

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: ANIMAL SERVICES

BOARD AGENDA# *B-14

Urgent Routine

AGENDA DATE November 9, 2004

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT: APPROVAL TO SET PUBLIC HEARING FOR NOVEMBER 30, 2004 AT 9:35 AM FOR THE CONSIDERATION TO INTRODUCE AND WAIVE THE FIRST READING OF A NEW ORDINANCE RELATING TO THE BREEDING, TRANSFER AND SPAYING AND NEUTERING OF DOGS AND CATS AND ESTABLISHING NEW FEES AND AMENDING EXISTING FEES FOR THE DEPARTMENT OF ANIMAL SERVICES IN AN EFFORT TO ADDRESS PET OVERPOPULATION IN STANISLAUS COUNTY

STAFF RECOMMENDATIONS:

SET A PUBLIC HEARING FOR NOVEMBER 30, 2004 AT 9:35 AM FOR THE CONSIDERATION TO INTRODUCE AND WAIVE THE FIRST READING OF A NEW ORDINANCE RELATING TO THE BREEDING, TRANSFER AND SPAYING AND NEUTERING OF DOGS AND CATS AND ESTABLISHING NEW FEES AND AMENDING EXISTING FEES FOR THE DEPARTMENT OF ANIMAL SERVICES IN AN EFFORT TO ADDRESS PET OVERPOPULATION IN STANISLAUS COUNTY

FISCAL IMPACT: The fiscal impact associated with setting the public hearing and preparing a new ordinance has been primarily budgeted staff time from the departments of the Chief Executive Office, County Counsel and Animal Services. When the proposed ordinance is presented to the Board, staff will present the cost associated with the implementation of the new ordinance.

BOARD ACTION AS FOLLOWS:

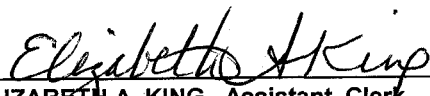
No. 2004-865

On motion of Supervisor Paul, Seconded by Supervisor Mayfield and approved by the following vote,
Ayes: Supervisors: Paul, Mayfield, Grover, Simon, and Chairman Caruso
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION:

1010-08
ATTEST:


ELIZABETH A. KING, Assistant Clerk

APPROVAL TO SET PUBLIC HEARING FOR NOVEMBER 30, 2004 AT 9:35 AM FOR THE CONSIDERATION TO INTRODUCE AND WAIVE THE FIRST READING OF AN ORDINANCE ESTABLISHING NEW FEES AND AMENDING EXISTING FEES FOR THE DEPARTMENT OF ANIMAL SERVICES

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DISCUSSION:

On September 21, 2004 a presentation was made by the Coalition for Cats and Dogs and the Department of Animal Services to the Board of Supervisors regarding the problem of Pet Overpopulation in Stanislaus County. The proposal was a draft ordinance presented by the Coalition for Cats and Dogs that all dogs and cats over the age of four months be spayed or neutered unless their owners acquire a breeder's certification standardizing the quality of care for bred dogs and cats and their offspring.

As directed by the Board, staff worked with appropriate groups to develop a proposed ordinance. All interested and effected groups were invited to two public meetings on October 18, 2004 and November 1, 2004 that were held at Harvest Hall at the Agricultural Center. The meetings were attended by Supervisor Caruso, Mick Krausnick from County Counsel, Chief Executive Office staff, Animal Services staff, City and County officials from surrounding areas, Coalition members, Breeders, Veterinarians, Rescue Organizations, Alley Cat Guardian, Animal Services Auxiliary, the Animal Advisory Board and interested members of the public.

At the first meeting, groups discussed the elements of the proposed ordinance. After the first meeting, County staff met with representatives of the participating groups to receive feedback on the draft ordinance. The agreed upon draft ordinance was sent out to all attendees of the first meeting, prior to the second public meeting. At the second public meeting, the group reviewed a draft ordinance and gave County staff their feedback. There was a lot of discussion regarding the elements and details of the proposed ordinance. While there are items in the proposed ordinance that are not agreed upon by all, the majority of the items were agreed upon by all.

The proposed Ordinance has seven highlighted areas:

- Purpose of regulations
- Animal ownership
- Intact cats and dogs
- Breeding permit
- Penalties
- Sale, adoption and other transfers of dogs and cats
- Licensing

Staff is requesting the Board of Supervisors to set the public hearing for November 30, 2004 at 9:35 a.m. to present the proposed Ordinance to the Board. At that time a staff report will be presented outlining the new ordinance and the fiscal impact associated with its implementation. A copy of the proposed Ordinance is attached.

