

ORDINANCE NO. O-09-16

AN ORDINANCE OF THE OF THE CITY COUNCIL OF THE CITY OF COLTON AMENDING TITLE 7 OF THE COLTON MUNICIPAL CODE RELATING TO THE CITY'S COMPREHENSIVE ANIMAL REGULATIONS

WHEREAS, the City Council of the City of Colton desires to establish standards for the care, ownership, licensing, treatment and impounding of animals maintained in the City in such a manner as to ensure that such animals will not endanger the health, safety, peace and welfare of the residents of this City; and

WHEREAS, the City Council of the City of Colton further desires to ensure that all animals are kept in a clean, sanitary and healthy condition and not subjected to suffering, cruelty or abuse; and

WHEREAS, portions of this ordinance adopt regulations adopted by the County of Riverside, the City's contracted animal shelter, and it is the intent of the City Council of the Colton to adopt those portions by reference as if fully set forth herein in accordance with California Government Code section 50022.2; and

WHEREAS, all prerequisites to the adoption of this ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Incorporation of Recitals. The City Council hereby finds that all of the foregoing recitals presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council.

SECTION 2. The City Council of the City of Colton hereby amends and restates Title 7 of the Colton Municipal Code in its entirety to read as follows:

“TITLE 7 - ANIMALS

Chapter 7.02 – ANIMAL CONTROL ADMINISTRATION.

Sections:

- 7.02.010. Definitions.**
- 7.02.020 Enforcement of title--Powers of Animal Control Director and Animal Control Officers.**
- 7.02.030 Interference with officers.**
- 7.02.040 Right of entry of certain officials.**
- 7.02.050 Disposition of money--Payment of expenses.**
- 7.02.060. Prohibition on retail sale of dogs and cats.**

Section 7.02.010. Definitions.

For the purpose of this title, the following words and phrases shall have the meanings given herein, unless a more specific definition is provided in a chapter:

“Abused animal” shall mean any animal which is mistreated, beaten, tormented or teased, or is deprived of water or food or shelter; or is kept under unsanitary conditions; or is abandoned; or is trained for fighting other animals;

“Administrative hearing authority” or “hearing authority” or “hearing officer” shall have the same meaning provided in Colton Municipal Code section 18.58.101.

“Adequate feed” means the provision at suitable intervals, depending upon the age of the animal, at least once every twenty-four hours of a quantity of wholesome foodstuff suitable for the species’ physical condition and age, sufficient to maintain an adequate level of nutrition in the animal, which is served in a clean receptacle, dish or container.

“Adequate water” means the access to a constant source of clean, fresh, potable water suitable for the species’ physical condition and age of the animal.

“Animal Control Department” or “Department” means the City of Colton Animal Control Department, or whatever entity performs any of the animal control functions for the City of Colton, whether internally or pursuant to contract with the City.

“Animal Control Director” means the person duly appointed by the City Manager to administer the Animal Control Department and/or the animal control contract of the City;

“Animal Control Officer” means those duly appointed and acting deputies of the Animal Control Director assigned to provide animal control field services within the corporate limits of the City and enforce the provisions of this title.

“Animal” means any vertebrate creature, domestic or wild. “Animal” specifically includes, but is not limited to the following categories of animals:

- (A) Dog: Any *Canis familiaris*, over four months of age.
- (B) Puppy: Any *Canis familiaris*, under four months of age.
- (C) Cat: Any *Felis catus*, over four months of age.
- (D) Kitten: Any *Felis catus*, under four months of age.
- (E) Livestock: Horses, ponies, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and confined and domesticated hares and rabbits.
- (F) Wild/exotic animals: Animals normally found in the wild state which are being kept for exhibition purposes or as private pets.

“Animal hoarding” means a situation where an individual is housing more animals than he or she can adequately care for. It is a complex issue that encompasses mental health, animal welfare and

public safety concerns. Animal hoarding is further defined by an inability to provide even minimal standards of nutrition, sanitation, shelter and veterinary care often resulting in animal starvation, illness and/or death.

