

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

634



FROM: Community Health Agency/Department of Animal Services

SUBMITTAL DATE:

SUBJECT: Ordinance No. 630.11 amending Ordinance No. 630.10 for the Department of Animal Services

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Introduce and set for public hearing the adoption of Ordinance No. 630.11 amending Ordinance No. 630.10, an Ordinance of the County of Riverside Relating to Dogs and Cats, to include the use of administrative citations; and,
- 2) Authorize the Clerk of the Board to place an advertisement for the public hearing in the appropriate local publications; and,
- 3) Authorize the Purchasing Department to contract with Data Ticket, Inc. to provide administrative citation services for the Department of Animal Services; and,
- 4) Upon the close of the Public Hearing, adopt Ordinance No. 630.11.

BACKGROUND: The Department of Animal Services (DAS) issues a variety of citations, including "Failure to License" citations, pursuant to the ordinances and resolutions of the County of Riverside and the laws of the state of California. (continued)

Paige McAnner for Robert Miller
Robert Miller, Director of Animal Services
Paige M. Garner, Division Director

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	08/09

SOURCE OF FUNDS: Contract revenue and department budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Debra Courmoyer*
Debra Courmoyer

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above ordinance is approved as introduced with waiver of the reading and is set for public hearing on Tuesday, July 1, 2008 at 9:30 a.m.

Ayes: Buster, Tavaglione, Stone, Wilson and Ashley
Nays: None
Absent: None
Date: June 17, 2008
xc: CHA/Animal Svs., Purchasing, COB

Nancy Romero
Clerk of the Board
By: *Roblemmel*
Deputy

**ATTACHMENTS FILED WITH
THE CLERK OF THE BOARD**

9.2

FORM APPROVED COUNTY COUNSEL
BY: *JIMMY HARRIS*
DATE: 6/19/08

Departmental Concurrence

Purchasing: *Mark Seller*
Mark Seller, Assistant Director

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND (continued):

Over the last several years, the Department's enforcement efforts have continuously increased the number of citations to a projected 6,300 for 2008. This increase is due to the DAS "Animal Law Enforcement" policy item which added eleven staff, along with the diligence of the Animal Control Officers and License Inspecting Officers to gain compliance within our county. At this volume, the decision to contract with a vendor for citation processing and associated administrative reviews and hearings is the most efficient and cost effective solution for the Department.

The County of Riverside has already experienced tremendous success with a similar contract within the Code Enforcement Division of the TMLA/Building & Safety Department. DAS seeks to follow suit to further improve by consolidating all processing with a single vendor.

Currently, residents have ten days from the date of issuance to clear a citation with the Department for a set fee. If the citation isn't cleared, it is sent to the Superior Court for criminal prosecution, which can be very slow and labor-intensive as well as costly due to lengthy court proceedings and time expended both by Animal Control Officers and Licensing Officers. With this procedure, all fees collected by the Superior Court are retained by them.

The Administrative Citation program; however, enables officers to cite and collect penalties directly from the resident at the time of the incident. Penalties are charged on an escalating scale based on prior offenses of the same nature, which provides a valuable enforcement tool that can either replace or augment criminal prosecution for Municipal Code violations. Numerous cities have similarly adopted Administrative Citation programs and found them to work successfully.

Pursuant to Government Code Section 53069.4, the Ordinance's new section regarding Administrative Citations and Penalties will expedite compliance for violations by encouraging self-compliance through written warnings, implementation of monetary penalties, and establishment of reasonable timelines for compliance.

FISCAL IMPACT:

No general funds are necessary as the cost to provide the services is a percentage of the citation fees paid by the recipient of the citation to the Department of Animal Services. The contractor will also provide other services including pursuit of delinquent payments, collection of fees with deposit to the Departments designated revenue fund, preparation of audit reports, provide phone services for citation recipients, and other related tasks for this process.

PRICE REASONABLENESS:

Based on the approval of a Sole Source Agreement that the Board of Supervisors approved for Code Enforcement on August 29, 2006, and the similarity of the services needed, the Department of Animal Services was authorized by County Purchasing to utilize the services of Data Ticket, Inc. The pricing offered to the County is lower than those prices being charged to other government agencies for similar services due to larger volume for the County. Based on this comparison, the pricing is deemed to be fair and reasonable.