POLICY ISSUES:

The Board of Supervisors should evaluate if the proposal meets the stated Board objectives of a safe, healthy community, promote efficient government and achieve multi jurisdictional cooperation.

STAFFING IMPACT:

There are no staffing impacts associated with this item at this time.

ORDINANCE NO. C.S. _____

AN ORDINANCE RELATING TO THE BREEDING, TRANSFERRING, LICENSING AND SPAYING AND NEUTERING OF DOGS AND CATS

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 7.54 is added to the Stanislaus County Code (Title 7) to read as follows:

"Chapter 7.54 BREEDING, TRANSFERRING, LICENSING AND SPAYING AND NEUTERING OF DOGS AND CATS.

- 7.54.010 Purpose of regulations.
- 7.54.020 Animal ownership.
- 7.54.030 Intact cats and dogs.
- 7.54.040 Breeding permit.
- 7.54.050 Penalties.
- 7.54.060 Sale, adoption and other transfers of dogs and cats.
- 7.54.070 Licensing.

Section 7.54.010 Purpose of regulations. The Board of Supervisors finds and declares that there exists a pet overpopulation problem in the County of Stanislaus that has resulted in a threat to public safety and health, inhumane treatment of animals, mass euthanasia of dogs and cats at the local animal shelters and escalating costs for animal care and control. The Board of Supervisors further finds that uncontrolled breeding is a contributing cause to this problem. The Board of Supervisors further finds that part of the solution is for all dogs and cats four months or older to be microchipped, or other form of identification acceptable to the Department of

Animal Services, spayed or neutered, unless the owners purchase the appropriate licenses/permits for the privilege of maintaining the animal intact and allowing it to breed. The Board of Supervisors also finds that an increase in the license fee for unaltered dogs and cats will encourage dog and cat owners to spay/neuter their dog(s) and cat(s) in order to qualify for the lower altered dog and cat license fee. Further, the Board of Supervisors finds that tighter regulation over the transfer of dogs and cats will help alleviate the county's pet overpopulation problem by allowing increased control over the transfer of dogs and cats.

Section 7.54.020 Animal ownership.

A. Animal Owner, for purpose of this section, shall mean any person harboring, keeping or providing care or sustenance to a domestic animal for fourteen or more days on property within the jurisdiction of Stanislaus County. Such a person shall be subject to the requirements of this chapter. This definition does not apply to government agencies, animal rescue organizations which have demonstrated to the Department of Animal Services that they have implemented an ongoing spay/neuter program as well as an adoption program, or humane societies or societies for the prevention of cruelty to animals if such societies are incorporated under the provisions of California Corporations Code Section 10400 and the Nonprofit Public Benefit Corporation Law in Part 2 of the California Corporations Code, beginning at Section 5110 and successor sections.

B. Subsection (A) above shall not be interpreted to apply to a person caring for barn cats or a colony of feral cats if such person:

1. Registers with the Department of Animal Services as a caretaker for barn cats or feral cats;

2. Regularly feeds or arranges for the feeding of the cats, including on weekends and holidays;
3. Traps or makes a reasonable effort to trap all barn or feral cats over the age of seven weeks in his/her care, and has them spayed or neutered;
4. Makes a reasonable effort to test all trapped cats for feline leukemia and FIV and has those who test positive humanely euthanized or isolated indoors;
5. Identifies barn or feral cats that have been spayed or neutered by means of ear notching, ear tipping, or ear tagging; and
6. Has all trapped cats vaccinated according to state and local laws.

Section 7.54.030 Intact cats and dogs. No person who owns an intact dog or cat four months or older shall cause, permit, or allow such dog or cat to be unsupervised in a public place unless the dog or cat is microchipped, or has other form of identification acceptable to the Department of Animal Services. The term public place shall include, but not be limited to, streets, highways, sidewalks, parks, carnivals, shopping malls, flea markets, boardwalks, and areas in front of commercial establishments. This requirement applies to all unaltered dogs or cats, whether or not their owner(s) have obtained breeding permits pursuant to section 7.54.040.

Section 7.54.040 Breeding permit.

A. No person shall cause or allow any dog or cat owned, harbored or kept within the County of Stanislaus to breed without first obtaining a breeding permit per each animal, as described below. The term breeding permit means a written

authorization, issued annually by the Director of Animal Services or his or her designee, giving its lawful holder permission to breed a dog or a cat.