“Barking dog” means a dog that barks, bays, cries, howls, or makes any noise audible beyond the boundaries of the property on which the dog is situated for an extended period of time to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property. Such extended period of time shall consist of incessant barking, baying, crying, howling, or making of any noise for 30 minutes or more in any 24-hour period, or intermittent barking, baying, crying, howling, or making any noise for 60 minutes or more during a 24-hour period. A dog shall not be deemed a "barking dog" for purposes of this title, if at anytime the dog is barking, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or when the dog is being teased or provoked.

“Bite” means a puncture or tear of the skin inflicted by teeth of an animal.

“Breeder” means any person who, for pay or other compensation, causes the breeding of a male or female dog or cat or makes a dog or cat available for breeding purposes, or any person who sells or offers for sale any dog or cat. All breeders must obtain a City business license. For purposes of this definition a hobby breeder who causes the breeding of male or females cats and/or dogs without pay or other compensation shall not be considered a breeder and does not require a license.

“Cat” means any male or female cat (*felis catus*). An adult cat is any cat older than four months of age.

“City” means the City of Colton.

“City animal shelter” or “City contracted animal shelter” means the County of Riverside animal shelter and/or the contracted animal shelter providing services to the City of Colton. The term “City pound” as may be used in this title or this code shall mean the "City contracted animal shelter.”

“Community cat” means a feral or free-roaming cat that is without visibly-discernible identification of any kind and has been sterilized, vaccinated, and ear-tipped. Community cats are exempt from licensing, feeding bans, and registration requirements. A community cat is not to be classified as a public nuisance animal merely for being repeatedly found at large.

“Community cat caregiver” means a person who in accordance with trap-neuter-return program (TNR), provides care, including food, shelter or medical care to a community cat. A community cat caregiver shall not be considered the owner, harbinger, controller or keeper of a community cat.

“Confined” means a condition whereby an animal is restricted to the property of the owner by an enclosure or enclosed lot, secure enough so that the animal cannot bite, harm, or injure anyone by the animal overreaching the top of the fence or other enclosure.

“County” means San Bernardino County.

“Department” means and include the administrative apparatus and those individuals that report to the Animal Control Director;

“Dog” means any male or female dog (*canis familiaris*). An adult dog is any dog older than four months of age.

“Ear tipped” and “tipped ear” refer to the process by which the tip of a cat's ear is cut to indicate that the cat has been sterilized and vaccinated against rabies.

“Enclosed lot” means a parcel of land or portion thereof around the perimeter of which is a fence or wall adequate to contain any animal kept therein.

“Enclosure” means a fence or structure suitable to prevent the entry of young children, which is suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the dog. The enclosure shall be designed in order to prevent the animal from escaping. The animal shall be housed pursuant to section 597(t) of the Penal Code.

“Feral cat” means a cat that:

- (A) Has no apparent owner or identification; and
- (B) Appears to be unsocialized, unmanageable or demonstrates characteristics normally associated with wild or undomesticated animals.

“Feral cat colony” or “colony” means a group of cats that congregates, more or less, together as a unit, whether or not every cat in the colony is a feral cat.

“Feral cat colony caretaker” or “colony caretaker” means any person who provides food, water, shelter and medical care to and traps, sterilizes, and vaccinates a feral cat or cats and who is approved by a sponsor to care for a feral cat colony.

“Nuisance” means, with respect to a stray animal or feral cat, behavior that:

- (A) Disturbs the peace through habitual or continual howling or fighting; or
- (B) Consists of habitual and significant destruction, desecration or soiling of property against the wishes of the owner of the property.

“Official police dog” means any canine trained for law enforcement purposes and used by the Police Department for such purpose, and so designated by the Police Chief by the issuance of distinguishing tags;

“Official police horse” means any equine used by a police officer for law enforcement purposes;

“Owner” means any person, firm or corporation having title to any animal, or a person who has, harbors, or keeps, or who causes or permits to be harbored or kept, an animal in his or her care, or who permits an animal to remain on or about his or her premises for a period of seven consecutive days;

“Pet shop for animal rescue” or “animal rescue shop” means an establishment that offers dogs and/or cats for a nonprofit adoption fee, and such dogs and/or cats are made available to the establishment by nonprofit humane societies, animal shelters, bona fide animal rescue organizations.

