

**ORDINANCE NO. 1728**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FONTANA, CALIFORNIA AMENDING SECTION 4-8 OF ARTICLE I OF CHAPTER 4 OF THE FONTANA MUNICIPAL CODE REGARDING MANDATORY MICROCHIPPING OF DOGS AND CATS**

**WHEREAS**, the City of Fontana, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

**WHEREAS**, pursuant to Chapter 4 of the Fontana Municipal Code, the City regulates animals, including, but not limited to, dogs and cats; and

**WHEREAS**, the City Council adopted Ordinance No. 1725 at the Regular City Council meeting of March 24, 2015, to implement a mandatory microchipping program for dogs and cats; and

**WHEREAS**, the City Council has requested further clarification of certain provisions of Ordinance No. 1725; and

**WHEREAS**, the City Council wishes to amend certain provisions of Ordinance No. 1725 in order to implement a mandatory microchipping program for dogs and cats that will help protect the health, safety, and general welfare of the residents of the City; and

**WHEREAS**, all other legal prerequisites to the adoption of this Ordinance have occurred.

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

**Section 1.** Incorporation of Recitals. The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Section 4-8 entitled "Mandatory Microchipping of Dogs and Cats" is hereby amended to read in its entirety as follows:

"Sec. 4-8. - Mandatory Microchipping of Dogs and Cats.

(a) Mandatory Microchipping. All dogs and cats over the age of four (4) months that have been placed into the animal shelter must be implanted with an identifying microchip as a condition of release consistent with this Code. The owner or custodian of the dog or cat is required to maintain the microchip number, and shall notify the Fontana Police Department ("Department") of any change of ownership of the dog or cat, or any

change of address or telephone number. Nothing in this section supersedes, eliminates, or alters the other requirements of this chapter or any other licensing requirements of this Ordinance.

(b) Exemptions. The mandatory microchipping requirements shall not apply to any of the following:

(1) A dog or cat with a high likelihood of suffering serious bodily injury, if implanted with the microchip identification, due to the health conditions of the animal. The owner or custodian must obtain written confirmation of the fact from a California-licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, that date must be stated in the written confirmation.

(2) A dog or cat which would be impaired of its athletic ability or performance if implanted with the microchip identification. The owner or custodian must obtain written confirmation of that fact from a California-licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, that date must be stated in the written confirmation.

(3) A dog or cat that is kenneled or trained in the City, but is owned by an individual that does not reside in the City. The owner or custodian must keep and maintain the animal in accordance with the applicable laws and ordinances of the jurisdiction in which the owner or custodian of the animal permanently resides, including but not limited to the applicable licensing and rabies vaccination requirements of that jurisdiction.

(c) Transfer or sale of dogs and cats.

(1) An owner or custodian who offers any dog, over the age of four (4) months, for sale, trade, or adoption must provide the microchip identification number and the valid dog license number with the offer of sale, trade or adoption. The license and microchip numbers must appear on a document transferring the dog to the new owner. The owner or custodian shall also advise the Department of the name and address of the new owner or custodian in accordance with subdivision (a) of this section. The new owner's information must also be provided to the appropriate microchip registry. An owner or custodian who offers any dog, over the age of four (4) months, for sale, trade, or adoption and fails to provide the Department with the name and address of the new owner is in violation of this Ordinance and shall be subject to the penalties set forth herein.

(2) An owner or custodian who offers any cat, over the age of four (4) months, for sale, trade, or adoption must provide the microchip identification number with the offer of sale, trade or adoption. The microchip number must appear on a document transferring the cat to the new owner. The new owner's information must also be provided to the appropriate microchip registry. An owner or custodian who offers any cat, over the age of four (4) months, for sale, trade, or adoption and fails to provide the Department with the name and address of the new owner is in violation of this Ordinance and shall be subject to the penalties set forth herein.

(3) When a puppy or kitten under the age of four (4) months implanted with microchip identification is sold or otherwise transferred to another person, the owner or custodian shall advise the Department of the name and address of the new owner or custodian within ten (10) days after the transfer. The new owner's information must also be provided to the appropriate microchip registry. If it is discovered that an owner or custodian has failed to provide the Department with the name and address of the new owner, the owner or custodian shall be subject to the penalties set forth herein.

(d) When an impounded dog or cat is without microchip identification, in addition to satisfying applicable requirements for the release of the animal, including but not limited to payment of impound fees pursuant to this Ordinance, the owner or custodian shall also do one of the following:

(1) Have the dog or cat implanted with a Department microchip by a registered veterinarian technician or veterinarian or designated personnel of the Department at the expense of the owner or custodian; or

(2) Have the dog or cat implanted with a Department-approved microchip by a California-licensed veterinarian. The owner or custodian may arrange for another California-licensed veterinarian to perform the implant, and shall pay to the Department the cost to deliver the dog or cat to the chosen veterinarian. The cost to deliver the dog or cat shall be based on the Department's hourly rate established by the San Bernardino County Auditor-Controller. The veterinarian shall complete the implantation, shall return to the Department within ten (10) business days a statement confirming that the microchip has been implanted and providing the Department with the number, and shall release the dog or cat to the owner or custodian only after the procedure is complete; or

(3) At the discretion of the Director of the Fontana Animal Services Team, the dog or cat may be released to the owner or custodian if he or she signs a statement under penalty of perjury, representing that the dog or cat will be implanted with a microchip and that he or she will submit a statement within ten (10) business days of the release, signed by a California-licensed veterinarian, confirming that the dog or cat has been so implanted. The Department reserves the right, at its sole discretion, to scan the dog or cat for the microchip to verify implantation.

(e) Fees for microchip identification device. The fee for an identifying microchip device shall be included in the cost of adoption when adopting a dog or cat from a City animal shelter. The fee for an identifying microchip device per animal shall be the amount set forth in the Amended Fee Schedule for Animal Services Fees, adopted by Resolution of the City Council. If an animal has already been implanted with an identifying microchip, the number shall be entered into the Department's registry as required by subdivision (a) of this section.

(f) Allocation of fees and fines collected. All costs, fees, and fines collected under this section shall be paid to the Department for the purpose of defraying the cost of the implementation and enforcement of this program and for low cost microchipping programs administered by this Department."

**Section 3.** CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act ("CEQA") Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of San Bernardino in accordance with CEQA Guidelines.

**Section 4.** Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 8353 Sierra Avenue, Fontana, CA 92335. The custodian of these records is the City Clerk.

**Section 5.** Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall

not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The people of the City of Fontana hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 6.** Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

**Section 7.** Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Fontana.

**APPROVED AND ADOPTED** this 28<sup>th</sup> day of April, 2015.

**READ AND APPROVED AS TO LEGAL FORM:**

  
City Attorney


I, Tonia Lewis, City Clerk of the City of Fontana, and Ex-Officio Clerk of the City Council, do hereby certify that the foregoing Ordinance is the actual Ordinance adopted by the City Council and was introduced at a regular meeting on the 14th day of April, 2015, and was finally passed and adopted not less than five days thereafter on the 28th day of April, 2015 by the following vote to wit:

**AYES:** Mayor Warren, Mayor Pro Tem Tahan and Council Members Roberts, Salazar-Wibert and Sandoval

**NOES:**

**ABSENT:**

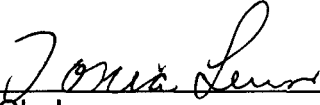
**ABSTAIN:**

  
City Clerk of the City of Fontana

  
Mayor of the City of Fontana

Ordinance No. 1728

**ATTEST:**

  
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City Clerk