

File No. 051607

Committee Item No. 9
Board Item No. 12

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date Nov 7, 2005

Board of Supervisors Meeting Date _____

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Ordinance |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER

(Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Victor Young

Date Nov 3, 2005

Completed by: [Signature]

Date 11-9-05

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

81

FILE NO. 051607

ORDINANCE NO.

1 [Mandating the spaying and neutering of pit bulls and prohibiting non-permitted breeding of pit
2 bulls.]

3 **Ordinance amending Article 1 of the San Francisco Health Code by: adding Section 43,**
4 **to define pit bull and to create a procedure for determining breed; adding Section 43.1,**
5 **to require every pit bull in the City and County of San Francisco to be spayed or**
6 **neutered unless one of the enumerated exceptions apply; adding Section 43.2, to**
7 **establish fines of \$100 to \$1000 for failing to spay or neuter, to limit an owner from**
8 **redeeming an impounded unspayed or unneutered pit bull, to provide a procedure for**
9 **the Department of Animal Care and Control to spay or neuter a pit bull upon a deposit**
10 **of \$100 with an ultimate fee of the actual expenses incurred, and to set a fee of \$60 for**
11 **Animal Care and Control to transport a pit bull to a private veterinarian for spaying or**
12 **neutering; adding Section 43.3, to allocate fines to the Department of Animal Care and**
13 **Control; adding Section 43.4 to provide an operative date; adding Section 44, to**
14 **provide permit requirements for the breeding and/or transferring ownership or**
15 **possession of pit bull puppies within the City and County of San Francisco; adding**
16 **Section 44.1, to create a permit procedure including standards for granting or denying**
17 **a permit and establish a permit fee of \$100; adding Section 44.2, to create a procedure**
18 **for revoking a permit; adding Section 44.3, to require posting of permit numbers on any**
19 **offer of sale, trade or adoption and to require permit holders to inform the Department**
20 **of Animal Care and Control of the number of puppies born and transfer of ownership or**
21 **possession of puppies; adding Section 44.4, to create fines of \$100 to \$1000 for failure**
22 **to comply with permit requirements; adding Section 44.5, to allocate fines to the**
23 **Department of Animal Care and Control; adding Section 44.6, to define exceptions to**
24 **the breeding permit posting requirements; adding Section 44.7 to provide an operative**
date; and making environmental findings.

Supervisor Bevan Duffy
BOARD OF SUPERVISORS

1
2 Note: Additions are single-underline italics Times New Roman;
3 deletions are ~~strikethrough italics Times New Roman~~.
4 Board amendment additions are double underlined.
5 Board amendment deletions are ~~strikethrough normal~~.

6 Be it ordained by the People of the City and County of San Francisco:

7 Section 1. Article 1 of the San Francisco Health Code is hereby amended by adding
8 Section 43, to read as follows:

9 **SEC. 43. DEFINITION OF PIT BULL.**

10 (a) **Definition.** For the purposes of this Article, the word "pit bull" includes any dog that is an
11 American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog
12 displaying the physical traits of any one or more of the above breeds, or any dog exhibiting those
13 distinguishing characteristics that conform to the standards established by the American Kennel Club
14 ("AKC") or United Kennel Club ("UKC") for any of the above breeds. The AKC and UKC standards
15 for the above breeds are listed on their websites as well as online through the Animal Care and Control
16 Department's ("Department") website.

17 (b) **Determination of Breed.** If an owner, guardian or keeper is unsure as to whether or not
18 his/her unspayed and unneutered dog is a pit bull, s/he may make an appointment with the Department
19 at which a Department staff member shall make a determination as to whether or not the dog is a pit
20 bull. If the dog owner, guardian or keeper wishes to appeal the determination that the dog is a pit bull,
21 within five business days of the staff member's determination s/he may request a hearing before the
22 Department's Director or his/her designee. The hearing shall be held no more than 30 days after the
23 Director receives the request. The hearing may be informal and rules of evidence not strictly observed.
24 The decision of the Director or his/her designee is final.