“Quarantine” means the strict isolation of an animal in an approved location under proper care and observation as approved by the Animal Control Officer. Animal quarantines must prevent contact by the quarantined animal with any person or animal that has not already been in contact with said animal, or any person who is responsible for the care of such animal while under quarantine either in an approved quarantine location or an enclosure at the owner’s home. The person charged with overseeing the animal's quarantine must provide for its daily care, maintenance and protection from inclement weather as deemed appropriate for the animal quarantined.

“Stray animal” means any animal at large.

“Substantial injury” means a substantial impairment of the physical condition of a person or animal which requires professional medical treatment, including, but not limited to, loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; muscle tears, disfiguring lacerations, punctures, or a wound requiring multiple sutures; or any injury requiring corrective or cosmetic surgery.

“TNR program” means a “trap, neuter and return” program in which feral and stray cats are humanely trapped, sterilized, vaccinated against rabies, ear tipped, and then returned to the location that is their “territory.”

Section 7.02.020. Enforcement of title--Powers of Animal Control Director and Animal Control Officers.

The Animal Control Director and the Animal Control Officers shall be primarily responsible for the enforcement of the provisions of this title. The Animal Control Director and the Animal Control Officers shall have and are vested with the authority to issue a notice to appear as prescribed by chapter 5C (commencing with Section 853.6) of Title 3 of Part 2 of the California Penal Code in the manner provided by Section 836.5 of the California Penal Code to any person who violates the provisions of this title.

Section 7.02.030. Interference with officers.

It is unlawful for any person to interfere with or oppose or resist the Chief of Police or any of the officers of the Colton Police Department, the Animal Control Director or any of the deputies of the Animal Control Director while said officers are engaged in the performance of the duties pertaining to the enforcement of this title. All of the aforementioned officers, deputies or employees are empowered to enforce all of the provisions of this title.

Section 7.02.040. Right of entry of certain officials.

The Animal Control Director, any Animal Control Officer, and any Police Officer of the City are empowered to enter upon any private property for the purpose of ascertaining whether any dog kept or harbored therein is afflicted with rabies or hydrophobia or whether or not a license tag has been secured for such dog; provided, however, that no such animal control director, animal control officer, or police officer shall have the right to enter an inhabited dwelling or a locked yard without first having obtained a warrant therefor.

Section 7.02.050. Disposition of money--Payment of expenses.

All money collected for licenses, tags or other fees shall be paid into the City treasury for the general fund. All expenses incurred in carrying out or enforcing the provisions of this title shall be paid out of the general fund.

Section 7.02.060. Prohibition on retail sale of dogs and cats.

A. No commercial establishment shall display, sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs or cats in the City on or after the effective date of the ordinance codified in this section.

B. A pet shop that displayed, sold, delivered, offered for sale, offered for adoption, bartered, auctioned, gave away, or otherwise transferred or disposed of dogs or cats in the City as of the effective date of this section, and whose operations complied with all applicable provisions of the this Code, may continue to display, offer for sale, offer for adoption, barter, auction, give away, or otherwise transfer or dispose of dogs and cats until the one-year anniversary of the effective date of the ordinance codified in this section.

C. This section shall not apply to:

1. A commercial animal rescue shop that offers dogs or cats for an adoption fee;
2. A publicly operated animal control facility or animal shelter;
3. A private, charitable, nonprofit humane society or animal rescue organization; or
4. A publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue organization that operates out of or in connection with a pet shop.

D. Nothing in this section shall prevent a pet shop or its owner, operator or employees from providing space and appropriate care for animals owned by a publicly operated animal control agency, nonprofit humane society, or nonprofit animal rescue agency and maintained at the pet shop for the purpose of adopting those animals to the public.