are also related to roosters in residential neighborhoods; and

WHEREAS, disturbances related to rooster crowing can occur at all hours of the day and night and are difficult to abate because an officer of the city must personally hear the disturbance in order to issue a citation; and

WHEREAS, animal control officials have encountered a prevalence of illegal cock fighting following investigations of rooster complaints; and

WHEREAS, it is the City Council's desire to prohibit the keeping of roosters within the city limits; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND HEREBY ORDAINS AS FOLLOWS:

Section 1

**S-66
ORA/COUNCIL
JUL 19 2005**

Section 6.04.020 of the Oakland Municipal Code is hereby amended to read as follows

Section 6.04.020 DEFINITIONS

For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

“Adoption group” means an organized, licensed, insured, non-profit organization whose primary function is the adoption and placement of shelter animals.

"Animal" means any mammal, poultry, bird, reptile, fish, or any other dumb creature, including, but not limited to, horse, cow, goat, sheep, pig, pigeon, chicken, goose, rabbit, dog, cat. Animals are classified by weight: large animal, over fifty (50) pounds; medium animal, between twenty-five (25) and fifty (50) pounds; small animal, under twenty-five (25) pounds.

"Animal quarters" means the premises and all buildings, hutches, pens, coops, yards, and their appurtenances used for the keeping of animals, commercial fur-bearing animals, poultry including pigeons, game and show birds, fowl and birds, or any other kind not specifically mentioned, and dogs, and cats not kept in kennels and pet shops as herein defined; including, but not limited to, stables, poultry farms, pigeon farms, and rabbit farms.

"At large" means a dog off the premises of its owner and not under restraint by leash, or chain, or not otherwise controlled by a competent person.

“Chipping” means the injection of a microchip below the skin of an animal by a veterinarian, registered vet technician or other qualified shelter staff

"Dog" means and includes female as well as male dogs. Dogs are classified by weight: large dog: over fifty (50) pounds, medium dog: between twenty-five (25) and fifty (50) pounds, small dog: under twenty-five (25) pounds.

“Foster” means a person who is willing to temporarily take and care for an animal until the time that animal becomes suitable for adoption as recognized by an adoption group and /or animal shelter management.

"Horse" means and includes mule, burro, pony, jack hinny, or jenny.

"Kennel" means any person, firm or corporation engaged in breeding, buying, selling, distributing or boarding dogs and/or cats.

Owner.

1. "Owner" means any person, firm or corporation owning, having an interest in, or having control or custody or possession of, any animal.

2. Any person keeping or harboring a dog for fifteen (15) consecutive days shall be deemed to be the owner thereof, within the meaning of this title.

"Person" means and includes any person, partnership, corporation, trust, and association of persons.

"Pet shop" means any person, firm, or corporation operating an establishment where live animals and/or birds are kept for sale, for hire, or sold.

"Unlicensed dog" as used in this title means a dog for which the license for the current year has not been paid, or to which the tag provided for in this title is not attached.

"Wild animal" means any animal not ordinarily and customarily domesticated, including, but not limited to, skunk, raccoon, opossum, squirrel, fox.

Whenever any reference is made to any portion of this title, such reference applies to all amendments and additions thereto now or hereinafter made.

The present tense includes the past and future tenses and the future, the present. Each gender includes the other two genders.

The singular number includes the plural and the plural, the singular.

Whenever a power is granted to, or a duty is imposed upon the Animal Control Center, the power shall be exercised or the duty shall be performed by the Senior Animal Control Officer and/or the Animal Control Officer, or by any person or organization, its officers, agents, and employees, designated by contract or otherwise to enforce this title. (Prior code § 3-9.01 (part))

Section 2

Section 6.04.050 of the Oakland Municipal Code is hereby amended to read as follows (underlined text in this section indicated new text).

“Section 6.04.050 Anti-rabies vaccination and chipping required for license

As a condition for the issuance of a dog license, all applicants for such license shall procure and deliver a certificate issued by a duly licensed veterinarian, certifying that each dog to be licensed has been administered an anti-rabies vaccination and has had a micro-chip inserted prior to the issuance of said license, or has received an anti-rabies vaccination sufficient to immunize said dog against rabies for the current license period.

Currently licensed dogs are exempt from the chipping procedure for up to one year after the adoption of this ordinance.

Section 3

Section 6.04.320 of the Oakland Municipal Code is hereby amended to read as follows

Section 6.04.320 KEEPING OF FOWL

It is unlawful for any person to keep any ducks, geese, chickens or other fowls in any enclosure in the city unless the exterior boundaries of said enclosures are more than twenty (20) feet from any dwelling, church or school. (Prior code § 3-9.28)

It is unlawful for any person to keep, harbor or maintain roosters within the city limit.

This section shall not prohibit the activity authorized under section 6.04.290 of this code. This section shall also not apply to and is not intended to regulate any commercial activity that is already regulated by the Oakland Planning Code.”

Section 4

Section 6.04.400 is hereby added to the Oakland Municipal Code.

“Section 6.04.400 NUMBER OF DOGS

Unless otherwise authorized by the Oakland Animal Services pursuant to an appropriate permit, it is unlawful for any person to keep on any one premise more than three (3) dogs if said dogs are more than 4 months old.

In calculating the permitted number of dogs allowed on any premise, dogs that were licensed in the City of Oakland prior to the effective date of this ordinance shall be exempt. However, no additional dogs shall be permitted on any premise following the effective date of this ordinance when the number of dogs lawfully kept on the premise exceeds three until such time as the number of dogs on the premise drops below three. Nothing in this exemption shall be construed to allow any person who lawfully kept more than three dogs on any premise on the effective date of this ordinance to continue to keep more than three dogs in the event that any of said dogs originally kept on the property on the effective date of this ordinance are no longer kept for any reason.”

Section 5

Section 6.04.410 is hereby added to the Oakland Municipal Code.

“Section 6.04.410 EXEMPTIONS

Licensed dog kennels, licensed boarding facilities, licensed breeders, veterinary hospitals, licensed pet shops, the Oakland Animal Control Services Shelter, the Oakland Society for the Prevention of Cruelty to Animals (SPCA) and *4H Clubs* and Fosters whose applications

have been approved by Oakland Animal Services are exempt from the provisions of this section.

The restrictions set forth in sections 6.04.320, 6.04.390, and 6.04.400 also shall not apply to any property where such activity is permitted by any other provision of the Oakland Municipal Code or Oakland Planning Code and for which all necessary land use permits have been issued or where no use permits are required because the activity qualifies as a legal non-conforming use as defined in section 17.114.020 of the Oakland Planning Code.”

6.04.420. ENFORCEMENT -- PENALTY.

In addition to any other penalties authorized by law, violations of this Chapter may be charged as either an infraction or a misdemeanor.

Section 6

This ordinance shall become effective upon passage.

Section 7

If any word, sentence, paragraph, clause or phrase is ruled unconstitutional or unenforceable by any court of competent jurisdiction, said ruling shall not affect the validity of the rest of this ordinance. The City Council finds and determines that it would have enacted this ordinance without said word, sentence, paragraph, clause or phrase.

In Council, Oakland, California, _____, 2005.

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, DE LA FUENTE, NADEL, QUAN, REID.

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTONDA SIMMONS
Interim City Clerk and Clerk of the Council
of the City of Oakland, California

S-66
ORA/COUNCIL
JUL 19 2005

Red-lined Version

CITY OF OAKLAND
OFFICE OF THE CITY CLERK

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