1 animals, shall not be required to pay a fee for the licenses required by Section 5 of this
2 ordinance; provided, however, that all other provisions of Section 2 and Section 5 of this
3 ordinance shall be applicable to any such nonprofit corporation, as well as the provisions
4 of Section 6 of this ordinance if the nonprofit corporation is an animal rescuer.”

5 Section 5. Subsections a., b., c., d., and e. of Section 6 of Ordinance 630.10 are
6 replaced with the following:

7 “Section 6. Animal Rescuer

8 a. Any person engaged in the rescue of animals, shall first obtain a rescue
9 permit from the Department and shall meet all requirements and standards
10 for a kennel/cattery license.

11 1. For an animal rescuer that is not a valid nonprofit corporation
12 formed pursuant to the provisions of the California Corporations
13 Code commencing with Section 10400 for the prevention of cruelty
14 to animals, the animal rescuer may keep two (2) dogs with a rescue
15 permit and no minimum land requirement so long as all other
16 requirements and standards for a kennel license, referred to in
17 Section 5, subsection (c) of this ordinance, are met.

18 2. For an animal rescuer that is a valid nonprofit formed pursuant to
19 the provisions of the California Corporations Code commencing
20 with Section 10400 for the prevention of cruelty to animals, the
21 animal rescuer may maintain up to ten (10) dogs with a rescue
22 permit and no minimum land requirement so long as all other
23 requirements and standards for a kennel license are met. Such
24 animal rescuer shall not need to obtain a Class I Kennel permit.

25 3. For an animal rescuer maintaining eleven (11) or more dogs a Class
26 II Kennel License is required, and the minimum land requirement
27 shall be one acre.

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1 4. For an animal rescuer maintaining ten (10) or more cats a Cattery
2 License is required, and the minimum land requirement shall be one
3 acre.

4 b. The fees for a kennel/cattery rescue permit as a rescue facility shall be as
5 follows:

- 6 1. \$25.00 for up to six (6) dogs (with a \$15.00 late fee) for one year.
7 2. \$180.00 for seven to ten dogs (with a \$15.00 late fee) for one year or
8 \$200.00 for two years.
9 3. One hundred percent (100%) of the applicable kennel license permit
10 in those cases where a Cattery permit or a Class II Kennel permit is
11 required.

12 c. An animal rescuer may keep a maximum of four (4) personal (not for
13 adoption or sale) dogs and nine (9) personal (not for adoption or sale) cats
14 and must include these animals as "personal pets" on the animal rescue
15 permit application. In those cases where the animal rescuer occupies a
16 parcel of .5 acre to 1 acre, up to six (6) dogs may be kept on the premises.

17 d. Personal dogs (not for adoption or sale) shall be individually licensed in
18 accordance with this ordinance.

19 e. A permitted animal rescuer obtaining animals from a shelter facility
20 pursuant to Section 11, subsection (g) of this ordinance, shall not be subject
21 to the payment of impound fees and charges specified in Section 11,
22 subsection (a) but may be subject to the spay/neuter deposit specified in
23 Section 12, subsection (a) of this ordinance."

24 Section 6. Subsection n. of Section 11 of Ordinance 630.10 is amended to read as

25 follows:

26 "n. The hourly rate for the recovery of administrative costs associated with the
27 recoupment of enforcement costs, as provided in Section 22 shall be
28 \$53.00."

1 Section 7. Subsection a. of Section 12 of Ordinance 630.10 is amended to read as
2 follows:

3 “a. No person shall be permitted to adopt or purchase any dog or cat which has
4 not been spayed or neutered, from any public animal shelter, society or
5 organization, unless or until a deposit in the amount of forty dollars
6 (\$40.00) has been paid by the adopting person or purchaser to the shelter,
7 society or organization from which the subject dog or cat is being adopted
8 or purchased, with the exception that when a female or her offspring are
9 adopted or purchased by one (1) person, only a single such deposit shall be
10 required. The Department may enter into cooperative agreements with
11 rescue groups, veterinarians, animal shelters, and humane society shelters in
12 lieu of requiring spay and neuter deposits.”
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15 Section 8. Section 14 of Ordinance 630.10 is amended to read as follows:

16 “County Department of Environmental Health” is replaced with “Department of Animal
17 Services.”
18

