

ORDINANCE NO. 2019 – _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE
ADOPTING TITLE 6, CHAPTER 6.06 OF THE LAKE ELSINORE MUNICIPAL CODE
(LEMC) REGARDING MANDATORY SPAYING, NEUTERING AND
MICROCHIPPING**

Whereas, each year, the City of Lake Elsinore has amongst the highest percentage of cats and dogs going into the shelter in Southwest Riverside County; and,

Whereas, in calendar year 2018, a total of 725 dogs and 619 cats were sheltered from Lake Elsinore alone. Of these, only 51.8 percent of the dogs and only 2.2 percent of cats were returned to their owners; and,

Whereas, the City Council seeks to set forth regulations addressing pet overpopulation.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE DOES ORDAIN
AS FOLLOWS:**

Section 1: Chapter 6.06, Mandatory Spaying, Neutering and Microchipping, is hereby added to the LEMC as follows:

Chapter 6.06

MANDATORY SPAYING, NEUTERING AND MICROCHIPPING

Sections:

- 6.06.010 Definitions
- 6.06.020 Mandatory spaying and neutering of dogs and cats
- 6.06.030 Mandatory microchipping of dogs and cats

6.06.010 Definitions.

"Altered" means a male animal that has been neutered or a female animal that has been spayed. Also referred to as a sterile animal.

"Animal Control Agency" means the City or its designee, which may specifically include the City's contractor for animal control services.

"City" means the City of Lake Elsinore.

"Competition cat" means a cat used to show, compete, or breed, and is a breed registered with the Cat Fanciers Association ("CFA") or another valid registry approved by the Animal Control Agency.

"Competition dog" means a dog used to show, compete, or breed, and is a breed registered with the American Kennel Club (AKC), United Kennel Club (UKC), American Dog Breeders Association (ADBA), or another valid registry approved by the Animal Control Agency.

"Hobby breeder" means a person who seeks to not alter their dog or cat to potentially breed the dog or cat and sell the offspring for money or another consideration, and does not have a kennel, cattery or pet shop permit/license.

"Impounded" means an animal having been received into the custody of any animal control center, animal control officer, animal control vehicle, or peace officer authorized by the City under the provisions of this chapter.

"Owner" means any person who intentionally provides care or sustenance for any animal, including but not limited to a dog or cat, for any period exceeding a total of thirty (30) days.

"Service animal" is a guide dog or seeing-eye dog trained by a person licensed under Business and Professions Code section 7200, et seq., including a signal dog or other dog trained to do work or perform tasks for the benefit of a person with a disability, including, but not limited to, guiding persons with impaired vision, alerting persons with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

"Unaltered" means a dog or cat, four months of age or older, that has not been spayed or neutered. A condition, that exists, in an animal which permits the producing of offspring.

6.06.020 Mandatory spaying and neutering of dogs and cats.

A. Altered dogs and cats.

1. Requirement. No person may own, keep, or harbor an unaltered dog or cat over the age of four months in violation of this section. An owner or custodian of an unaltered dog must have the dog spayed or neutered, or provide a certificate of sterility, or obtain an unaltered exempt license or obtain a hobby breeder license in accordance with this chapter. An owner or custodian of an unaltered cat must have the animal spayed or neutered, or provide a certificate of sterility, or obtain a hobby breeder license in accordance with this chapter.
2. Exemptions. This section shall not apply to any of the following and any exempt animals are required to obtain an unaltered exempt license:
 - a. A dog with a high likelihood of suffering serious bodily harm or death if spayed or neutered, due to age or infirmity. The owner or custodian must obtain written confirmation of this fact from a California licensed veterinarian. If the dog is able to be safely spayed or neutered at a later date, that date must be stated in the written confirmation; should this date be later than thirty (30) days, the owner or custodian must apply for an unaltered dog license.
 - b. A cat with a high likelihood of suffering serious bodily harm or death if spayed or neutered, due to age or infirmity. The owner or custodian must obtain written confirmation of this fact from a California licensed veterinarian. If the cat is able to be safely spayed or neutered at a later date, that date must be stated in the written confirmation.
 - c. Animals owned by recognized dog or cat breeders, as defined by City or Animal Control Agency.
 - d. Female dogs over the age of 10 years and male dogs over the age of 12 years, however, an unaltered exempt license is still required.
 - e. Animals used by law enforcement agencies for law enforcement purposes.

