

Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: May 5, 2008

FROM: CITY ATTORNEY

SUBJECT: MANDATORY PIT BULL SPAY AND NEUTER PROGRAM AND BREEDING REQUIREMENTS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 6 OF THE PASADENA MUNICIPAL CODE TO ESTABLISH A MANDATORY SPAY AND NEUTER PROGRAM AND BREEDING REQUIREMENTS FOR PIT BULLS

PURPOSE OF ORDINANCE:

The purpose of this ordinance is to reduce the number of pit bulls impounded and maintained by the City's Poundmaster (the Pasadena Humane Society) due to these dogs running at large, owners failure to reclaim them, or owners voluntarily surrendering them. A secondary purpose is to reduce the overpopulation of pit bulls in the Humane Society dog shelter due to irresponsible breeding resulting in escalating costs for animal care and control, and creating a public safety risk to residents.

REASON WHY THIS LEGISLATION IS NEEDED:

At the regular City Council meeting of March 10, 2008, the Council directed the City Attorney's Office to draft this ordinance. Section 410 of the Pasadena City Charter requires that the municipal code be amended by ordinance. California Health and Safety Code Section 122331 permits cities to enact breed-specific ordinances pertaining to spay or neuter programs and breeding requirements.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

Owners, guardians or keepers of pit bulls or pit bull mix breeds, the Pasadena Humane Society, the Pasadena Department of Public Health and the Code Enforcement Commission will be affected by this ordinance.

MEETING OF 05/05/2008

AGENDA ITEM NO. 12.A.1.

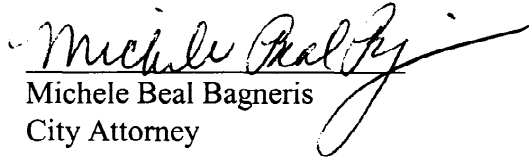
FISCAL IMPLICATIONS:

The ordinance will have financial impacts on owners, guardians and keepers of pit bulls or pit bull mixes as these individuals will be responsible for having their animals spayed or neutered, and paying breeding permit fees. Any fees generated by this ordinance shall be used to help the Public Health Department and the City's Poundmaster implement the program. It is anticipated that there will be start-up costs associated with implementing this ordinance related to staff and public education concerning the requirements of the new law. There may also be additional costs associated with indigent dog owners unable to pay the costs of spaying and neutering.

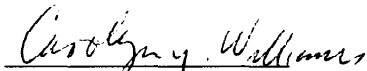
POLICY CHANGES:

This ordinance is an attempt to reduce the number of pit bulls which must be sheltered by the City's Poundmaster, and to ensure that pit bulls do not become a public nuisance due to irresponsible breeding.

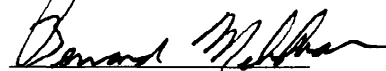
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Carolyn Y. Williams
Asst. City Attorney

Concurrence:


Bernard Melekian
City Manager

Introduced by Councilmember _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING TITLE 6 OF THE PASADENA MUNICIPAL CODE TO ESTABLISH A MANDATORY SPAY AND NEUTER PROGRAM AND BREEDING REQUIREMENTS FOR PIT BULLS

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding costs of Publication, will be published by title and summary as permitted by Section 508 of the City Charter. The approved summary of this ordinance reads as follows:

SUMMARY

The subject ordinance, Ordinance No. _____, adds a new chapter to Title 6, the Animals Code, to mandate spay and neuter and breeding requirements for pit bulls and pit bull mixes, as permitted by California Health and Safety Code Section 122331.

The mandatory spay and neuter requirement would apply to dogs over eight weeks of age, with exceptions for pit bulls with physical abnormalities; pit bulls that have been in the City of Pasadena for less than (thirty) 30 calendar days; the owner, guardian or keeper has a valid City of Pasadena breeding permit; determination of the dog breed is under appeal; or the pit bull is a registered show dog.

A permit is required to breed or transfer pit bull puppies. Issuing permits for pit bull breeding shall be the responsibility of the Public Health Department and the City's

Poundmaster, the Pasadena Humane Society. As a part of the permit process, the City Poundmaster shall make a determination regarding the suitability of the particular pit bull to be bred, including considerations of lineage, age and health condition, based upon enumerated guidelines.

The ordinance delineates a process for revocation of a breeding permit and describes the fines to be imposed for failure to comply with permit requirements.

Violations of this ordinance may be charged as a misdemeanor or an infraction in the discretion of the City Prosecutor. In appropriate cases, a violation of this ordinance may be remedied by civil action initiated by the City Attorney.