19 Section 9. Section 20 of Ordinance 630.10 is amended to read as follows:

20 “Department of Environmental Health” as used throughout the section is replaced with
21 “Department of Animal Services.”
22

23 Section 10. A new Section 21 is added to Ordinance 630.10 to read as follows:

24 “Section 21. ADMINISTRATIVE CITATIONS AND PENALTIES. In addition to the
25 remedies and penalties contained in this ordinance, and in accordance with
26 Government Code section 53069.4, an administrative citation may be issued
27 for any violation of this ordinance. The following procedures shall govern
28 the imposition, enforcement, collection and administrative review of
 administrative citations and penalties.

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a. Notice of Violation. If an animal is owned, kept, maintained, or found to be in violation of this ordinance, an administrative citation may be issued by the animal control officer. An administrative citation will not be issued for violation of Section 5 (Mandatory Licensing of Kennels and Catteries) prior to a written notice of violation being issued.

b. Content of citation. The administrative citation shall be issued on a form approved by County Counsel and shall contain the following information:

1. Date, location and approximate time that the violation was observed;
2. The ordinance violated and a brief description of the violation;
3. The amount of the administrative penalty imposed for the violation;
4. Instructions for payment of the penalty, and the time period by which it shall be paid and the consequences of failure to pay the penalty within this time period;
5. Instructions on how to appeal the citation;
6. The signature of the animal control officer.

The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.

c. Service of citation.

1. If person who has violated this ordinance is present at the scene of the violation, the animal control officer shall attempt to obtain his signature on the administrative citation and shall deliver a copy of the administrative citation to him.

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2. If the owner, occupant or other person who has violated this ordinance is a business, and the business owner is on the premises, the animal control officer shall attempt to deliver the administrative citation to him. If the animal control officer is unable to serve the business owner on the premises, the administrative citation may be left with the manager or employee of the business. If left with the manager or employee of the business, a copy of the administrative citation shall also be mailed to the business owner by certified mail, return receipt requested.

3. If no one can be located at the property where the violation occurred, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner, occupant or other person who has violated the ordinance. The citation shall be mailed to the property address and/or the address listed for the owner on the last county equalized assessment roll. The citation shall also be mailed to any additional address for the owner in Department records.

4. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.

d. Administrative Penalties

1. The penalties assessed for each violation of this ordinance shall not exceed the following amounts:

- i. One hundred dollars (\$100.00) for a first violation;
- ii. Two hundred dollars (\$200.00) for a second violation of the same administrative abatement order within one year;

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1 iii. Five hundred dollars (\$500.00) for each additional violation
2 of the administrative abatement order within one year.

- 3 2. If the violation is not corrected, additional administrative citations
4 may be issued for the same violation. The amount of the penalty
5 shall increase at the rate specified above.
- 6 3. Payment of the penalty shall not excuse the failure to correct the
7 violation nor shall it bar further enforcement action.
- 8 4. The penalties assessed shall be payable to the County of Riverside,
9 Department of Animal Services.
- 10 5. Where the violation would otherwise be an infraction, the
11 administrative penalty shall not exceed the maximum fine or
12 infraction amount.

13 e. Administrative Appeal of Administrative Citation.

- 14 1. Notice of Appeal. The recipient of an administrative citation may
15 appeal the citation by filing a written notice of appeal with the
16 Department. The written notice of appeal must be filed within
17 twenty (20) days of the service of the administrative citation as set
18 forth in subsection c. above. Failure to file a written notice of
19 appeal within this time period shall constitute a waiver of the right
20 to appeal the administrative citation. The notice of appeal shall be
21 submitted on county forms and shall contain the following
22 information:
- 23 i. A brief statement setting forth the appellant's interest in the
24 proceedings;
- 25 ii. A brief statement of the material facts which the appellant
26 claims supports his contention that no administrative penalty
27 should be imposed or that an administrative penalty of a
28 different amount is warranted;

1 iii. An address at which the appellant agrees notice of any
2 additional proceeding or an order relating to the
3 administrative penalty may be received by mail;

4 iv. The notice of appeal must be signed by the appellant.

