

1 [Health Code - Spaying, Neutering, and Sterilizing of Dogs]

2

3 **Ordinance amending the Health Code to require that every dog in San Francisco, with**
 4 **certain exceptions, be spayed, neutered, or chemically sterilized, rather than requiring**
 5 **such procedures only for pit bulls; to establish a process and fee for applying for an**
 6 **unaltered dog permit, and a process for granting, denying, or revoking such permit,**
 7 **with a hearing following a denial or revocation; to regulate the transfer, sale, and**
 8 **breeding of unaltered dogs; and to establish penalties and conditions of impoundment**
 9 **for violations of the mandatory spay, neuter, or chemical sterilization requirements.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
 11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
 12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
 13 **Board amendment additions** are in double-underlined Arial font.
 14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
 15 **Asterisks (* * * *)** indicate the omission of unchanged Code
 16 subsections or parts of tables.

14

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

16

17 Section 1. The Health Code is hereby amended by adding Article 1E, consisting of
 18 Sections 1E.1 through 1E.9, to read as follows:

19

20 **ARTICLE 1E: SPAYING, NEUTERING, AND STERILIZING OF DOGS**

21

22 **SECTION 1E.1. FINDINGS.**

23 The City and County of San Francisco (“City”) is committed to compassionate care for its
 24 domestic and wild animals, including its large dog population. The City spends significant resources
 25 caring for unowned and unwanted dogs. Despite these efforts, the City is unable to find safe, nurturing

1 homes for all of its dogs. Requiring most dogs to be spayed, neutered, or sterilized will significantly
2 reduce the population of homeless dogs entering the shelter, saving resources, as well as lowering
3 euthanasia rates. Other benefits to spaying, neutering, or sterilizing dogs include a decreased risk of
4 canine cancer and infections, fewer behavioral issues, and helping dogs to live longer and safer lives.

5
6 **SECTION 1E.2. DEFINITION.**

7 For the purposes of Sections 1E.1 through 1E.9, inclusive, of this Article 1E, the following
8 terms shall have the following meanings:

9 “Competition dog” means any dog who competes in events approved by a registry which
10 require dogs to be intact, and meets one of the following requirements:

11 (1) Within the prior 365 days, the dog has competed in at least one competition
12 approved by such a registry;

13 (2) The dog has earned a conformation, obedience, agility, carting, herding, protection,
14 rally, sporting, working, or other title from a purebred dog registry; or

15 (3) The guardian of the dog is a member of a purebred dog breed club, approved by the
16 Department, which enforces a code of ethics that includes restrictions on breeding dogs with genetic
17 defects or life-threatening health problems.

18 “Department” means the Animal Care and Control Department.

19 “Director” means the Executive Director of the Department, or the Executive Director’s
20 designee.

21 “Guardian” means an individual who owns, keeps, or harbors a dog.

22 “Registry” means the American Kennel Club (“AKC”), United Kennel Club (“UKC”),
23 American Dog Breeders Association (“ADBA”), or other national registry approved by the
24 Department.

1 “Unaltered dog” means a dog that has not undergone a spay (female) or neuter (male)
2 procedure, which involves surgically removing the reproductive organs, or chemical sterilization.

3
4 **SECTION 1E.3. MANDATORY SPAYING, NEUTERING, AND STERILIZING OF DOGS;**
5 **EXCEPTIONS.**

6 No person may own, keep, or harbor within the City any dog that the person knows, or should
7 know, has not been spayed, neutered, or chemically sterilized, unless one of the following exceptions
8 applies:

9 (a) The dog is under one year of age;

10 (b) A veterinarian certifies that the dog cannot be spayed, neutered, or chemically sterilized
11 without a reasonable likelihood of suffering serious bodily harm or death due to age, illness, or other
12 physical condition, and further determines the time frame, if any, after which the dog can be spayed,
13 neutered, or chemically sterilized without there being a reasonable likelihood of suffering serious
14 bodily harm or death. Within 30 days of owning, keeping, or harboring an unaltered dog, the guardian
15 must submit the veterinarian’s certification and determination to the Department for verification; or

16 (c) The guardian has obtained an unaltered dog permit in accordance with Section 1E.4, or has
17 submitted an application for an unaltered dog permit in accordance with Section 1E.4 which has not yet
18 been decided by the Department.

19 This Section 1E.3 shall not be operative until the completion of 30 days following the effective
20 date of the ordinance in Board of Supervisors File No. 251162, enacting this Section 1E.3.