- f. A qualified service animal. The person owning or having custody of the animal must have a service animal license and tag issued by the Animal Control Agency.
- g. A competition dog or cat that meets the following requirements:
 - (1) The dog must have competed in at least one dog show or sporting competition approved by a national registry or the Animal Control Agency within the last 365 days; or the dog has earned a conformation, obedience, agility, carting, herding, protection, rally, sporting, working, or other title from a purebred dog registry referenced above or other registry or dog sport association approved by the Animal Control Agency; or, the owner or custodian of the dog is a member of a purebred dog breed club, approved by the Animal Control Agency, which enforces a code of ethics that includes restrictions on breeding dogs with genetic defects or life threatening health problems.
 - (2) The cat must have competed in at least one cat show approved by a national registry or the Animal Control Agency; or the cat has earned a conformation title from a purebred cat registry; or the owner or custodian of the cat is a member of a purebred cat breed club approved by the Animal Control Agency, which enforces a code of ethics that includes restrictions on breeding cats with genetic defects or life threatening health problems.
- B. Hobby breeder license. A dog or cat may be exempt from Section 6.06.020(A) if the owner or custodian is a hobby breeder, and obtains a hobby breeder license for each dog and/or cat. Each license authorizes the birth of no more than one litter per animal in any 12-month period. Breeding more than one litter per year will result in penalties.
- C. Control of unaltered cats. In accordance with Section 6.06.020(A), it is unlawful for any person to own, harbor or keep any unaltered cat four months of age or older within the City of Lake Elsinore. The City or Animal Control Agency may take steps to mitigate the impact of feral cat populations in compliance with this law which may include spay and neuter services and/or trap and release programs.
- D. Denial or revocation of unaltered exempt license or hobby breeder license and reapplication.
 - 1. The Animal Control Agency may deny or revoke an unaltered exempt license or hobby breeder license for one or more of the following reasons:
 - a. The owner, custodian, applicant or licensee is not in compliance with all of the requirements of this section;
 - b. The Animal Control Agency has received at least three complaints, verified by the agency, that the owner, custodian, applicant, or licensee of an unaltered dog or cat has allowed it to run at large, or has otherwise neglected it or another animal;
 - c. The owner, custodian, applicant, or licensee has been previously cited for violating a State law, city code or other municipal provision relating to the care and control of animals;

- d. The unaltered dog has been adjudicated by a court or an agency of appropriate jurisdiction to be potentially dangerous, dangerous or vicious, or to be nuisance within the meaning of the Lake Elsinore Municipal Code or under state law;
 - e. Any unaltered exempt license held by the applicant or hobby breeder license has previously been revoked;
 - f. The license application is discovered to contain a material misrepresentation or omission of fact.
2. Re-application for unaltered exempt license or hobby breeder license:
 - a. When an unaltered exempt license or hobby breeder license is denied, the applicant may re-apply for a license upon changed circumstances and a showing that the requirements of this chapter have been met. The Animal Control Agency shall refund one-half of the license fee when the application is denied. The applicant shall pay the full fee upon re-application.
 - b. When an unaltered exempt license or hobby breeder license is revoked, the owner or custodian of the dog or cat may apply for a new license after a thirty (30) day waiting period upon showing that the requirements of this chapter have been met. No part of an unaltered exempt license or hobby breeder license fee is refundable when a license is revoked, and the applicant shall pay the full fee upon re-application.
- E. Appeal of denial or revocation of unaltered exempt license or hobby breeder license.
1. Request for hearing.
 - a. Notice of intent to deny or revoke. The Animal Control Agency shall mail to the owner, custodian, licensee, or applicant a written notice of its intent to deny or revoke the license for an unaltered dog or cat which includes the reason(s) for the denial or revocation. The owner, custodian, licensee or applicant may request a hearing to appeal the denial or revocation by filing such request with the Animal Control Agency. The request must be made in writing within fifteen (15) days after the notice of intent to deny or revoke is mailed. Failure to submit a timely written hearing request shall be deemed a waiver of the right to appeal the license denial or revocation.
 - b. Administrative Hearing. The hearing shall be conducted by the Animal Control Agency.
 - c. Notice and conduct of hearing. The Animal Control Agency or his/her designee shall mail a written notice of the date, time, and place for the hearing not less than ten (10) days before the hearing date. The hearing date shall be no more than forty-five (45) days after the Animal Control Agency receipt of the request for a hearing. The hearing will be informal, and the rules of evidence will not be strictly observed. The Animal Control Agency shall prepare and mail a written decision to the owner or custodian after the hearing. The decision of the hearing officer shall be the final administrative decision.
 2. Change in location of unaltered dog or cat. If the dog is moved after the Animal Control Agency has issued a letter of intent to deny or revoke, but has not yet denied or revoked the license, the owner, custodian, licensee, or applicant must provide the Animal Control

Agency with information as to the dog's whereabouts, including the current owner or custodian's name, address, and telephone number.

