

VI. Animals

Chapter 6.06

MANDATORY SPAY, NEUTER AND MICROCHIP

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Section 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" shall mean the City or its designee, which may specifically include the City's contractor for animal control services.

"City" shall mean the City of Lake Elsinore.

"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." 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.

"Unaltered and unsplayed." 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.

Section 6.06.020 Mandatory spay and neuter.

A. Altered dogs and cats.

1. Requirement. No person may own, keep, or harbor an unaltered and unsplayed dog or cat over the age of seven 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 dog 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.
2. Exemptions. This section shall not apply to any of the following:
 - 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 license is still required.

B. Denial or revocation of unaltered dog license and reapplication.

1. The Animal Control Agency may deny or revoke an unaltered dog 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 has allowed a dog to be stray or run at large or has otherwise been found to be neglectful of his or her or other animals;
 - 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 dog license held by the applicant has been revoked;
 - f. The license application is discovered to contain a material misrepresentation or omission of fact.
2. Re-application for unaltered dog license:
 - a. When an unaltered dog 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 dog license is revoked, the owner or custodian of the dog 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 dog license fee

is refundable when a license is revoked and the applicant shall pay the full fee upon re-application.

C. Appeal of denial or revocation of unaltered dog 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 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 Officer. 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.
- d. Judicial Review of Administrative Decision. Any person aggrieved by the order of the Administrative Hearing Officer may obtain judicial review of that order by filing a petition for review with the Superior Court of Riverside County in accordance with the timelines and provisions set forth in California Code of Civil Procedure Section 1094.6.

2. Change in location of dog. 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.

D. 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.

E. 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 only when the owner or custodian is concurrently cited for another violation under State or local law pertaining to the obligations of a person owning or possessing a dog or cat. Examples of such State law or local ordinance violations include, but are not limited to, failure to possess a current canine rabies vaccination of the subject dog; dog or cat at large; failure to license a dog; leash law violations; kennel or cattery permit violations; tethering violations; unhealthy or unsanitary conditions; failure to provide adequate care for the subject dog or cat in violation of the Penal Code; rabies quarantine violations for the subject dog; operating a business without a license and/or lack of State Tax ID Number; fighting dog activity in violation of Penal Code section 597.5; animals left unattended in motor vehicles; potentially dangerous, dangerous or vicious animals; and noisy animals.
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 animal in accordance with this section or may purchase an unaltered license but shall also be required to pay the spay or neuter violation.

F. 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 this chapter, 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;
 - c. Have the dog or cat spayed or neutered by another California licensed veterinarian. The owner or custodian may arrange for another California licensed veterinarian to spay or neuter the animal and shall pay to the Animal Control Agency the cost to deliver said animal to the chosen veterinarian. The cost to deliver the animal shall be based on the Animal Control Agency's hourly rate. The veterinarian shall complete and return to the Animal Control Agency within ten (10) days, a statement confirming that the dog or cat has been spayed or neutered or is, in fact, incapable of breeding and shall release the dog or cat to the owner or custodian only after the spay or neuter procedure is complete;

- 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 this chapter.
 - 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.
- G. Allocation of fees and fines collected. 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 of Lake Elsinore for the purpose of defraying the cost of the implementation and enforcement of this program.

Section 6.06.030 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 this chapter.

D. 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 this chapter, 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. Have the dog or cat implanted with an Animal Control Agency approved microchip by a California licensed veterinarian. The owner or custodian may arrange for another California licensed veterinarian to perform the implant and shall pay to the Animal

Control Agency the cost to deliver the dog or cat to the chosen veterinarian. The veterinarian shall complete and return to the Animal Control Agency within ten (10) days, a statement confirming that the microchip has been implanted, provide the Animal Control Agency with the number and shall release the dog or cat to the owner or custodian only after the procedure is complete; or

3. 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. 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. 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. Allocation of fees and fines collected. 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 of Lake Elsinore for the purpose of defraying the cost of the implementation and enforcement of this program and for low cost microchipping programs identified by the City and/or Animal Control Agency.