Ordinance No. _____ shall take effect thirty (30) days after its publication.”

SECTION 2. This legislation is predicated on the following facts:

Section 122331 of the California Health and Safety Code permits cities to enact a dog breed specific ordinance mandating spaying and neutering programs and breeding requirements.

The Pasadena Humane Society, which serves as the City’s Poundmaster, has stated that within the period 2006 to 2007, 15% to 25% of the dogs in its shelter were pit bulls, impounded as strays, owner’s failure to reclaim their animals, or owner’s voluntary surrender.

The impounded pit bulls are seldom adopted by the public and ultimately must be euthanized or given away to pit bull rescue organizations.

The City of Pasadena wishes to institute a citywide mandatory spay and neuter program to decrease the number of pit bulls which must be sheltered by the Humane Society.

The City of Pasadena additionally wishes to establish breeding requirements for pit bulls in an effort to reduce overpopulation due to uncontrolled and irresponsible breeding of animals which are then impounded and maintained in the Pasadena Human Society dog shelter.

SECTION 3. The Pasadena Municipal Code is amended to add a new Chapter 6.19 to Title 6 to read:

“Chapter 6.19

MANDATORY REQUIREMENTS CONCERNING PIT BULLS

SECTIONS:

- 6.19.010 Short title.**
- 6.19.020 Findings and purpose.**
- 6.19.030 Definition of a pit bull.**
- 6.19.040 Mandatory spaying and neutering of pit bulls; Exceptions.**
- 6.19.050 Penalties for failure to spay or neuter pit bull.**
- 6.19.060 Allocation of fees and fines collected.**
- 6.19.070 Requiring a permit for the breeding and transferring of pit bull puppies.**
- 6.19.080 Granting or denying a permit.**
- 6.19.090 Revocation of permit.**
- 6.19.100 Transference and sale of pit bull puppies.**
- 6.19.110 Fines for failure to comply with permit requirements.**
- 6.19.120 Allocation of fees and fines collected.**
- 6.19.130 Exceptions to permit posting requirements.**
- 6.19.140 Enforcement.**
- 6.19.150 Statistical information on dog bites.**

6.19.020 Findings and purpose.

The City Council finds that 15% to 25% of the dogs sheltered by the Pasadena Humane Society (the City's contracted Poundmaster), are pit bulls, impounded due to roaming at large, owners failure to reclaim them, or owners voluntarily surrendering them to the Human Society. Enacting a spay or neuter requirement with respect to pit bulls will, over a period of time, reduce the number of pit bulls which must be maintained in the Humane Society dog shelter. The Council finds that irresponsible breeding of pit bulls contributes to this overpopulation of pit bulls in the dog shelter and escalating costs for animal care and control, and is a public safety risk. The purpose of this ordinance is to mandate that pit bulls in the City be spayed or neutered, and to permit breeding of pit bulls for show purposes only.

6.19.030 Definition of Pit Bull.

A. Definition. For the purposes of this chapter, the word "pit bull" includes any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics that conform to the standards established by the American Kennel Club ("AKC") or United Kennel Club ("UKC") for any of the above breeds. The AKC and UKC standards for the above breeds are listed on their websites.

B. Determination of Breed. If an owner, guardian or keeper is unsure as to whether or not his/her unsprayed and unneutered dog is a pit bull, s/he may make an appointment with the City Poundmaster at which a designated staff member shall make a determination as to whether or not the dog is a pit bull. If the dog owner, guardian or

keeper wishes to appeal the determination that the dog is a pit bull, within five business days of the designated staff member's determination, the dog owner may request a hearing before the Poundmaster or an authorized designee. The hearing shall be held no more than 30 days after the Humane Society receives the request. The hearing may be informal and rules of evidence not strictly observed. The decision of the Poundmaster or designee is final.

6.19.040 Mandatory Spaying and Neutering of Pit Bulls; Exceptions.

No person may own, keep, or harbor any dog within the City of Pasadena that the person in possession knew, or should have known, was a pit bull that has not been spayed or neutered unless:

- A. The pit bull is under eight weeks of age;
- B. The pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality. A veterinarian must certify such a condition, and determine the time frame after which the pit bull can be spayed/neutered. Within 30 days of the operative date of this ordinance, or within 30 days of taking possession or ownership of an unsprayed or unneutered pit bull, the owner, guardian or keeper of the dog must submit such documentation to be verified by the Poundmaster.
- C. The pit bull has been present in the City of Pasadena for less than thirty days;
- D. The owner, guardian or keeper has obtained, or has submitted an application for a breeding permit in accordance with Section 6.19.070 et. seq. of this chapter.