25 Section 2. Article 1 of the San Francisco Health Code is hereby amended by adding
Section 43.1, to read as follows:

1 **SEC. 43.1. MANDATORY SPAYING AND NEUTERING OF PIT BULLS; EXCEPTIONS.**

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

5 (a) The pit bull is under eight weeks of age;

6 (b) The pit bull cannot be spayed or neutered without a high likelihood of suffering serious
7 bodily harm or death due to a physical abnormality. A veterinarian must certify such a condition,
8 determine the time frame after which the pit bull can be spayed/neutered. Within 30 days of the
9 effectiveoperative date of this ordinance, or within 30 days of taking possession or ownership of an
10 unspayed or unneutered pit bull, the owner, guardian or keeper must submit such documentation to be
11 verified by the Department;

12 (c) The pit bull has been present in the City and County of San Francisco for less than thirty
13 days;

14 (d) The owner, guardian or keeper has obtained, or has submitted an application for a
15 breeding permit in accordance with Section 44 et seq. of the San Francisco Health Code;

16 (e) Determination of breed is under appeal pursuant to Section 43(b) above; or

17 (f) The pit bull is a show dog. Within 30 days of the effectiveoperative date of this ordinance,
18 or within 30 days of taking possession or ownership of an unspayed or unneutered pit bull, the owner,
19 guardian or keeper must submit a copy of the organization papers (AKC or UKC) to the Department of
20 Animal Care and Control demonstrating the pedigree information and show dog registration and that
21 the dog conforms with the same breeding permit guidelines set forth in Sections 44.1(a)(3)(A),
22 44.1(a)(3)(B), 44.1(a)(3)(C) and 44.1(a)(3)(D).

23 Section 3. Article 1 of the San Francisco Health Code is hereby amended by adding
24 Section 43.2, to read as follows:

1 **SEC. 43.2. PENALTIES FOR FAILURE TO SPAY OR NEUTER PIT BULL.**

2 Violation of Section 43.1 may result in the following penalties:

3 (a) A first violation may result in the Department impounding the pit bull and disposing of the
4 pit bull in accordance with Sections 41.7(a) and 41.9 of the San Francisco Health Code. A first
5 violation shall be an infraction punishable by a fine not to exceed \$500. In order for the owner,
6 guardian or keeper to reclaim the pit bull from the Department, in addition to paying the other charges
7 and fees set out in Section 41.10, one of the following must occur:

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

12 (2) In the alternative, the owner, guardian or keeper shall arrange for another veterinarian
13 within the City and County of San Francisco to spay or neuter and shall pay the Department a fee of
14 \$60, which shall cover the Department's costs of delivering the dog to a vet of the owner, guardian or
15 keeper's choosing. The Department shall deliver the dog to the vet, and the vet shall release the dog to
16 the owner, guardian or keeper only after the spaying or neutering is complete.

17 (3) At the discretion of the Director, or his/her designee, the Director may release the dog to
18 the owner, guardian or keeper provided that the owner, guardian or keeper signs an affidavit that s/he
19 will have the dog spayed or neutered within two weeks and will provide documentation verifying that
20 the spaying or neutering occurred upon completion. If the owner, guardian or keeper fails to have
21 his/her pit bull spayed or neutered as agreed in the affidavit, the Department shall have the authority to
22 impound the dog, and the owner, guardian or keeper may be charged with a second violation under
23 43.2(b), below.

24 (4) In the event that the Director or his/her designee determines that payment of any fees by the
25 owner, guardian or keeper of a pit bull which is impounded or otherwise taken into custody would

1 cause extreme financial difficulty to the owner, guardian or keeper, the Director or his/her designee
2 may, at his/her discretion, waive all or part of the fees necessary for compliance with this section.

3 (b) A second violation of this section by the owner, guardian or keeper, shall be a misdemeanor
4 punishable by imprisonment in the County Jail for a period not to exceed six months or by a fine not to
5 exceed \$1,000, or by both such fine and imprisonment. In addition, a second violation may result in the
6 Department impounding the pit bull and disposing of the pit bull in accordance with Sections 41.7(a)
7 and 41.9 of the San Francisco Health Code. Further, the provisions of Section 43.2(a)(1) above may
8 apply.

9 Section 4. Article 1 of the San Francisco Health Code is hereby amended by adding
10 Section 43.3, to read as follows:

11 **SEC. 43.3. ALLOCATION OF FEES AND FINES COLLECTED.**

12 All fees and the City's share of all fines collected under Section 43.2 shall be used only by the
13 Animal Care and Control Department to fund the implementation and enforcement of the pit bull
14 spaying/neutering program.

