

CITY OF OAKLAND
OFFICE OF THE CITY CLERK
OAKLAND

City of Oakland
MEMORANDUM 05 SEP 22 PM 4:06

To: Oakland City Council
From: Lupe Valdez
City Council Legislative Analyst
Date: October 4, 2005

Re: **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**

Attached for your information, is a revised set of guidelines that will be used by Oakland Animal Services staff to issue exemptions to the three dog limit for foster homes and the general public. The guidelines were revised to make the language in the document consistent with the ordinance and to strengthen some of the requirements.

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ORACOUNCIL

OCT 04 2005

Foster Home Exemption Guidelines

Oakland Animal Services works closely with a large number of ~~a~~Animal Adoption Groups~~Rescue Organizations~~ to help Oakland's animals. The partnership with Oakland Animal Services and each Adoption Group~~Animal Rescue Organization~~ becomes official through a signed Memorandum of Understanding between the Oakland Animal Services and the ~~Animal Rescue Organization~~ Adoption Group. If this Memorandum of Understanding becomes invalid for any reason, Oakland Animal Services is required to inform the ~~Animal Rescue Organization~~ Adoption Group in writing so that they can inform their fosters.

Oakland Animal Services trusts and depends on the knowledge and expertise of these partner organizations to choose fosters that can humanely and responsibly care for animals. Oakland Animal Services will rely on these organizations to quickly handle any issues that might arise with any of their foster homes.

~~Persons~~ Households that foster dogs are eligible for exemption from the three dog limit if they have valid licenses for their own dogs and they are fostering dogs for an Adoption Group~~Animal Rescue Organization~~ that has a current/valid Memorandum of Understanding on file with Oakland Animal Services.

Revocation of Foster Exemption for the Three Dog Limit

A. First Complaint

- a. If Oakland Animal Services or Oakland Police Department receives an animal related complaint, including those related to animal abuse/neglect, noise or unsanitary conditions, against an individual who claims to be fostering animals for an Adoption Group~~Animal Rescue Organization~~, the complaint will be directed to the adoption rescue organization in writing for prompt resolution. Felony complaints will be handled by the Police Department and any sustained felony complaints will result in the immediate revocation of the foster exemption. If the ~~Animal Rescue Organization~~ Adoption Group denies that the individual is a foster, the complaint will be handled using normal procedures.

B. Second Complaint

- a. If Oakland Animal Services or Oakland Police Department receives a second animal related complaint, including those related to animal abuse/neglect, noise or unsanitary conditions, against an individual who is a foster for an ~~Animal Rescue Organization~~ Adoption Group, the Director of Oakland Animal Services will issue a written complaint and contact the ~~Adoption Group~~ Animal Rescue Organization to discuss the issue and identify solutions that will mitigate the problem. The Director of Oakland Animal Services will evaluate the ~~Adoption Group's~~ Animal Rescue Organization's efforts to handle the first complaint and their willingness and ability to continue to address the situation. From this information, the Director may decide:

- 1) to continue to allow the Adoption Group Animal Rescue Organization to handle the problem
- 2) to have an Animal Control Officer inspect the property and determine next steps with the Adoption Group Reseue Organization from this information;
- 3) to revoke the dog limit exemption for the individual foster; or
- 4) to end the Memorandum of Understanding with the Adoption Group Animal Rescue Organization which would remove the dog limit exemption from all of its fosters. This drastic step should only be taken in cases where the Adoption Group Animal Rescue Organization has done nothing to address the problem or when the Director of Oakland Animal Services has other serious concerns about the Adoption Group's Animal Rescue Organization's ability to select responsible foster homes or humanely care for animals.

Appeal Process

The OAS Director's decision to revoke a foster's exempt status is final. The OAS Director's decision to revoke a Memorandum of Understanding with an Adoption Group Animal Reseue Organization is valid until the Director determines it should be reinstated.

9/1422/05

Conditional Dog License Guidelines

~~Households~~ Persons wishing to exceed the three dog limit may apply for a conditional license for each additional dog. Only one permit shall be issued per premises. A premises is a single address, residence, location, dwelling, domicile, multi-family unit or an individual unit or apartment within a building. To obtain a conditional dog license, the applicant must meet the following requirements:

- The applicant must have current/valid licenses for the existing three dogs at the present address for at least one year at the time of application. None of these licenses can be for a potentially dangerous or vicious dog. New residents to Oakland must abide by the three dog limit for one year before becoming eligible for a conditional dog license.
- All dogs licensed to the in the household premises must be spayed/neutered;
- The applicant (and all adult members of the household) can not have a complaint history with Oakland Animal Services (such as citations for dog at large and violations of Oakland's leash law), Code Compliance or Oakland Police Department (regarding animal related issues, including those related to animal abuse/neglect, noise or unsanitary conditions);
- The applicant must show proof that he/she owns the primary residence or show proof that his/her landlord will permit additional dogs living at the property;
- The applicant must successfully pass an inspection of the home and property by an Oakland Animal Control Officer. The inspection will be paid for by the applicant prior to the inspection;
- The applicant must have a valid rabies certificate for the dog to be licensed and pay the applicable fees;
- The applicant must meet any additional conditions as determined by the Director of Oakland Animal Services.