F. Transfer, sale, and breeding of unaltered dog or cat.

1. Offer for sale or transfer of unaltered dog. An owner or custodian who offers any unaltered dog over the age of four (4) months of age for sale, trade, or adoption must include a valid unaltered dog license number with the offer of sale, trade or adoption, or otherwise state and establish compliance with this section. An owner or custodian of an unaltered dog must notify the Animal Control Agency of the name and address of the transferee within ten (10) days after the transfer. The unaltered license and microchip numbers must appear on a document transferring the animal to the new owner.
2. Offer for sale or transfer of unaltered cat. An owner or custodian of an unaltered cat must notify the Animal Control Agency of the name and address of the transferee within ten (10) days after the transfer. The microchip numbers must appear on a document transferring the animal to the new owner.

G. Penalties. Penalties issued for failure to spay or neuter a dog or cat shall be enforced as set forth below:

1. An administrative citation, infraction, or other such authorized penalty may be issued to an owner or custodian of an unaltered dog or cat for a violation of this section.
2. Should the owner or custodian of an unaltered dog or cat be found in violation of a state or local law, as stated above in subsection (A), the owner or custodian shall be required to spay or neuter the unaltered dog or cat in accordance with this section and waive the fine for the spay or neuter violation, or may qualify and purchase an unaltered exempt license, or purchase a hobby breeder license.

H. Impoundment of unaltered dog or cat.

1. When an unaltered dog or cat is impounded pursuant to state and/or local law, in addition to satisfying applicable requirements for the release of the animal, including but not limited to payment of impound fees pursuant to Chapter 6.04, the owner or custodian shall also do one of the following:
 - a. Provide written proof of the dog or cat's prior sterilization, if conditions cannot or do not make this assessment obvious to Animal Control Agency personnel;
 - b. Have the dog or cat spayed or neutered by an Animal Control Agency veterinarian at the expense of the owner or custodian. Such expense may include additional fees due to extraordinary care required;
 - d. At the discretion of the Animal Control Agency, the dog or cat may be released to the owner or custodian if he or she signs a statement under penalty of perjury, representing that the dog or cat will be spayed or neutered and that he or she will submit a statement within ten (10) days of the release, signed by a California licensed veterinarian, confirming that the dog or cat has been spayed or neutered or is incapable of breeding; or
 - e. If the owner or custodian demonstrates compliance with this section.

2. Costs of impoundment.

- a. The owner or custodian of the unaltered dog or cat shall be responsible for the costs of impoundment, which shall include daily board costs, vaccination/medication, and any other diagnostic or therapeutic applications as provided in Chapter 6.04.
- b. The costs of impoundment shall be a lien on the dog or cat, and the unaltered animal shall not be returned to its owner or custodian until the costs are paid or other arrangements are made including, but not limited to, a payment plan. If the owner or custodian of an impounded unaltered animal does not pay the lien against it in full within fourteen (14) days, the animal shall be deemed abandoned and become the property of the Animal Control Agency.

I. Fees and Fines.

- a. All fees and fines associated with this section shall be set according to resolution adopted by the City Council.
- b. All costs and fines collected under this part and the fees collected under this section shall be paid to the Animal Control Agency on behalf of the City to defray the cost of the implementation and enforcement of this program.

6.06.030 Mandatory Microchipping of Dogs and Cats.

- A. All dogs and cats over the age of four (4) months must be implanted with an identifying microchip. The owner or custodian is required to provide the microchip number to the Animal Control Agency and shall notify the Animal Control Agency of any change of ownership of the dog or cat, or any change of address or telephone number.
- B. Exemptions. The mandatory microchipping requirements shall not apply to any of the following:
 1. A dog or cat with a high likelihood of suffering serious bodily injury, if implanted with the microchip identification, due to the health conditions of the animal. The owner or custodian must obtain written confirmation of that fact from a California licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, that date must be stated in the written confirmation.
 2. A dog or cat which would be impaired of its athletic ability or performance if implanted with the microchip identification. The owner or custodian must obtain written confirmation of that fact from a California licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, that date must be stated in the written confirmation.
 3. A dog or cat that is kenneled or trained in the City of Lake Elsinore, but is owned by an individual that does not reside in the City of Lake Elsinore. The owner or custodian must keep and maintain the animal in accordance with the applicable laws and ordinances of the jurisdiction in which the owner or custodian of the animal permanently resides, including but not limited to the applicable licensing and rabies vaccination requirements of that jurisdiction.
 4. A dog or cat over the age of ten (10) years.