15 Section 5. Article 1 of the San Francisco Health Code is hereby amended by adding
16 Section 43.4, to read as follows:

17 **SEC. 43.4. OPERATIVE DATE.**

18 Notwithstanding the provisions of Section 43.1, the provisions of this Section mandating the
19 spaying and neutering of pit bulls shall not be operative until January 1, 2006the first date that
20 California Health and Safety Code Section 122331 is in full force and effect or upon the
21 effective date of this ordinance, whichever is later.

22 Section 6. Article 1 of the San Francisco Health Code is hereby amended by adding
23 Section 44, to read as follows:
24

1 **SEC. 44. REQUIRING A PERMIT FOR THE BREEDING AND TRANSFERRING OF PIT BULL**
2 **PUPPIES.**

3 (a) No person shall cause or allow any pit bull, as defined in Section 43(a) of the San
4 Francisco Health Code, that is owned, harbored or kept within the City and County of San Francisco to
5 breed or give birth without first obtaining a permit as described in this Article.

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

10 Section 7. Article 1 of the San Francisco Health Code is hereby amended by adding
11 Section 44.1, to read as follows:

12 **SEC. 44.1. GRANTING OR DENYING A PERMIT.**

13 (a) Requirements of permit. An owner or keeper of a pit bull may obtain a nontransferable
14 permit that lasts for one year. If more than one owner, guardian, or keeper is involved in the breeding
15 process, each party must apply for and be granted a breeding permit. The permit may be obtained
16 from the San Francisco Department of Animal Care and Control ("Department") if all of the following
17 conditions are met:

18 (1) The applicant has submitted the appropriate forms and fees required by the Department in
19 order to seek consideration for a breeding permit.

20 (2) The applicant has a space in which to breed pit bulls and raise the puppies that the
21 Department is satisfied will contain the animals as well as provide them with safe, sanitary, and
22 humane conditions, appropriate for breeding pit bulls, which satisfies all applicable provisions of
23 Article 1 of the San Francisco Health Code and all applicable State animal welfare laws.

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

4 (A) Owners, guardians or keepers shall provide verification that any pit bull to be bred is
5 registered as an American Pit Bull Terrier, an American Staffordshire Terrier, or a Staffordshire Bull
6 Terrier, with the appropriate registry for its breed (American Kennel Club, United Kennel Club,
7 American Dog Breeders Association ("ADBA")) or any other valid registry as determined by the
8 Department.

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

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

16 (D) Any pit bull to be bred shall have the appropriate health screenings for its breed. For pit
17 bulls this is, at a minimum, the following health tests: Orthopedic Foundation for Animals ("OFA") or
18 University of Pennsylvania Hip Improvement Program ("PennHIP") certification on hips, OFA on
19 heart by a certified cardiologist and must have passed the American Temperament Testing Society
20 temperament test.

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

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

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

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

3 (2) The applicant has a history of allowing dogs to run loose or escape, or has otherwise been
4 found to be neglectful; has had his/her dog identified as a nuisance; or has previously been determined
5 to have violated Section 41.12 of the San Francisco Health Code.

6 (3) The applicant has violated any provisions of Health Code Sections 42 through 44.5.

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

8 (c) **Inspections of the premises.** The Department may on one or more occasions, up to a year
9 after issuing the permit, perform an inspection of the dogs' living quarters to ensure that the standards
10 required to receive a permit are met. The Department will give the owner, guardian or keeper a
11 twenty-four hour notice and will conduct such inspection at a reasonable time when the owner,
12 guardian or keeper, or his/her representative, is present. The owner, guardian or keeper shall allow
13 the Department access to conduct the inspection.

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

17 Section 8. Article 1 of the San Francisco Health Code is hereby amended by adding
18 Section 44.2, to read as follows:

19 **SEC. 44.2. REVOCATION OF PERMIT.**

20 (a) The Department may, after conducting a hearing, revoke a breeding permit for violations of
21 the provisions of Sections 42 through 44.5 of the San Francisco Health Code. Within five days of the
22 Department's knowledge of any such violation(s), a hearing officer, who is any designated
23 representative of the Department of Animal Care and Control or the San Francisco Police Department,
24 shall notice the owner, guardian or keeper of the pit bull in writing that s/he is in violation and subject
25 to penalties under this ordinance, including revocation of his/her breeding permit. Unless the hearing

1 is waived by the owner, guardian, or keeper of the dog, or the hearing is scheduled on an agreed-upon
2 date, the hearing officer shall fix a time not less than ten or more than 30 days from the date of the
3 violation notice. The hearing officer shall fix a place for said hearing and cause all parties to be
4 notified, not less than five days before the date of such hearing. The hearing may be informal and the
5 rules of evidence not strictly observed. Within fifteen days following the hearing, the hearing officer
6 shall issue his/her decision to all parties. The decision of the hearing officer is final. Upon a finding of
7 a violation, the hearing officer may impose appropriate remedies on the owner, guardian, or keeper.
8 Any violation(s) may also be considered in future permitting decisions.