B. Each breeding permit shall be valid for one year from the date of issuance, and may be renewed annually before its expiration date. Each applicant for such a permit shall pay an annual fee (\$100.00) as prescribed by the Board of Supervisors and set forth in the fee section of this Title.

C. The Animal Services Department shall administer an animal breeding permit program to allow the breeding of unaltered dogs and cats consistent with criteria and according to procedures established by the Director of Animal Services. Under no circumstances shall such a permit be issued to a person who has been convicted of animal cruelty or neglect.

D. In addition to the criteria and procedures established by the Director of Animal Services, breeding permits shall contain the following terms and conditions:

1. The owner of an unaltered female dog or cat shall not allow the whelping of more than one litter per animal in any household within the permit year. Notwithstanding this provision, the Director of Animal Services or his or her designee is hereby authorized, upon application of a permittee, to allow on a one-time basis the whelping of up to two dog or cat litters per breeding animal within any domestic household within a permit year, if the permittee established, according to regulations promulgated by the Director of Animal Services, including a veterinarian verification of health status that such breeding is required due to the health of the animal. In the event that a permittee is forced to euthanize a litter of dogs or cats, the Director of

Animal Services or his or her designee may authorize the whelping of one additional litter of dogs or cats within the same permit year by the permittee;

2. No offspring may be sold, adopted, bartered, or otherwise transferred, whether for compensation or otherwise, until it has reached the age of at least seven weeks and the offspring have received its first immunization against common diseases;

3. The sale or adopting of a dog or cat shall include a statement signed by the seller attesting to the signatory's knowledge of the animal's health and the animal's immunization history;

4. Any holder of a breeding permit who advertises to the public the availability of any dog or cat for sale, adoption, or transfer, whether for compensation or otherwise, must prominently display the permit number in any such advertisement. Further, the breeding permit holder must provide the permit number to any person who purchases, adopts or receives any animal from the permit holder and include the permit number on any receipt of sale or transfer document;

5. Commercial establishments selling locally bred dogs or cats shall prominently display the breeding permit number(s) of the breeder(s) whose dogs and cats are sold in said establishments and any other pertinent information required by the Director of Animal Services or his or her designee; commercial establishments selling dogs and cats which were not bred within the County of Stanislaus shall prominently display the name and address of the breeder(s) of such dogs and cats and any other pertinent information required by the Director of Animal Services;

6. Any breeding permit holder selling or otherwise transferring a dog or cat, whether for compensation or otherwise, shall submit to the Animal

Services Department of Stanislaus County the name, address, and telephone number of the animal's new owner within five days from the sale or other transfer, on a Department-approved form;

7. Any breeding permit holder or commercial establishment which sells or otherwise transfers a dog or cat, whether for compensation or otherwise, shall provide to the new animal owner written information regarding the license and permit requirements of the County of Stanislaus applicable to such animal; and

8. Any breeding permit holder shall have his/her dog or cat microchipped and shall register the dog or cat with the Department of Animal Services.

E. The following animals are exempt from the 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 365.5(d), (e) and (f) and successor sections;

3. Dogs and cats certified by a licensed veterinarian as not being suitable subjects for spaying and neutering due to health reasons;

4. Dogs and cats under the care of governmental animal control agencies; animal rescue organizations which have demonstrated to the Department of Animal Services that they have implemented an ongoing spay/neuter plan, as well as an adoption plan; or humane societies or societies for the prevention of cruelty to animals, if such societies are incorporated under the provisions of California Corporations Code Section 10400 and the Nonprofit Public Benefit Corporation law in

Part 2 of the California Corporations Code, beginning at section 5110, and successor sections; and

5. Dogs documented as enrolled in a guide, signal or service dog breeding program administered by a person licensed under Chapter 9.5 (commencing with section 7200) Division 3 of the California Business and Professions Code.

Section 7.54.050 Penalties.

A. Any cat or dog owner found by the Department of Animal Services to be in violation of the breeding permit provisions of this section may correct the violations by providing conclusive proof to the Department of Animal Services that the dog or cat has been microchipped, or has some other form of identification acceptable to the Department of Animal Services, spayed or neutered, or by obtaining the necessary permit(s) mentioned in this section, no later than thirty days from the date when the Department of Animal Services had first notified the owner of the violation. Should the owner fail to correct the violations in the manner described above, the Department shall impose a \$500.00 penalty on the dog or cat owner. Notice of this penalty shall be served by the Department on the dog or cat owner by mail. The penalty shall not be waived by the Department upon the transfer or abandonment of the dog or cat by the non-compliant owner. This penalty shall be imposed in addition to any other applicable civil or criminal penalties.