E. Determination of breed is under appeal pursuant to Section 6.19.030 (B) above; or

F. The pit bull is a show dog. Within 30 days of the operative date of this ordinance, or within 30 days of taking possession or ownership of an unsprayed or unneutered pit bull, the owner, guardian or keeper of the dog must submit a copy of the organization papers (AKC or UKC) to the Humane Society demonstrating the pedigree information and show dog registration and that the dog conforms with the same breeding permit guidelines set forth in Sections 6.19.070 et seq. of this chapter.

6.19.050 Penalties For Failure to Spay or Neuter Pit Bull.

A violation of Section 6.19.040 may result in the following penalties:

A. A first violation shall be an infraction punishable by a fine not to exceed \$500. In order for the owner, guardian or keeper to reclaim the pit bull from the Poundmaster, in addition to paying the other charges and fees established for impounded animals, one of the following must occur:

1. The Poundmaster shall have a veterinarian spay or neuter the dog. The dog owner, guardian or keeper shall pay a deposit of \$100 prior to the procedure and will be charged the fee for such services consisting of the actual expense incurred as established by the Poundmaster. There may be additional fees for any extraordinary care provided.

2. In the alternative, the owner, guardian or keeper of the dog shall arrange for another veterinarian (“vet”) within the City of Pasadena to spay or neuter and shall pay the Poundmaster a fee of \$60, which shall cover the Poundmaster’s costs of delivering the dog to a vet of the owner, guardian or keeper’s choosing. The

Poundmaster shall deliver the dog to the vet, and the vet shall release the dog to the owner, guardian or keeper only after the spaying or neutering is complete.

3. At the discretion of the Poundmaster, or a designee, the Poundmaster may release the dog to the owner, guardian or keeper provided that the owner, guardian or keeper signs an affidavit that s/he will have the dog spayed or neutered within two weeks and will provide documentation verifying that the spaying or neutering occurred upon completion. If the owner, guardian or keeper fails to have his/her pit bull spayed or neutered as agreed in the affidavit, the Poundmaster shall have the authority to impound the dog, and the owner, guardian or keeper may be charged with a second violation under this section.

4. In the event that the Poundmaster or a designee determines that payment of any fees by the owner, guardian or keeper of a pit bull which is impounded or otherwise taken into custody would cause extreme financial difficulty to the owner, guardian or keeper, the Poundmaster or a designee may, at his/her discretion, waive all or part of the fees necessary for compliance with this section.

B. A second violation of this section by the owner, guardian or keeper, shall be a misdemeanor punishable by imprisonment for a period not to exceed six months or by a fine not to exceed \$1,000, or by both such fine and imprisonment. In addition, a second violation may result in the Poundmaster impounding the pit bull and disposing of the pit bull in accordance with procedure established for impounded animals.

**6.19.070 Requiring A Permit For The Breeding and Transferring
Of Pit Bull Puppies.**

A. No person shall cause or allow any pit bull, as defined in Section 6.19.030A of the City's Animal Code, that is owned, harbored or kept within the City of Pasadena to breed or give birth without first obtaining a permit as described in this ordinance.

B. Keeping an unaltered male adult dog together with a female dog in heat in the same dog run, pen, room, or any other space where the two dogs are allowed contact with one another that would allow the dogs to breed is considered prima facie evidence of an owner, guardian or keeper's intent to allow the dogs to breed.

6.19.080 Granting Or Denying A Permit.

A. Requirements of permit. An owner or keeper of a pit bull may obtain a nontransferable permit that lasts for one year. If more than one owner, guardian, or keeper is involved in the breeding process, each party must apply for and be granted a breeding permit. The permit may be obtained from the Pasadena Public Health Dept. ("Department") if all of the following conditions are met:

1. The Applicant has submitted the appropriate forms and fees required by the Department in order to seek consideration for a breeding permit.

2. The applicant has a space in which to breed pit bulls and raise the puppies that the Poundmaster is satisfied will contain the animals as well as provide them with safe, sanitary, and humane conditions, appropriate for breeding pit bulls, which satisfies all applicable State animal welfare laws.