9 (b) After the Department has issued a permit, it may revoke the permit pursuant to procedures
10 set forth in Section 44.2(a) if a subsequent inspection of the premises under Section 44.1(c) reveals the
11 area to be below the standards required for the permit, or if the owner, guardian or keeper cannot be
12 contacted for an inspection within two weeks of the Department's initial attempt, or if the owner,
13 guardian or keeper refuses the Department access for an inspection. If the dog is already pregnant or
14 the puppies are born, the Department may, pending a hearing, impound the pit bull and/or its puppies
15 in accordance with Section 41.7(a) of the San Francisco Health Code. After a hearing, the Department
16 may fine the owner, guardian or keeper an amount not to exceed \$500, permanently confiscate the
17 puppies and dispose of them in accordance with Section 41.9 of the San Francisco Health Code, and
18 consider the violation in future permitting decisions.

19 Section 9. Article 1 of the San Francisco Health Code is hereby amended by adding
20 Section 44.3, to read as follows:

21 **SEC. 44.3. TRANSFERENCE AND SALE OF PIT BULL PUPPIES**

22 (a) Any owner, guardian or keeper residing in or conducting a transaction within the City and
23 County of San Francisco who offers any pit bull puppies under six months old for sale, trade, or
24 adoption, must prominently post his/her valid breeding permit number with any offer of sale, trade, or

1 adoption. The permit number must also be supplied in writing to the individual, firm, corporation, or
2 other entity that acquires a puppy.

3 (b) The breeder shall not remove puppies from the litter until the puppies are at least 8 weeks
4 of age, are fully weaned, have their first set of vaccinations, have been de-wormed and are in good
5 general health.

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

10 (d) Pit bull puppies that do not have show dog papers as defined in Section 43.1(f) must be
11 spayed or neutered by the breeder prior to transfer.

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

16 Section 10. Article 1 of the San Francisco Health Code is hereby amended by adding
17 Section 44.4, to read as follows:

18 **SEC. 44.4. FINES FOR FAILURE TO COMPLY WITH PERMIT REQUIREMENTS.**

19 (a) A violation of the breeding permit provisions at Section 44 shall be an infraction punishable
20 by a fine not to exceed \$500. Such violations must be corrected within 30 days.

21 (b) After 30 days of a first citation, if the owner, guardian or keeper fails to correct a violation
22 of Section 44, it shall be an additional violation and shall be punishable as a misdemeanor.

23 Subsequent violations will be considered part of a continuous sequence of offenses and each violation
24 after 30 days of a prior conviction will be punishable as a misdemeanor. The punishment shall be
25

1 imprisonment in the County Jail for a period not to exceed six months or by a fine not exceeding
2 \$1,000, or by both such fine and imprisonment.

3 (c) Failure to include a prominently posted permit number when transferring pit bull puppies
4 under Section 44.3(a) shall be an infraction punishable by a \$100 fine for the first violation, a \$200
5 fine upon a second violation within a year of the first offense, and a \$500 fine upon the third and
6 subsequent violations within a year of the second offense.

7 (d) Failure to provide the Department with the number of puppies born and information about
8 a new owner, guardian or keeper of each puppy in accordance with Section 44.3(e) shall be an
9 infraction punishable by a \$100 fine for the first violation, a \$200 fine upon a second violation within
10 one year of the first offense, and fine of \$500 for the third and subsequent violations within one year of
11 the second offense. Failure to provide the Department with the new owner, guardian or keeper's
12 information for each puppy, will be considered a separate and individual violation.

13 Section 11. Article 1 of the San Francisco Health Code is hereby amended by adding
14 Section 44.5, to read as follows:

15 **SEC. 44.5 ALLOCATION OF FEES AND FINES COLLECTED.**

16 All fees and the City's share of all fines collected under Section 44.4 shall be used only by the
17 Animal Care and Control Department to fund the implementation and enforcement of the pit bull
18 breeding permit program.

