

ORDINANCE NO. 1416

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MANTECA ADDING CHAPTER 6.10 TO THE
MANTECA MUNICIPAL CODE REGARDING THE
MANDATORY NEUTERING AND SPAYING OF PIT BULL BREEDS

The City Council of the City of Manteca does ordain as follows:

SECTION I. Chapter 6.10 is added as follows:

Chapter 6.10

MANDATORY SPAYING AND
NEUTERING OF PIT BULL BREEDS

Sections:

6.10.010 Findings.

6.10.020 Purpose and Intent.

6.10.030 Definitions.

6.10.040 Determination of Breed.

6.10.050 Mandatory Spaying and Neutering of Pit Bulls; Exceptions.

6.10.060 Penalties.

6.10.070 Allocation of Fees and Fines Collected.

6.10.080 Requiring Permit for the Breeding and Transferring of Pit Bull Puppies.

6.10.090 Granting or Denying a Permit.

6.10.100 Revocation of Permit.

6.10.110 Transference and Sale of Pit Bull Puppies.

6.10.120 Fines for Failure to Comply with Permit Requirements.

6.10.130 Allocation of Fees and Fines Collected.

6.10.140 Exceptions to Permit Posting Requirements.

6.10.150 Operative Date.

6.10.010 Findings

The City Council adopts this Chapter based upon the following findings:

A. The legislature of the State of California approved of breed specific mandatory spaying and neutering by adopting Senate Bill 861 (SB 861), codified at California Food & Agricultural Code § 31683 and California Health & Safety Code § 122331.

B. The intent of SB 861 was to enable local governments to pass ordinances restricting the breeding of specific dog breeds by mandating the spaying and neutering of specific dog breeds.

C. It is the City Council's intention that nothing in this Ordinance shall be deemed to conflict with state law as contained in the California Food & Agricultural Code and California Health & Safety Code.

D. It is the City Council's intention that nothing in this Ordinance shall be construed to prevent dog owners in compliance with this section from maintaining intact breeds.

E. Pit bull breeds and pit bull mixes constitute a majority of unadopted dogs held in animal shelters.

F. To protect the public health, safety and welfare, it is the desire of the City council to modify the Manteca Municipal Code consistent with SB 861, regarding the mandatory spaying and neutering of pit bull breeds and the permissive maintenance of and breeding of intact pit bull breeds.

G. Restricting the maintenance of and breeding of intact pit bulls and requiring the spaying and neutering of pit bull breeds will not prevent responsible pet owners and pet breeders from owning, breeding, or showing pit bull breed.

6.10.20 Purpose and Intent

A. It is the purpose and intent of this chapter to require the mandatory spaying and neutering of all pit bull breeds whose owners have not obtained a permit to maintain an intact breed.

B. It is the purpose and intent of this chapter to establish a permit system allowing responsible owners to maintain an intact pit bull breed and to breed pit bulls.

6.10.030 Definitions

A. Whenever the word "Pit Bull" is used in this Chapter, it shall mean the any dog that is a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, American Staffordshire Terrier, or any other 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 6.10.030 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. Whenever the word "City" is used in this Chapter, it shall mean the City of Manteca.

C. Whenever the word "Department" is used in this Chapter, it shall mean the City of Manteca Animal Services Unit.

D. Whenever the word "Municipal Code" is used in this Chapter, it shall mean the City of Manteca Municipal Code.

6.10.040 Determination of Breed

A. 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 Department at which a Department staff member shall make a determination as to whether or not the dog is a pit bull.

B. 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 staff member's determination s/he may request a hearing before the Department's Director or his/her designee. The hearing shall be held no more than 30 days after the Director receives the request. The hearing may be informal and rules of evidence not strictly observed. The decision of the Director or his/her designee is final.

6.10.050 Mandatory Spaying and Neutering of Pit Bulls; Exceptions

No person may own, keep, or harbor any dog within the City 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 thirty (30) days of the operative date of this ordinance, or within thirty (30) days of, taking possession or ownership of an unspayed or unneutered pit bull, the owner, guardian or keeper must submit such documentation to be verified by the Department.