3. The Poundmaster has evaluated and reached a positive conclusion regarding the suitability of the particular pit bulls to be bred, including consideration of their lineage, age and health condition. The Poundmaster shall utilize the following guidelines in making a determination:

a. Owners, guardians or keepers shall provide verification that any pit bull to be bred is registered as an American Pit Bull Terrier, an American Staffordshire Terrier, or a Staffordshire Bull Terrier, with the appropriate registry for its breed (American Kennel Club, United Kennel Club, America Dog Breeders Association (“ADBA”) or any other valid registry as determined by the Poundmaster.

b. Any pit bull to be bred must meet the pit bull breed standard, as defined by the appropriate registration agency (AK, UKC, or ADBA), for physical conformation as well as temperament.

c. The registered pit bull has participated in at least one approved dog show during the previous 365 day period, or the owner, guardian or keeper has given written notice to one of the dog registries listed above stating his/her intention that the dog will participate in an approved dog show. A dog show is defined as an event that is sanctioned in writing by one or more of the dog registries listed above.

d. Any pit bull to be bred shall have the appropriate health screenings for its breed. For pit bulls this is, at a minimum, the following health tests: Orthopedic Foundation for Animals (“OFA”) or University of Pennsylvania Hip Improvement Program (“PennHIP”) certification on hips, OFA on heart by a certified

cardiologist and must have passed the American Temperament Testing Society temperament test.

4. Breeders shall not allow female pit bulls to have more than 1 litter per year.

5. Upon approval of his/her application, the applicant must pay the \$100 permit fee.

B. Permit denial. The Department shall automatically deny the permit if one or more of the following occurs, and that decision shall be final:

1. The applicant fails to pay the permit fee within two weeks of notification that the application has been approved. Applicant may reapply for a permit after ten months.

2. The applicant has a history of allowing dogs to run loose or escape, or has otherwise been found to be neglectful; has had his/her dog identified as a nuisance; or has previously been determined to have violated other ordinances related to animal control.

3. The applicant has violated any provisions of this chapter.

4. The applicant has applied for a permit within the last ten months.

C. Inspections of the premises.

1. Poundmaster may on one or more occasions, up to a year after issuance of the permit, perform an inspection of the dog's living quarters to ensure that the standards required to receive a permit are met. The Poundmaster will give the owner, guardian or keeper a twenty-four hour notice and will conduct such inspection at a

reasonable time when the owner, guardian or keeper, or his/her representative, is present. The owner, guardian or keeper shall allow the Poundmaster access to conduct the inspection.

2. If the property does not meet the required standards, or the owner, guardian or keeper cannot be contacted for an inspection within two weeks of the Poundmaster's initial attempt, or the owner, guardian or keeper fails or refuses to allow an inspection, the Department shall not issue a permit.

6.19.090 Revocation of Permit.

A. The Code Enforcement Commission may, after conducting a hearing, revoke a breeding permit for violations of the provisions of this ordinance. Within five days of the Department's knowledge of an such violations, a Pasadena Humane Society officer shall notice the owner, guardian or keeper of the pit bull in writing that s/he is in violation and subject to penalties under this ordinance, including revocation of his/her breeding permit.

B. Unless the hearing is waived by the owner, guardian, or keeper of the dog, or the hearing is scheduled on an agreed-upon date, the Department shall fix a time not less than ten nor more than 30 days from the date of the violation notice. The Department shall fix a place for said hearing and cause all parties to be notified, not less than five days before the date of such hearing. The administrative hearing may be informal and the rules of evidence not strictly observed.

C. Within fifteen days following the hearing, the Code Enforcement Commission shall issue its decision to all parties. The decision of the Code Enforcement Commission is final. Upon a finding of a violation, the Department may impose

appropriate remedies on the owner, guardian, or keeper. Any violation(s) may also be considered in future permitting decisions.

D. After the Department has issued a permit, it may revoke the permit pursuant to procedures set forth in this chapter if a subsequent inspection of the premises reveals the area to be below the standards required for the permit, or if the owner, guardian or keeper cannot be contacted for an inspection within two weeks of the Poundmaster's initial attempt, or if the owner, guardian or keeper refuses Poundmaster access for an inspection.

E. If the dog is already pregnant or the puppies are born, the Poundmaster may, pending a hearing, impound the pit bull and/or its puppies. After a hearing, the Department may fine the owner, guardian or keeper an amount not to exceed \$500, require the Poundmaster permanently confiscate the puppies and dispose of them in accordance with established procedures for impounded animals, and consider the violation in future permitting decisions.