If the penalty mentioned above in section "A" is not paid and the owner does not microchip or has some other form of identification acceptable to the Department of Animal Services, spay or neuter his/her dog(s) or cat(s) or obtain the breeding permit(s) within fifteen days from the date when the Department of Animal

Services first notified the owner of the imposition of a penalty, the continuing violation of the breeding permit requirement of this section becomes an additional infraction and may be prosecuted as such.

B. Any permit issued pursuant to section 7.54.040 may be revoked if the Director or Animal Services or his or her designee has reasonable cause to believe any of the following to be true:

1. The permittee has violated any County ordinances relating to the keeping, care or use of any animal;
2. The permittee is in violation of any State health or safety law or regulation regarding animal care or control;
3. The permittee has failed to comply with any condition or requirement of the permit or has failed to pay any fee imposed under this code;
4. The permittee refused to allow inspection, upon forty-eight hours written notice, of any animal covered by the permit or the premises on which the animal is kept; or
5. The permittee has transferred, sold or otherwise disposed of the animal for which the permit was originally issued.

C. If, after inspection, the Director of Animal Services or his or her designee concludes that it is probable that one or more of the above grounds for revocation has occurred, it shall cause written notice thereof to be transmitted by mail to the address of the permittee. Said notice shall specify the grounds of possible revocation of the permit and shall specify a date and time for an informal hearing to be held before the Director of Animal Services or his or her designee. Said date shall be not less than five days subsequent to the date the notice is mailed. After the informal

hearing, the Director of Animal Services may modify the terms of the permit or revoke the permit.

D. The permittee may appeal the decision of the Director of Animal Services or his or her designee to the Animal Court if the permittee gives written notice of such appeal within five working days of the decision.

E. Failure to comply with any of the requirements mentioned in sections 7.54.020, 7.54.030, 7.54.040, 7.54.060 and 7.54.070 of this Code is an infraction punishable by a \$100.00 fine for the first occurrence, \$200.00 for the second occurrence and \$300.00 for each subsequent occurrence.

Section 7.54.060 Sale, adoption and other transfers of dogs and cats.

A. Any person who offers or provides, whether for compensation or otherwise, any dog or cat for sale or other type of transfer, shall disclose the transferee information regarding the license and permit requirements of the County of Stanislaus applicable to the transferred animal.

B. No person shall present any dog or cat for sale, barter, exchange, or adoption, whether for compensation or otherwise, in any public place, without first obtaining a breeding permit pursuant to Stanislaus County Code Section 7.54.040. The term public place shall include, but not be limited to, streets, highways, sidewalks, parks, carnivals, shopping malls, flea markets, boardwalks, and areas in front of commercial establishments. This prohibition shall not apply to:

1. Government agencies; non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501(c)(3); or humane societies or societies for the prevention of cruelty to animals if such societies

are incorporated under the provisions of California Corporations Code Section 10400 and the Nonprofit Public Benefit Corporation Law in Part 2 of the California Corporations Code, beginning at section 5110;

2. Permitted dog or cat shows; or

3. Permitted pet stores which sell or otherwise transfer dogs or cats, whether for compensation or otherwise, within the store.

C. 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.

D. 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.

E. No person shall sell, barter, exchange or offer for adoption, whether for compensation or otherwise, any dog or cat to any minor under the age of eighteen years without the written permission of one of the minor's parents or legal guardians.

F. Commercial establishments selling dogs and cats which were not bred within the County of Stanislaus shall prominently display the name and address of the breeder(s) of such dogs and cats and any other pertinent information required by the Director of Animal Services or his or her designee.

G. Failure to display the breeding permit number or include it in any advertisement for sale, adoption or other transfer of dogs and cats is an infraction punishable by a \$100.00 fine for the first occurrence, \$200.00 for the second occurrence and \$300.00 for each subsequent occurrence. Each day a violation occurs is a separate violation.

H. Possession of a valid permit under this section of the Code does not entitle the permit holder to engage in an activity which is otherwise prohibited by law.

Section 7.54.070 Licensing.

A. Any person owning or having custody of any dog or cat four months or older shall pay an annual license fee for an unaltered dog or cat (\$100.00) or for an altered dog or cat (\$12.00) to be determined by the Board of Supervisors and listed in the fee section of this Title. Seniors 65 years of age or older shall receive a fifty percent discount. The increased fee differential collected by the Department of Animal Services for unaltered dogs or cats, less administrative costs, shall be used to pay for vouchers to support spay/neuter programs.