C. The pit bull has been present in the City for less than thirty (30) days.

D. The owner, guardian or keeper has obtained, or has submitted an application for a breeding permit in accordance with Section 6.10.090 of this chapter.

E. Determination of breed is under appeal pursuant to Section 6.10.040 above.

F. The pit bull is a show dog. Within thirty (30) days of the operative date of this ordinance, or within thirty (30) days of taking possession or ownership of an unspayed or unneutered pit bull, the owner, guardian or keeper must submit a copy of the organization papers (AKC or UKC) to the Department demonstrating the pedigree information and show dog registration and that the dog conforms with the same breeding permit guidelines set forth in Section 6.10.080 of this chapter below.

6.10.060 Penalties

Violation of Section 6.10.050 may result in the following penalties:

A. A first violation may result in the Department impounding the pit bull and disposing of the pit bull in accordance with Sections 6.04.031 and 6.04.050 of the Municipal Code. A first violation shall be an infraction punishable by a fine as set forth in Section 1.10 of the Manteca Municipal Code. In order for the owner, guardian or keeper to reclaim the pit bull from the Department, in addition to paying the other charges and fees set out in Section 6.40.080, one of the following must occur:

1. The Department 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 Department. There may be additional fees for any extraordinary care provided.

2. In the alternative, the owner, guardian or keeper shall arrange for another veterinarian within the City or San Joaquin County to spay or neuter and shall pay the Department a fee of \$60, which shall cover the Department's costs of delivering the dog to a vet of the owner, guardian or keeper's choosing. The Department 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 Director, or his/her designee, the Director 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 Department shall have the authority to impound the dog, and the owner, guardian or keeper may be charged with a second violation under 6.10.060(B), below.

4. In the event that the Director or his/her 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 Director or his/her 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 in the County Jail 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 Department impounding the pit bull and disposing of the pit bull in accordance with Sections 6.04.031 and 6.04.050 of the Municipal Code.

6.10.070 Allocation of Fees and Fines Collected

All fees and the City's share of all fines collected under Section 6.10.060 shall be used only by the Department to fund the implementation and enforcement of the pit bull spaying/neutering program.

6.10.080 Requiring Permit for the Breeding and Transferring of Pit Bull Puppies

A. No person shall cause or allow any pit bull, as defined in Section 6.10.030 of the Municipal Code, which is owned, harbored or kept within the City to breed or give birth without first obtaining a permit as described in this chapter.

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.

6.10.090 Granting or Denying a Permit

A. 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 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 Department 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 provisions of 6.10.090 Title 6 of the Municipal Code and all applicable State animal welfare laws.

3. The Department 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 Department 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 a Bull Terrier, Miniature Bull Terrier, American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Terrier with the appropriate registry for its breed (American Kennel Club, United Kennel Club, American Dog Breeders Association ("ADBA") or any other valid registry as determined by the Department.

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. 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; or has had his/her dog identified as a nuisance.
3. The applicant has violated any provisions of Municipal Code Title 6.
4. The applicant has applied for a permit within the last ten months.

C. The Department may on one or more occasions, up to a year after issuing the permit, perform an inspection of the dog's living quarters to ensure that the standards required to receive a permit are met. The Department 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 Department access to conduct the inspection. 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 Department's initial attempt, or the owner, guardian or keeper fails or refuses to allow an inspection, the Department shall not issue a permit.

6.10.100 Revocation of Permit

A. The Department may, after conducting a hearing, revoke a breeding permit for violations of the provisions of Title 6 of the Municipal Code. Within five days of the Department's knowledge of any such violations, a hearing officer, who is any designated representative of Department or the City of Manteca Police Department, 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 6.10.100 breeding permit. 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 hearing officer shall fix a time not less than ten (10) or more than thirty (30) days from the date of the violation notice. The hearing officer shall fix a place for said hearing and cause all parties to be notified, not less than five (5) days before the date of such hearing. The hearing may be informal and the rules of evidence not strictly observed. Within fifteen days following the hearing, the hearing officer shall issue his/her decision to all parties. The decision of the hearing officer is final. Upon a finding of a violation, the hearing officer may impose appropriate remedies on the owner, guardian, or keeper. Any violation(s) may also be considered in future permitting decisions.