6.19.100 Transference and Sale of Pit Bull Puppies.

A. Any owner, guardian or keeper residing in or conducting a transaction within the City of Pasadena who offers any pit bull puppies under six months old for sale, trade, or adoption, must prominently post his/her valid breeding permit numbers with any offer of sale, trade, or adoption. The permit number must also be supplied in writing to the individual, firm, corporation, or other entity that acquires a puppy.

B. The breeder shall not remove puppies from the litter until the

puppies are at least 8 weeks of age, are fully weaned, have their first set of vaccinations, have been de-wormed and are in good general health.

C. Breeders and any party that acquires a pit bull puppy through purchase, trade or adoption shall enter into a written agreement for the transaction and must include language that the acquiring party shall, at any time during the dog's life, return the puppy to the breeder if the acquiring party cannot keep it, and that the breeder shall accept any such returned dog.

D. Pit bull puppies that do not have show dog papers as defined in ordinance must be spayed or neutered by the breeder prior to transfer.

E. Within three weeks of the time that the litter is whelped, the breeder shall send to the Poundmaster a head count of how many puppies were live born. Within three weeks after the breeder transfers physical possession of each puppy, the breeder shall notify the Poundmaster of the name, address, and telephone number of the new owner, guardian or keeper of each puppy.

6.19.110 Fines for Failure To Comply With Permit Requirements.

A. A violation of the breeding permit provisions in this ordinance shall be an infraction punishable by a fine not to exceed \$500. Such violations must be corrected within 30 days.

B. If the owner, guardian or keeper fails to correct a violation 30 days after a first citation, it shall be an additional violation and shall be punishable as a misdemeanor. Subsequent violations will be considered part of a continuous sequence of offenses and each violation after 30 days of a prior conviction will be punishable as a

misdemeanor. The punishment shall be imprisonment for a period not to exceed six months or by a fine not exceeding \$1,000, by both such fine and imprisonment.

C. Failure to include a prominently posted permit number when transferring pit bull puppies under this ordinance shall be an infraction punishable by a \$100 fine for the first violation, a \$200 fine upon a second violation within a year of the first offense, and a \$500 fine upon the third and subsequent violations within a year of the second offense.

D. Failure to provide the Poundmaster with the number of puppies born and information about a new owner, guardian or keeper of each puppy in accordance with this ordinance shall be an infraction punishable by a \$100 fine for the first violation, a \$200 fine upon a second violation within one year of the first offense, and fine of \$500 for the third and subsequent violations within one year of the second offense. Failure to provide the Pound master with the new owner, guardian or keeper's information for each puppy, will be considered a separate and individual violation.

6.19.120 Allocation of Fees and Fines Collected.

All fees and the City's share of all fines collected under this ordinance shall be used only by the Poundmaster to fund the implementation and enforcement of the pit bull spay and neuter program and the breeding permit program.

6.19.130 Exceptions to Permit Posting Requirements.

The Poundmaster or a valid nonprofit 501 (3) animal welfare and rescue organization that seeks adoptive homes for pit bulls may transfer ownership and place advertisements without displaying or supplying a permit number as described in this ordinance.

6.19.140 Enforcement.

The Department and the City Poundmaster shall be responsible for enforcing the provisions of this chapter. Violations of this chapter may be charged as a misdemeanor or an infraction in the discretion of the City Prosecutor. In addition to the above remedy, a violation of this chapter may be remedied by civil action initiated by the City Attorney.

6.19.150 Statistical Information on Dog Bites.

The City's Poundmaster, the Pasadena Humane Society, shall measure the effect of this new program by compiling statistical information on dog bites. This shall include the following:

- A. Identification of dog bites by severity,
- B. The breed of the dog involved,
- C. Whether the dog was altered, and
- D. Whether the breed of dog was subject to a program established

under California Health and Safety Code Section 122331(a)

The Pasadena Humane Society shall submit these statistics quarterly to the State of California Public Health Veterinarian.”

SECTION 4 The City Clerk shall certify the adoption of this ordinance and shall cause this ordinance to be published by number, title and summary, and the City Clerk's certification.

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SECTION 5. This ordinance shall take effect upon the expiration of thirty (30) days from its publication by title and summary.

Signed and approved this _____ day of _____ 2008.

Bill Bogaard
Mayor of the City of Pasadena

I HEREBY CERTIFY that the foregoing ordinance was adopted by the City Council of the City of Pasadena at its meeting of _____, 2008, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Published:

Jane Rodriguez, CMC
City Clerk

APPROVED AS TO FORM:

Carolyn Y. Williams
Carolyn Y. Williams
Assistant City Attorney