19 Section 12. Article 1 of the San Francisco Health Code is hereby amended by adding
20 Section 44.6, to read as follows:

21 **SEC. 44.6. EXCEPTIONS TO PERMIT POSTING REQUIREMENTS.**

22 The Department of Animal Care and Control or a valid 501(c)(3) animal welfare and rescue
23 organization that seeks adoptive homes for pit bulls may transfer ownership and place ads without
24 displaying or supplying a permit number as described in Section 44.3(a).

1 Section 13. Article 1 of the San Francisco Health Code is hereby amended by adding
2 Section 44.7, to read as follows:

3 **SEC. 44.7. OPERATIVE DATE.**

4 Notwithstanding the provisions of Sections 44 through 44.3, the provisions of this Section
5 requiring a permit for the breeding and transfer of pit bull puppies shall not be operative until January
6 1, 2006the first date that California Health and Safety Code Section 122331 is in full force and
7 effect or upon the effective date of this ordinance, whichever is later.

8 Section 14. The Planning Department has determined that the actions contemplated in
9 this Ordinance are in compliance with the California Environmental Quality Act (California
10 Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of
11 the Board of Supervisors in File No. 051607 and is incorporated herein by reference.

12 Section 15. If a referendum petition to overturn Section 122331 of the California Health
13 and Safety Code is placed before the voters and the voters do not adopt Section 122331 of
14 the California Health and Safety Code, Sections 43 et seq. and 44 et seq. of the San
15 Francisco Health Code shall not become operative and the Clerk of the Board of Supervisors
16 shall submit to the Board a proposed ordinance that would repeal Sections 43 et seq. and 44
17 et seq. of the San Francisco Health Code.

18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By:

21 
22 ROSA M. SANCHEZ
23 Deputy City Attorney
24
25

LEGISLATIVE DIGEST

[Mandating the spaying and neutering of pit bulls and prohibiting non-permitted breeding of pit bulls.]

Ordinance amending Article 1 of the San Francisco Health Code by: adding Section 43, to define pit bull and to create a procedure for determining breed; adding Section 43.1, to require every pit bull in the City and County of San Francisco to be spayed or neutered unless one of the enumerated exceptions apply; adding Section 43.2, to establish fines of \$100 to \$1000 for failing to spay or neuter, to limit an owner from redeeming an impounded unspayed or unneutered pit bull, to provide a procedure for the Department of Animal Care and Control to spay or neuter a pit bull upon a deposit of \$100 with an ultimate fee of the actual expenses incurred, and to set a fee of \$60 for Animal Care and Control to transport a pit bull to a private veterinarian for spaying or neutering; adding Section 43.3, to allocate fines to the Department of Animal Care and Control; adding Section 43.4 to provide an operative date; adding Section 44, to provide permit requirements for the breeding and/or transferring ownership or possession of pit bull puppies within the City and County of San Francisco; adding Section 44.1, to create a permit procedure including standards for granting or denying a permit and establish a permit fee of \$100; adding Section 44.2, to create a procedure for revoking a permit; adding Section 44.3, to require posting of permit numbers on any offer of sale, trade or adoption and to require permit holders to inform the Department of Animal Care and Control of the number of puppies born and transfer of ownership or possession of puppies; adding Section 44.4, to create fines of \$100 to \$1000 for failure to comply with permit requirements; adding Section 44.5, to allocate fines to the Department of Animal Care and Control; adding Section 44.6, to define exceptions to the breeding permit posting requirements; adding Section 44.7 to provide an operative date; and making environmental findings.

Existing Law

The San Francisco Municipal Code does not currently contain any provisions regarding the mandatory spaying or neutering of pit bulls. The State of California's Assembly and Senate have passed SB 861 to allow for breed-specific legislation due to threats to public health and safety. SB 861 authorizes local governments to enact dog breed-specific ordinances pertaining only to mandatory spay or neuter programs and breeding requirements, provided that no specific dog breed, or mixed dog breed, shall be declared potentially dangerous or vicious under those ordinances. Jurisdictions that implement spay/neuter and breeding programs pursuant to SB 861, shall measure the effect of those programs by compiling statistical information on dog bites. The information shall, at a minimum, identify dog bites by severity, the breed of the dog involved, whether the dog was altered, and whether the breed of dog was subject to a program established pursuant to the spay/neuter and breeding programs. These statistics shall be submitted quarterly to the State Public Health Veterinarian. Currently SB 861 is at the Governor's desk awaiting approval.