5 2. Administrative Hearing. Upon a timely written request by the
6 recipient of an administrative citation, an administrative hearing
7 shall be held as follows:

8 i. Notice of Hearing. Notice of the administrative hearing
9 regarding the administrative citation shall be given at least
10 ten (10) days before the hearing to the person requesting the
11 hearing. The notice may be personally delivered to the
12 person requesting the hearing or may be mailed to the
13 address listed in the notice of appeal.

14 ii. Hearing Officer. The administrative hearing regarding the
15 administrative citation shall be held before the Animal
16 Services Director. The hearing officer shall not be the
17 investigating animal control officer who issued the
18 administrative citation or his immediate supervisor. The
19 Director may contract with a qualified provider to conduct
20 the administrative hearings or to process administrative
21 citations.

22 iii. Conduct of the Hearing. The investigating animal control
23 officer who issued the administrative citation shall not be
24 required to participate in the administrative hearing
25 regarding the citation. The contents of the investigating
26 animal control officer's file shall be admitted as prima facie
27 evidence of the facts stated therein. The hearing officer shall
28 not be limited by the technical rules of evidence. If the

1 person requesting the appeal of the administrative citation
2 fails to appear at the administrative hearing, the hearing
3 officer shall make his determination based on the
4 information contained in the notice of appeal.

5 iv. Hearing Officer's Decision. The hearing officer's decision
6 regarding the administrative citation following the
7 administrative hearing may be personally delivered to the
8 person requesting the hearing or sent by mail. The hearing
9 officer may allow payment of the administrative penalty in
10 installments, if the person provides evidence satisfactory to
11 the hearing officer of an inability to pay the penalty in full at
12 one time. The hearing officer's decision shall contain
13 instructions for obtaining review of the decision by the
14 superior court.

15 f. Review of Administrative Hearing Officer's Decision. If the recipient of an
16 administrative citation disagrees with the administrative hearing officer's
17 decision upholding the issuance of the administrative citation and/or
18 administrative penalty amount assessed, the recipient may appeal the
19 issuance of the administrative citation to the superior court as set forth in
20 this section.

21 1. Notice of Appeal. Within twenty (20) days of the delivery and mailing
22 of the hearing officer's decision regarding the administrative citation,
23 the recipient of the administrative citation may contest that decision by
24 filing an appeal to be heard by the superior court. The fee for filing the
25 notice of appeal is twenty-five dollars (\$25.00). The failure to file the
26 written appeal and to pay the filing fee within this period shall constitute
27 a waiver of the right to an appeal and the decision shall be deemed
28 confirmed. A copy of the notice of appeal shall be served in person or

1 by first class mail upon the Department of Animal Services by the
2 contestant.

3 2. Conduct of Hearing. The conduct of the appeal hearing is a subordinate
4 judicial duty and may be performed by traffic trial commissioners and
5 other subordinate judicial officials at the direction of the presiding judge
6 of the court. The appeal shall be heard de novo, except that the contents
7 of the issuing agency's file in the case shall be received into evidence.
8 A copy of the issued administrative citation providing notice of the
9 violation and imposition of the administrative penalty shall be admitted
10 into evidence as prima facie evidence of the facts stated therein. The
11 court shall request that the issuing agency's file on the case be
12 forwarded to the court, to be received within fifteen (15) days of the
13 request.

14 3. Judgment. The court shall retain the twenty-five dollar (\$25.00) fee
15 regardless of the outcome of the appeal. If the court finds in favor of
16 the contestant, the amount of the fee shall be reimbursed to the
17 contestant by the Department of Animal Services. Any deposit of the
18 fine or penalty shall be refunded by the Department of Animal Services
19 in accordance with the judgment of the court. If the fine or penalty has
20 not been deposited and the decision of the court is against the
21 contestant, the issuing agency may proceed to collect the penalty
22 pursuant to the procedures set forth in this ordinance, or in any other
23 manner provided by law."

24 Section 11. Existing Sections 21, 22, 23, 24, and 25 of Ordinance 630.10 are
25 renumbered 22, 23, 24, 25, and 26 respectively.

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Section 12. This Ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY
OF RIVERSIDE, STATE OF CALIFORNIA

By: _____
Chairman

ATTEST:

CLERK OF THE BOARD

By: _____
Deputy

(SEAL)

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FORM APPROVED COUNTY COUNSEL

BY: JIMMY H. RA 6/9/08
DATE