21 **SECTION 1E.4. GRANTING AN UNALTERED DOG PERMIT.**

22 A guardian of an unaltered dog may obtain an unaltered dog permit, valid for one year, which
23 is nontransferable both as to the permit holder and the dog. The permit may be obtained from the
24 Department if all of the following conditions are met and none of the conditions described in Section
25 1E.5(a) have occurred:

1 (a) The unaltered dog is one of the following:

2 (1) A competition dog as defined in Section 1E.2; or

3 (2) A dog who has been trained for law enforcement purposes and is used by a public
4 law enforcement agency for law enforcement purposes; or

5 (3) A dog who is not required to be spayed, neutered, or sterilized in accordance with
6 Section 1E.3(a) and (b).

7 (b) The applicant has submitted to the Department the forms required by the Department, and
8 has paid the required fee of \$186 for dogs under subsection (a)(1), and \$108 for dogs under
9 subsections (a)(2) and (a)(3), of this Section 1E.4.

10
11 **SECTION 1E.5. DENIAL OR REVOCATION OF PERMIT.**

12 (a) **Permit Denial or Revocation.** The Department may deny an application for, or revoke, an
13 unaltered dog permit based on any one of the following:

14 (1) The guardian of the unaltered dog is not in compliance with the provisions of
15 Section 1E.4;

16 (2) The Department has received at least one complaint, signed under penalty of
17 perjury, stating that the guardian of an unaltered dog has allowed it to run loose or escape in a public
18 area, or has neglected it or another animal;

19 (3) The guardian of the unaltered dog has been cited for violating a State law or
20 municipal code relating to the care and control of animals;

21 (4) A court or an agency of appropriate jurisdiction has determined that the unaltered
22 dog is a nuisance, or that the unaltered dog is a vicious and dangerous dog;

23 (5) Another unaltered dog permit held by the guardian of an unaltered dog has been
24 revoked;

1 (6) An unaltered female dog has had more than one litter per year, or five or more
2 litters in her lifetime; or

3 (7) The permit application contains a material misrepresentation or omission of fact.

4 (b) **Notice of Denial or Revocation.** Within 10 days of its decision to deny or revoke a permit
5 under subsection (a), the Department shall send to the guardian a written notice, either by U.S. Mail or
6 electronically, to the guardian of the Department's decision to deny or revoke the unaltered dog permit,
7 stating the reasons for the denial or revocation, either by U.S. Mail or electronically.

8
9 **SECTION 1E.6. APPEAL FROM DENIAL OR REVOCATION OF PERMIT.**

10 (a) **Request for Hearing.** Any person whose application is denied or whose permit is revoked
11 may seek administrative review of the denial or revocation by filing an appeal in writing with the
12 Director no later than 20 calendar days from the date of receiving the denial or revocation. An appeal
13 shall be deemed filed on the date that the Director receives it.

14 (b) **Hearing Procedures.**

15 (1) The Director shall take the following actions within 10 days of receiving an appeal:
16 (i) set a date for the hearing, which date shall be no less than 10 and no more than 30 days from the
17 date that the appeal was filed, and (ii) send written notice of the hearing date to the appellant and the
18 Department, either by U.S. Mail or electronically.

19 (2) The hearing shall not be conducted according to technical rules of evidence. Any
20 relevant evidence is admissible if it is the sort of evidence on which responsible persons are
21 accustomed to rely in the conduct of serious affairs. The Director may, in the Director's discretion,
22 require testimony under oath.

23 (3) The appellant and the Department shall be given the opportunity to present evidence
24 concerning the denial or revocation.

1 (c) **Decision.** Upon completion of the hearing, the Director may uphold or reverse the decision
2 being appealed. The Director shall render a decision in writing within 30 days of the hearing. The
3 Director shall serve the decision on the appellant and the Department within 10 days of the issuance of
4 the decision, either by U.S. Mail or electronically.

5 (d) **Failure to appear.** If the appellant fails to appear at the hearing, the Director shall
6 confirm that notice of the hearing was properly provided under subsection (b) and the decision shall be
7 effective immediately.

8
9 **SECTION 1E.7. TRANSFER, SALE, AND BREEDING OF UNALTERED DOGS.**

10 (a) Any person who offers to transfer, sell, or breed an unaltered dog within the City must
11 include a valid unaltered dog permit. “Transfer” in this Section 1E.1.7 includes, but is not limited to
12 gifting, re-homing, or adopting. “Breed” in this subsection (a) means the practice of mating selected
13 dogs with the intention of maintaining or producing specific qualities and characteristics.

14 (b) Within 10 days after the transfer within the City of any unaltered dog that is one year of age
15 or older, the guardian of an unaltered dog must notify the Department of the name and address of the
16 transferee. The permit and microchip numbers, if any, of the unaltered dog must appear in a document
17 transferring the dog to the new guardian.