BOARD OF SUPERVISORS

FILE NO.

Additions to Current Law

1. Pit bull definition: A pit bull is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds, or any dog exhibiting those distinguishing characteristics that substantially 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 as well as online through the Animal Care and Control Department's ("Department") website. The Department of Animal Care and Control will make a determination of breed as necessary. (Section 43.)
2. Mandatory spaying/neutering: Every pit bull in the City and County of San Francisco must be spayed or neutered unless it fits an enumerated exception. The enumerated exceptions are: the pit bull is under eight weeks of age; the pit bull cannot be spayed or neutered without a high likelihood of suffering serious bodily harm or death due to a physical abnormality; the pit bull has been present in the City and County of San Francisco for less than thirty days; the owner, guardian or keeper has obtained, or has submitted an application for a breeding permit in accordance with Section 44 et seq. of the San Francisco Health Code; the determination of breed is under appeal pursuant to Section 43(b); or the pit bull is a show dog. (Section 43.1.)
3. Penalties for failure to spay/neuter: Penalties are imposed for the failure of an owner, guardian or keeper to spay or neuter his/her pit bull. (Section 43.2.)
4. Allocation of fees and fines: All fees and the City's share of all fines collected under the spay/neuter ordinance shall be used only by the Animal Care and Control Department to fund the implementation and enforcement of the pit bull spaying/neutering program. (Section 43.3.)
5. Requiring a breeding permit: A breeding permit will be required for the breeding of pit bulls within the City and County of San Francisco. (Section 44.)
6. Granting or denying permit: Upon application, the Department of Animal Care and Control may issue breeding permits that last for one year. Granting or denying a permit to an applicant will be based on the owner, guardian or keeper meeting all of the requirements set forth by the Department of Animal Care and Control. 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. (Section 44.1.)
7. Revocation of permit: The Department of Animal Care and Control may, after conducting a hearing, revoke a breeding permit for violations of Sections 42 through 44.5 of the San Francisco Health Code. The owner, guardian or keeper will be subject to the penalties set forth in the breeding permit section. (Section 44.2.)

BOARD OF SUPERVISORS

Page 2

9/20/2005

n:\pubpro\rkatz\dog legislation\spayleg.doc

FILE NO.

8. Sale or transfer of pit bull puppies: Any owner, guardian or keeper residing in or conducting a transaction within the City and County of San Francisco who offers any pit bull puppies under six months old for sale, trade, or adoption, must prominently post his/her valid breeding permit number 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. (Section 44.3.)
9. Fines: Fines will be imposed against an owner, guardian or keeper who violates any breeding permit provisions. (Section 44.4.)
10. Allocation of fees and fines: All fees and the City's share of all fines collected under the breeding permit ordinance shall be used only by the Animal Care and Control Department to fund the implementation and enforcement of the pit bull breeding permit program. (Section 44.5.)
11. Exceptions to breeding permit posting requirements: The Department of Animal Care and Control or a valid 501(c)(3) animal welfare and rescue organization that seeks adoptive homes for pit bulls may transfer ownership and place ads without displaying or supplying a permit number. (Section 44.6.)

Background Information

In the wake of the tragic dog mauling and killing of a 12 year old child in San Francisco by two pit bulls, Mayor Gavin Newsom appointed a canine response working group to review and assess potential measures that the City could take to minimize the chances of such attacks occurring in the future. At the urging of the City, Senator Jackie Speier introduced SB 861 to amend California Food and Agricultural Code Section 31683. Currently, Section 31683 does not allow cities and counties to regulate dogs in a manner that is specific to breed. SB 861 has been passed by both the Assembly and the Senate and, if signed by the Governor, will allow cities and counties to pass breed specific spay/neuter and breeding legislation. In anticipation of the passage of SB 861, and at the request of Supervisor Bevan Dufty, the attached Ordinance has been drafted to set forth spay/neuter and breeding permit requirements for all pit bulls in the City and County of San Francisco.

OCT.19'2005 16:32 14155585992

CSF CITY PLANNING

#2019 P.004/004

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

MEMORANDUM

TO: Department of Planning
Environmental Review Officer

FROM: Gloria L. Young, Clerk of the Board *by rzy*

DATE: September 28, 2005

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS
City Operations and Neighborhood Services

The Board of Supervisors City Operations and Neighborhood Services has received the following which is being referred to the Planning Department for determination as to whether the proposed fee increase will impact the environment.

