

ORDINANCE NO. 17-2009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE AMENDING TITLE 8 OF THE ELK GROVE MUNICIPAL CODE AMENDING CHAPTER 8.02 REGARDING THE LAWS AND REGULATIONS PERTAINING TO GENERAL PROVISIONS, CUSTODY, CARE, AND CONTROL OF ANIMALS, AND AMENDING CHAPTERS 8.01 AND 8.03 REGARDING ANIMAL LICENSING IMPLEMENTING A MICROCHIP REQUIREMENT

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Authority

The purpose of this ordinance is to regulate the advertisement for sale and ultimate transaction involving young dogs and cats less than eight (8) weeks of age. The City has the authority to adopt this ordinance pursuant to California Constitution Article 11, section 7.

Section 2:

Chapter 8.01 of the Elk Grove Municipal Code "Definitions" is amended to add the following definition:

8.01.020 Definitions

"M" definitions:

1. "Microchip" means the injection of an identification chip below the skin of an animal by a veterinarian, registered veterinary technician, or other qualified staff.

Section 3:

Chapter 8.02 of the Elk Grove Municipal Code "Custody, Care, and Control of Animals" is amended to add the following:

8.02.230 Sale of puppies and kittens

A

1. Except as otherwise authorized under any other provision of law, it shall be unlawful for any person to sell one (1) or more puppy or kitten under eight (8) weeks of age, unless, prior to any physical transfer of the puppy or kitten from the seller to the purchaser, the puppy or kitten is approved for sale, as evidenced by written documentation from a veterinarian licensed to practice in California.

2. For the purposes of this section, the sale of a puppy or kitten shall not be considered complete, and thereby subject to the requirements and penalties of this section, unless and until the seller physically transfers the puppy or kitten to the purchaser.

B.

1. Any person who violates this section shall be guilty of a Misdemeanor.

2. With respect to the sale of two (2) or more puppies or kittens in violation of this section, each puppy or kitten unlawfully sold shall represent a separate offense under this section.

C. This section shall not apply to any of the following:

1. An organization, as defined in Section 501(c)(3) of the Internal Revenue Code, or any other organization that provides, or contracts to provide, services as a public animal sheltering agency.

2. A pet dealer as defined under Article 2 (commencing with Section 122125) of Chapter 5 of Part 6 of Division 105 of the Health and Safety Code.

3. A public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group regulated under Division 14 (commencing with Section 30501) of the Food and Agricultural Code.

Section 4:

Chapter 8.02 of the Elk Grove Municipal Code "Custody, Care, and Control of Animals" is hereby amended to read as follows:

8.02.240 Advertisements for sale and transfer of dogs and cats

A. Any person who advertises to the public the availability of any dog or cat for sale or transfer, whether for compensation or otherwise, shall prominently display the license number as described in Section 8.03.010 of this Title in any such advertisement except as provided in subsection (A)(3) of this Section.

1. If the person is selling a litter of puppies and/or kittens under the age of four (4) months, the license number of the animal who was bred must be displayed.

2. If the person is selling a dog or cat over the age of four (4) months, the license number of the animal who is being sold or transferred must be displayed.

3. If the person is selling a puppy or kitten under the age of four (4) months, the person selling the puppy or kitten shall disclose upon request to the new owner or the Department the name and address of the animal's original owner.

B. The dog or cat license holder must provide the dog or cat license number to any person who purchases or receives any dog or cat from the license holder and include the license number on any receipt of sale or transfer document. If the animal being sold or transferred is a locally bred puppy or kitten under the age of four (4) months, the license holder must provide the license number of the animal who was bred on any receipt of sale or transfer document. If the puppy or kitten was bred from an animal residing outside the City's jurisdictional boundaries, then the person selling the animal shall provide the name and address of the source of such dog or cat and any other pertinent information required by the Animal Services Officer.

C. No person shall present any dog or cat for sale or transfer, whether for compensation or otherwise, in any public place. The term public place shall include but not be limited to streets, highways, sidewalks, carnivals, flea markets, swap meets, outdoor markets, boardwalks, and areas in front of commercial establishments.

D. No person shall give away any dog or cat as a prize or as an inducement to enter into any contest, lottery, drawing, game, or competition.

E. No person shall give away any dog or cat as an inducement to enter a place of business, or to enter into a business arrangement.

F. A commercial establishment selling locally bred dogs or cats on the premises shall prominently display the license number(s) of the dogs and/or cats that are sold in said establishment and any other pertinent information required by the Animal Services Officer.

1. If the commercial establishment is selling a litter of puppies and/or kittens under the age of four (4) months, the license number of the animal who was bred must be displayed.

2. If the commercial establishment is selling a dog or cat over the age of four (4) months, the license number of the animal who is being sold or transferred must be displayed.

3. If the commercial establishment is selling a puppy or kitten under the age of four (4) months, the commercial establishment shall display the source or origin of the puppy or kitten. Source or origin refers to where the animal came from, which would include name and address.

4. If a commercial establishment is advertising the commercial establishment itself and not a particular animal for sale or transfer then no license number is required to be displayed in said advertisement.

G. A commercial establishment selling dogs or cats on the premises that were bred within the State of California but not within the City shall make available during regular business hours to the Department the name and address of the source of such dogs and/or cats and any other pertinent information required by the Animal Services Officer.

H. No person shall sell or transfer a dog or cat under the age of four (4) months of age that was bred outside the state without first providing the Department with a current or valid California health certificate for each animal intended to be sold or transferred within the City and upon request provide the new owner with said California health certificate.

Section 5:

Section 8.03.080 of the Elk Grove Municipal Code "Animal License" is hereby added to read as follows:

8.03.080 Microchip required for license.

As a condition for the issuance of a dog or cat license, all applicants for such license shall procure and deliver a certificate issued by a duly-licensed veterinarian, certifying that each dog or cat to be licensed has been administered an anti-rabies vaccination

and has had a microchip inserted prior to the issuance of said license for the current license period.

Currently, licensed dogs or cats are exempt from the microchip procedure for up to one (1) year or the next licensing period, whichever is first, after the adoption of the ordinance codified in this chapter.

Section 6: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 7: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 8: Savings Clause

The provisions of this chapter shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered

Section 9: Effective Date and Publication

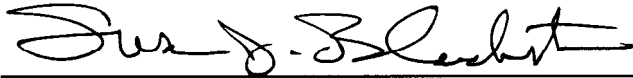
This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: 17-2009
INTRODUCED: July 22, 2009
ADOPTED: August 26, 2009
EFFECTIVE: September 25, 2009



PATRICK HUME, MAYOR of the
CITY OF ELK GROVE

ATTEST:



SUSAN J. BLACKSTON, CITY CLERK

APPROVED AS TO FORM:



SUSAN COCHRAN, CITY ATTORNEY

Date signed: September 1, 2009

**CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 17-2009**

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Susan J. Blackston, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance, published and posted in compliance with State law, was duly introduced on July 24, 2009 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 26, 2009 by the following vote:

AYES : **COUNCILMEMBERS:** *Hume, Scherman, Davis, Detrick*

NOES: **COUNCILMEMBERS:** *None*

ABSTAIN: **COUNCILMEMBERS:** *None*

ABSENT: **COUNCILMEMBERS:** *Cooper*

A summary of the ordinance was published pursuant to GC 36933(c) (1).



**Susan J. Blackston, City Clerk
City of Elk Grove, California**