B. After the Department has issued a permit, it may revoke the permit pursuant to procedures set forth in Section 6.10.100(A) if a subsequent inspection of the premises under Section 6.10.090(C) 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 Department's initial attempt, or if the owner, guardian or keeper refuses the Department

access for an inspection. If the dog is already pregnant or the puppies are born, the Department may, pending a hearing, impound the pit bull and/or its puppies in accordance with Section 6.40.050 of the Municipal Code. After a hearing, the Department may fine the owner, guardian or keeper an amount not to exceed \$500, permanently confiscate the puppies and dispose of them in accordance with Section 6.40.050 of the Municipal Code, and consider the violation in future permitting decisions.

6.10.110 Transference and Sale of Pit Bull Puppies

A. Any owner, guardian or keeper residing in or conducting a transaction within the City of Manteca 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.

B. The breeder shall not remove puppies from the litter until the puppies are at least eight (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 Section 6.10.050(F) must be spayed or neutered by the breeder prior to transfer.

E. Within three (3) weeks of the time that the litter is whelped, the breeder shall send to the Department a head count of how many puppies were live born. Within three (3) weeks after the breeder transfers physical possession of each puppy, the breeder shall notify the Department of the name, address, and telephone number of the new owner, guardian or keeper of each puppy.

6.10.120 Fines for Failure to Comply with Permit Requirements

A. A violation of the breeding permit provisions of Section 6.10 shall be an infraction punishable by a fine not to exceed \$500. Such violations must be corrected within thirty (30) days.

B. After thirty (30) days of a first citation, if the owner, guardian or keeper fails to correct a violation of Section 6.10, 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 thirty (30) days of a prior conviction will be punishable as a misdemeanor. The punishment shall be imprisonment in the County Jail for a period not to exceed six months or by a fine not exceeding \$1,000, or by both such fine and imprisonment.

C. Failure to include a prominently posted permit number when transferring pit bull puppies under Section 6.10.110(A) 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 Department with the number of puppies born and information about a new owner, guardian or keeper of each puppy in accordance with Section 6.10.110(E) 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 Department with the new owner, guardian or keeper's information for each puppy, will be considered a separate and individual violation.

6.10.130 Allocation of Fees and Fines Collected

All fees and the City's share of all fines collected under Section 6.10.120 shall be used only by the Department to fund the implementation and enforcement of the pit bull breeding permit program.

6.10.140 Exceptions to Permit Posting

Requirements The Department or a valid 501(0)(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 as described in Section 6.10.110(A).

6.10.150 Operative Date

Notwithstanding the provisions of Section 6.10.050, the provisions of this chapter mandating the spaying and neutering of pit bulls shall not be operative until the effective date of this ordinance. Notwithstanding the provisions of Sections 6.10.080 through 6.10.110, the provisions of this Section requiring a permit for the breeding and transfer of pit bull puppies shall not be operative until the effective date of this ordinance.

SECTION II: EFFECTIVE DATE.

This Ordinance shall become effective thirty (30) days from adoption.

SECTION III: PUBLICATION.

Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance to be published once in the Manteca Bulletin, a newspaper of general circulation, along with a notice setting forth the date of adoption and title of this Ordinance.

DATED: September 2, 2008

AYES: Councilmen DeBrum, Harris, Hernandez, Snyder and Weatherford

NOES: None

ABSTAIN: None

ABSENT: None



WILLIE W. WEATHERFORD
MAYOR

ATTEST:



JOANN TILTON, MMC
CITY CLERK

CERTIFICATE

I, JOANN TILTON, CITY CLERK of the City of Manteca, do hereby certify that Ordinance No. 1416 was INTRODUCED at the adjourned regular meeting of the Manteca City Council held the 18th day of August, 2008 and was thereafter PASSED, ADOPTED AND ORDERED TO PRINT at the regular meeting of the Manteca City Council held the 2nd day of September, 2008.



JOANN TILTON, MMC
CITY CLERK