Please provide your findings within 10 days from the date of referral.

File: 051607

Mandating the spaying and neutering of pit bulls and prohibiting non-permitted breeding of pit bulls

Please return this cover sheet with the Commission's response to **Victor Young, Clerk, City Operations and Neighborhood Services.**

RESPONSE FROM PLANNING DEPARTMENT - Date: October 19, 2005

No Comment

Recommendation Attached

*Exempt from CEQA
Non-physical Exemption
CEQA Guidelines § 50602(x2)*

Planning Department
Paul Maltzer, Environmental Review Officer

SAN FRANCISCO COMMISSION OF ANIMAL CONTROL AND WELFARE

Commission Recommendations on Mandatory Spay Neuter and Breeding Requirements September 20, 2005

The Commission believes that mandatory spay neuter for all dogs will reduce aggression in dogs prone to aggression and provide a more effective and comprehensive strategy for assuring public safety and maintaining population control. The Commission recommends the following requirements for mandatory spay neuter regulations:

1. All dogs over a certain age to be spayed or neutered unless they obtain an unaltered permit or breeder's license.
2. Owners who choose not to spay or neuter their dog must obtain an unaltered permit and pay an annual fee for that permit.
3. Owners who wish to breed their animals must obtain a breeder's license and pay an annual fee for that license.
4. Owners who redeem their dog from shelters must pay a fine if their dog is unaltered. After three redemptions, if the dog is still unaltered, the dog must be spayed or neutered at owner's expense before the dog will be returned.
5. City/county must develop and implement a detailed enforcement plan, which would include canvassing, monitoring and reporting of statistics, such as dog attacks, euthanasia rates, shelter impounds, etc, as necessary to assess effectiveness of the ordinance. Funding for enforcement must be made available.
6. Penalties for violation of the law should include penalty fees and prosecution if fees are not paid and/or violations are not corrected.
7. City/county must implement an effective public awareness and education plan about responsible pet ownership, pet adoption, and the benefits of spay and neuter.
8. City/county must provide cost spay neuter and/or vouchers. Funding must be made available.
9. Exemptions to the law should include: medical reasons; guide dogs; law enforcement dogs; rescue dogs; guide, signal or service dogs; animals in the care of shelters, humane societies, etc. that have spay neuter policies and procedures in place; dogs in transit - those temporarily in the city.

Suggested Language for Mandatory Spay Neuter Legislation

Prohibition

No person shall own or harbor any dog over the age of six months that has not been spayed or neutered unless the person holds an unaltered animal permit or breeding license issued by the City.

When issuing a permit for an unaltered animal the animal control authority shall also provide to the applicant a voucher with a value not to exceed \$ _____ for the payment of all or part of the cost of a spay or neuter operation by a licensed veterinarian on such animal. The animal control authority shall compile, maintain and make available to the public a list of veterinarians who accept such vouchers as full or partial payment for spay or neuter operations.

Exemptions

The following dogs are exempt from unaltered animal and breeding permit requirements:

- (1) Dogs documented as having been appropriately trained and actively used by law enforcement agencies for law enforcement and rescue activities;
- (2) Dogs documented as guide, signal, or service dogs pursuant to California Penal Code Section _____.
- (3) Dogs certified by a licensed veterinarian as not being suitable subjects for spaying and neutering due to health reasons. A signed statement from a licensed veterinarian is required and shall state specifically the medical grounds for the exemption.;
- (4) Dogs under the care of governmental animal control agencies; animal rescue organizations humane society, or similar organization, whether public or private, whose principal purpose is securing the adoption of dogs provided that such organization has a policy and rules requiring spaying and neutering of all dogs and placed for adoption.
- (5) Dogs temporarily harbored in the city for less than _____ days within one calendar year. The owner of such animal is required to prove such temporary harboring.

Enforcement

A detailed enforcement plan must be developed and implemented, which would include canvassing, monitoring and reporting of statistics, such as dog attacks, euthanasia rates, shelter impounds, etc, as necessary to assess effectiveness of the ordinance. Funding for enforcement must be made available.

Low Cost Spay Neuter

The City must provide low cost spay neuter and/or vouchers for owners who wish to get their dog neutered. Funding must be made available.