C. Transfer, sale of dogs and cats.

1. An owner or custodian who offers any dog, over the age of four (4) months, for sale, trade, or adoption must provide the microchip identification number and the valid dog license number with the offer of sale, trade or adoption. The license and microchip numbers must appear on a document transferring the dog to the new owner. The owner or custodian shall also advise the Animal Control Agency of the name and address of the new owner or custodian in accordance with subdivision (a) of this section. An owner or custodian who offers any dog, over the age of four (4) months, for sale, trade, or adoption and fails to provide the Animal Control Agency with the name and address of the new owner, is in violation of this chapter and shall be subject to the penalties set forth herein.
2. An owner or custodian who offers any cat, over the age of four (4) months, for sale, trade, or adoption must provide the microchip identification number with the offer of sale, trade or adoption. The microchip numbers must appear on a document transferring the cat to the new owner. The owner or custodian shall also advise the Animal Control Agency of the name and address of the new owner or custodian in accordance with Subdivision (A) of this section. An owner or custodian who offers any cat, over the age of four (4) months, for sale, trade, or adoption and fails to provide the Animal Control Agency with the name and address of the new owner, is in violation of this chapter and shall be subject to the penalties set forth herein.
3. When a puppy or kitten under the age of four (4) months implanted with microchip identification is sold or otherwise transferred to another person, the owner or custodian shall advise the Animal Control Agency of the name and address of the new owner or custodian, and the microchip number of the puppy or kitten within ten (10) days after the transfer. If it is discovered that an owner or custodian has failed to provide the Animal Control Agency with the name and address of the new owner and the microchip number of the puppy or kitten, the owner or custodian shall be subject to the penalties set forth in chapter.

D. Impoundment of unmicrochipped dog or cat. When an impounded dog or cat is without microchip identification, in addition to satisfying applicable requirements for the release of the animal, including but not limited to payment of impound fees pursuant to Chapter 6.04, the owner or custodian shall also do one of the following:

1. Have the dog or cat implanted with an Animal Control Agency microchip by an Animal Control Agency registered veterinarian technician or veterinarian or designated personnel at the expense of the owner or custodian;
2. At the discretion of the Animal Control Agency, the dog or cat may be released to the owner or custodian if he or she signs a statement under penalty of perjury, representing that the dog or cat will be implanted with a microchip and that he or she will submit a statement within ten (10) days of the release, signed by a California licensed veterinarian, confirming that the dog or cat has been so implanted and provide the microchip number to the Animal Control Agency or allow the Animal Control Agency to scan the dog or cat for the microchip to verify.

E. Fees for microchip identification device.

1. The fee for an identifying microchip device shall be included in the cost of adoption when adopting a dog or cat from an animal shelter operated by the Animal Control Agency.
2. If an animal has already been implanted with an identifying microchip device by some other facility, there will be no fee to have the identification microchip number entered into the Animal Control Agency's registry as required by subdivision (A) of this section.

F. Fines and fees.

1. All fees and fines associated with this section shall be set according to resolution adopted by the City Council.
2. All costs and fines collected under this part and the fees collected under this section shall be paid to the Animal Control Agency on behalf of the City to defray the cost of the implementation and enforcement of this program.

Section 2: Severability. If any provision of this Ordinance or its application is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, sections, or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end each phrase, section, sentence, or word is declared to be severable.

Section 3: Effective Date. This Ordinance shall become effective at 12:01 a.m. on the thirty-first (31st) day after the date of adoption.

Section 4: Certification. The City Clerk shall certify to the passage of this Ordinance and shall cause a synopsis of the same to be published according to law.

Passed and Adopted on this ____ day of _____, 2019.

Steve Manos
Mayor

Attest:

Mark Mahan,
Deputy City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAKE ELSINORE)

I, Mark Mahan, Deputy City Clerk of the City of Lake Elsinore, do hereby certify that the foregoing Ordinance No. 2019-_____ was introduced at the Regular meeting of _____, 2019, and adopted by the City Council of the City of Lake Elsinore at its Regular meeting of _____, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

I further certify that said Synopsis was published as required by law in a newspaper of general circulation in the City of Lake Elsinore, California on the _____day of _____, 2019, and on the _____day of _____, 2019.

Mark Mahan
Deputy City Clerk