Home Inspection

~~Households~~ Persons wishing to exceed the three dog limit must keep all dogs inside their primary residence during the hours of 8:00 p.m. to 8:00 a.m. and have an appropriate outside area for their dogs. A primary residence does not include a garage, a mobile/motor home, storage shed, car port, or a section of another residence. The home inspection by Oakland Animal Services will include a review of both the inside and outside areas of the home. Oakland Animal Control Officers are trained to perform home inspections and their judgment and expertise will be used to determine if an applicant passes inspection.

The inside of the primary residence must be large enough for all human and animal occupants to comfortably live. This requirement will be based on the size and special needs of the dogs that will be living in that residence. The residence must be determined to be safe and reasonably clean and sanitary by the inspecting Animal Control Officer.

The outside area of the primary residence must:

1. Be large enough for all of the dogs to exercise simultaneously. This requirement will be based on the size and exercise needs of the dogs that will be living at the residence.
2. Have ~~covered, dry area(s)~~ shelter where all dogs can be simultaneously protected from the elements. Said shelter shall:
 2. A. Have five sides, including a top, a bottom and three sides.
 - B. Have a floor raised off the ground, free of cracks, depressions and rough areas where insects, rodents or eggs from internal parasites may lodge. An effective program for the control of insects, ectoparasites, and other pests shall be established and maintained.
 - C. Be cleaned and maintained in a manner designed to insure the best possible sanitary conditions. Excreta shall be removed from the shelter as often as necessary. Rugs, blankets or other bedding material shall be kept clean and dry.
 - D. Be of adequate size to allow the dog to stand up and turn about freely, stand easily, sit and lie in a comfortable normal position.
 - E. Have a floor constructed so as to protect the dog's feet and legs from injury.
 - F. Allow dogs kept outdoors to remain dry during rain.
 - G. Have sufficient clean bedding material or other means of protection from the weather elements provided when the ambient temperature falls below that temperature to which the dog is acclimated.
 - H. Provide sufficient shade to allow the dogs kept outdoors to protect themselves from the direct rays of the sun, when sunlight is likely to cause overheating or discomfort.
 - I. Be structurally sound and maintained in good repair to protect the dog from injury.
 - J. Be constructed and maintained so that the dog contained therein has convenient access to clean food and water.
3. Be fully enclosed by fencing that meets City Ordinance and law. All gates to the outside must be secured from the inside and can not open from the outside without a key. The yard must be fully secure to prevent dogs from straying from the property. Chains, ropes or other restraining devices shall not be present or permitted when dogs are in the yard or used as a method to secure dogs within the property.
4. Be reasonably clean and free of obstructions, equipment or vegetation that could potentially injure dogs.

Oakland Animal Services reserves the right to conduct additional inspections to ensure ongoing compliance with the requirements of the conditional license.

Renewal

A conditional license is valid for the length of the rabies vaccination. When the license expires, the conditional license can be renewed if the applicant has continued to have no sustained complaints with *Oakland Animal Services*, Code Compliance or *Oakland Police Department* (regarding animal related issues, including those related to animal abuse/neglect, noise or unsanitary conditions), shows proof that he/she continues to live at the same address, and has a valid rabies certificate for the dog.

If the owner moves to a new address in Oakland, the conditional license becomes invalid. The applicant must reapply for a new conditional license at the new location and pay for a home inspection of the property.

Revocation

The permit may be revoked by the Director of Oakland Animal Services if the conditional license owner violates any of the conditions of the license or if any of the adult members of the household living on the premises receives a sustained complaint from Oakland Animal Services, Code Compliance or the Oakland Police Department (related to animal abuse/neglect, noise or unsanitary conditions).

Appeal Process

- a) Persons Households that are denied a conditional dog license or have had a conditional dog license revoked may appeal to the City Administrator's Office.
- b) The City Administrator's decision to deny or revoke a permit is final.

9/4422/05

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OBA/COUNCIL

OCT 04 2005

OAKLAND CITY CLERK
OAKLAND

INTRODUCED BY COUNCILMEMBER LARRY PREP

05 SEP 22 PM 4:06

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

REVISED

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

16
ORA/COUNCIL
OCT 04 2005

Section 1

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 the commercial business of breeding, buying, selling, distributing or boarding dogs and/or cats.

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.

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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

It is unlawful for any person to keep on any one premises more than three (3) dogs if said dogs are more than 4 months old.

In calculating the permitted number of dogs allowed on any premises, 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 premises following the effective date of this ordinance when the number of dogs lawfully kept on the premises exceeds three until such time as the number of dogs on the premises drops below three. Nothing in this exemption shall be construed to allow any person who lawfully kept more than three dogs on any premises 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

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

05 SEP 22 PM 4:06

INTRODUCED BY COUNCILMEMBER LARRY REID

APPROVED AS TO FORM AND LEGALITY
Rock Diener
CITY ATTORNEY

Ordinance No. _____ C.M.S.

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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

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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

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16
CITY COUNCIL
OCT 04 2005

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"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

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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 ~~within thirty (30) days~~ 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.

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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.”

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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 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.

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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

16
OBA/COUNCIL

OCT 04 2005