18 (c) Within 30 days after a litter is born to a dog, the guardian of the dog must advise the
19 Department in writing of the number of live born puppies. When a puppy younger than one year old is
20 sold or otherwise transferred to another person within the City, the guardian must advise the
21 Department of the name and address of the transferee and the microchip number of the puppy, if
22 applicable, within 10 days of the transfer.

23 (d) This Section 1E.7 shall not be operative until the completion of 30 days following the
24 effective date of the ordinance in Board of Supervisors File No. 251162, enacting this Section 1E.7.

1 **SECTION 1E.8. PENALTIES.**

2 Any person violating the provisions of Sections 1E.3 through 1E.5, inclusive, of this Article 1E
3 are subject to the following penalties:

4 (a) A first violation may result in the Department impounding the unaltered dog and disposing
5 of the unaltered dog in accordance with Sections 41.7(a) and 41.9 of the Health Code. A first violation
6 shall be an infraction punishable by a fine not to exceed \$250. The guardian of the unaltered dog may
7 reclaim the dog from the Department, in addition to paying the other charges and fees set out in
8 Section 41.10 of the Health Code, provided that the guardian complies with Section 1E.9, below.

9 (b) A second violation committed within 5 years of the first violation shall be a misdemeanor
10 punishable by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period not to
11 exceed six months, or by both such fine and imprisonment. In addition, a second violation may result in
12 the Department impounding the unaltered dog and disposing of the unaltered dog in accordance with
13 Sections 41.7(a) and 41.9 of the Health Code. The guardian of the unaltered dog may reclaim the dog
14 from the Department, in addition to paying the other charges and fees set out in Section 41.10 of the
15 Health Code, provided that the guardian complies with Section 1E.9, below.

16
17 **SECTION 1E.9. IMPOUNDMENT OF UNALTERED DOGS.**

18 The guardian of an impounded unaltered dog may reclaim the unaltered dog if:

19 (a) The dog is spayed, neutered, or sterilized by a Department veterinarian at the guardian's
20 expense. There may be additional fees to be paid by the guardian for any extraordinary care provided;
21 or

22 (b) The dog is spayed, neutered, or sterilized by a Department-approved veterinarian at the
23 guardian's expense. The guardian shall pay the Department's costs to deliver the unaltered dog to the
24 guardian's chosen veterinarian. The veterinarian must sign and return a certificate of completion to

1 the Department within 10 days after the procedure. The veterinarian shall release the dog to the
2 guardian only after the spay, neuter, or sterilization procedure is complete; or

3 (c) At the discretion of the Department, the guardian agrees to have the unaltered dog spayed,
4 neutered, or sterilized and to submit a certificate of completion signed by a licensed veterinarian within
5 10 days of the procedure.

6
7 Section 3. Article 1 of the Health Code is hereby amended by deleting Sections 43
8 through 43.4, 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~~
11 ~~an 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 **~~SEC. 43.1. MANDATORY SPAYING AND NEUTERING OF PIT BULLS; EXCEPTIONS.~~**

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

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

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

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

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

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

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

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

23 ~~Violation of Section 43.1 may result in the following penalties:~~

24 ~~(a) A first violation may result in the Department impounding the pit bull and disposing of~~
25 ~~the pit bull in accordance with Sections 41.7(a) and 41.9 of the San Francisco Health Code. A first~~

1 ~~violation shall be an infraction punishable by a fine not to exceed \$500. In order for the owner,~~
2 ~~guardian or keeper to reclaim the pit bull from the Department, in addition to paying the other charges~~
3 ~~and fees set out in Section 41.10, one of the following must occur:~~

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

8 ~~— (2) In the alternative, the owner, guardian or keeper shall arrange for another veterinarian~~
9 ~~within the City and County of San Francisco to spay or neuter and shall pay the Department a fee of~~
10 ~~\$60, which shall cover the Department's costs of delivering the dog to a vet of the owner, guardian or~~
11 ~~keeper's choosing. The Department shall deliver the dog to the vet, and the vet shall release the dog to~~
12 ~~the owner, guardian or keeper only after the spaying or neutering is complete.~~

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

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

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

7 **~~SEC. 43.3. ALLOCATION OF FEES AND FINES COLLECTED.~~**

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

11 **~~SEC. 43.4. OPERATIVE DATE.~~**

12 ~~—Notwithstanding the provisions of Section 43.1, the provisions of this Section mandating the~~
13 ~~spaying and neutering of pit bulls shall not be operative until the first date that California Health and~~
14 ~~Safety Code Section 122331 is in full force and effect or upon the effective date of this ordinance,~~
15 ~~whichever is later.~~

16
17 Section 4. Effective Date. This ordinance shall become effective 30 days after
18 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
19 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
20 of Supervisors overrides the Mayor's veto of the ordinance.