B. If the owner fails to obtain the dog or cat license required in this section, upon the expiration of the thirty days, the Department of Animal Services shall impose a \$25.00 late penalty on the owner of the dog or cat. This late fee shall not be waived by the Department of Animal Services upon the transfer or abandonment of the dog by the non-compliant owner. This late fee shall be imposed in addition to any other applicable civil or criminal penalties and all penalties shall be placed in the Stanislaus County Alternative to Euthanasia (SCATE) Program to be used for spaying or neutering of cats and dogs.

C. If the penalty mentioned in subsection (B) above is not paid, and the owner fails to obtain the license required under subsection (A) of this section within fifteen days from the date when the Department of Animal Services first notified the dog or cat owner of the imposition of the penalty mentioned in Section (B) above, the

continuing violation of the license requirement of this section becomes an additional infraction and may be prosecuted as such.

D. The Animal Services Department shall be responsible for the enforcement and administration of this chapter."

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage, and before the expiration of fifteen (15) days after its passage, it shall be published once with the names of the members voting for and against the same in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor _____ seconded by Supervisor _____, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this ____ day of _____, 2004, by the following-called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Paul W. Caruso, Chairman
of the Board of Supervisors of the
County of Stanislaus, State of California

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the
Board of Supervisors of the County of Stanislaus,
State of California

By _____
Liz King, Deputy Clerk

APPROVED AS TO FORM:

By Victoria A. Hellebray for
MICHAEL H. KRAUSNICK, County Counsel

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**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident
Of the County aforesaid; I am over the age of
Eighteen years, and not a party to or interested
In the above entitle matter. I am the printer
And Principal clerk of the publisher
of **THE MODESTO BEE**, printed and
Published in the **City of MODESTO**, County
Of **STANISLAUS**, State of California, daily,
For which said newspaper has been adjudged a
Newspaper of general circulation by the Superior
Court of the County of **STANISLAUS**, State of
California, under the date of **February 25, 1951**,
Action No. 46453; that the notice of which the
annexed is a printed copy, has been published in
each issue thereof on the following dates, to wit:

NOVEMBER 19, 25, 2004

I certify (or declare) under penalty of perjury
That the foregoing is true and correct and that
This declaration was executed at
MODESTO, California on

NOVEMBER 25, 2004


Signature

**NOTICE OF PUBLIC HEARING
TO CONSIDER ESTABLISHING NEW
FEES AND AMENDING EXISTING FEES OF
THE DEPARTMENT OF ANIMAL SERVICES**
NOTICE IS HEREBY GIVEN that on November 30,
2004 at 9:35 a.m., or as soon thereafter as the matter
may be heard, the Stanislaus County Board of Su-
pervisors will conduct a public hearing at 1010 10th
Street Place, Modesto, California, Basement, Board
Chambers to consider a proposed ordinance relating
to the breeding, transferring, licensing and spaying
and neutering of dogs and cats and establishing new
fees and amending existing fees of the Department
of Animal Services, in an effort to address pet over-
population in Stanislaus County.
ADDITIONAL NOTICE IS GIVEN that recommen-
dations will be made to the Board regarding the
proposed adoption of a new ordinance establishing
new fees such as a breeding permit, failure to com-
ply with the requirements, failure to display the
breeding permit or include it in any advertisement
and the license fee for an unaltered and altered cat.
Also, the adoption of the proposed ordinance will
amend existing fees such as the license fee for an
unaltered dog. The proposed ordinance of the De-
partment of Animal Services is an effort to address
pet overpopulation in Stanislaus County. The pro-
posed ordinance discusses that all dogs and cats
over the age of four months be spayed or neutered
unless their owners acquire a breeder's certification
standardizing the quality of care for bred dogs and
cats and their offspring.
NOTICE IS FURTHER GIVEN that at the said time
and place, any interested party may appear and
give testimony either for or against the said propos-
al.
NOTICE IS FURTHER GIVEN that a copy of the
proposed fees will be available in the Clerk of the
Board's Office on November 19, 2004. For further
information, call the Clerk of the Board at (209)
525-4494 or Michael Rodriguez, Director, Depart-
ment of Animal Services at (209) 652-0510.
BY ORDER OF THE BOARD OF SUPERVISORS
DATED: November 9, 2004
ATTEST: Christine Ferraro Tallman, Clerk of the
Board of Supervisors
BY: /s/ Elizabeth A. King
Elizabeth A. King Assistant Clerk
NOVEMBER 19, 25, 2004