Penalties

Any owner found to be in violation of this ordinance and not classified within the exceptions shall be required to correct the violations and/or be subject to fines. Penalty fines are not to exceed \$ _____ for the first violation, \$ _____ for the second violation, and \$ _____ for the third violation. If the owner does not correct the violations or pay required fines, the violation becomes a misdemeanor and the owner may be prosecuted as such.

Redemption

Any owner redeeming an impounded unaltered animal will be required to pay a spay/neuter fee in the amount of \$ _____ in addition to the impound fees imposed. This fee will be refunded if the animal is spayed or neutered within 30 days. Any unaltered animal impounded twice or more within a 3 year period will be altered at the guardian's expense prior to redemption. At the option of the guardian, required spaying or neutering may be performed by a private veterinarian.

Public Information and Education

The City shall develop public information and education campaigns, in coordination with other animal interest groups, about responsible pet ownership, pet adoption, and the benefits of spay and neuter operations. All education materials shall be made available to the general public and provided to each person obtaining a license or redeeming an animal. Funding must be made available.

**Commission Recommendations on
Breeding Requirements
September 20, 2005**

Based on research conducted by the Commission, conversations with representatives from other counties in the state of California, expert testimony, and public comment, the Commission recommends the following requirements for breeder regulations for all dogs:

1. Breeders must obtain a permit on an annual basis and pay a fee for that permit.
2. There must be a limit on the number of litters per year.
3. Requirements for a healthy environment for breeding.
4. Absolutely no inbreeding.
5. Breeder must provide customers with proof of initial exam and vaccine by a licensed veterinarian for all puppies sold.
6. Breeders must print permit number in advertisements.
7. Breeders who sell puppies must provide education to their customers about canine health, behavior, and development.
8. Anyone who has been convicted of animal cruelty and/or neglect is ineligible for a permit.

October 18, 2005

Chris Jay Hoofnagle
944 Market St #709
San Francisco, CA 94102

Committee Clerk
City Operations and Neighborhood Services Committee
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: Dog / Dog Owner Regulation

Dear Supervisors McGoldrick, Dufty, and Ma:

I submit these comments for the record of the meeting where proposed ordinances 051605 (Penalties related to dog licensing), 051606 (Penalties related to vicious and dangerous dogs), and 051607 (Mandating the spaying and neutering of pit bulls and prohibiting non-permitted breeding of pit bulls). I believe these proposed ordinances will be considered on November 7, 2005 and cannot attend the meeting in person.

Thank you for considering new legislation on these matters. I strongly support the above-listed proposed ordinances, and urge the Committee to consider additional accountability measures for irresponsible dog owners concerning four issues:

1) Off-leash Dogs in Parks.

I live in Noe Valley, where it seems that every park in the neighborhood is a *complete* off-leash area. I would like to run in a park, in order to avoid cars, but instead have to avoid off-leash dogs, some of which are in packs.

I have been chased several times by off-leash dogs. Sometimes dogs on leashes lunge at me aggressively.

I urge you to consider greater limits on off-leash areas in the neighborhood parks. There should be parks--especially population-dense parks like Mission Dolores--that people can enjoy without loose dogs.

2) Enforcement of "curb" responsibilities.

In Noe Valley, there is new dog excrement on every street, every day. Additionally, there is dog excrement on the trails in the off-leash parks. Bernal Heights Park, in particular, has problems with dog owners who do not curb. Because of these problems, I urge you to heighten enforcement of curb responsibilities.

3) Enforcement of leash laws.

The leash laws are routinely ignored in this city, especially in Noe Valley.

Dog owners are not always sensitive to the effect that an unleashed animal has on others. Some walk breeds that have historically been owned for their destructive power, such as rotweilers, off leash. There needs to be more enforcement of leash laws, because too many owners apparently do not care to obey them.

4) Create clear avenues for animal-related complaints.

It is not clear how one complains about non-emergency animal control problems, such as off-leash dogs. The Commission of Animal Control and Welfare website, while an excellent resource for animal *welfare* issues, lacks prominent, clear information about animal *control* problems, such as how to file complaints concerning off-leash dogs.

I urge you to enhance methods for individuals to file complaints concerning animals. Complaints are an essential early warning system in addressing the problem of irresponsible owners.

Respectfully submitted,



Chris Hoofnagle
415-981-6400