



ITEM NO.: 10a
MEETING DATE: February 4, 2009

AGENDA SUMMARY REPORT

SUBJECT: CONSIDERATION AND POSSIBLE INTRODUCTION OF ORDINANCE AMENDING SECTIONS IN THE CITY ANIMAL ORDINANCE, AS IT PERTAINS TO DOGS AND CATS, TO USE THE TERM "GUARDIAN" INSTEAD OF "OWNER."

Summary:

The City Council requested the City Attorney to prepare an ordinance that uses the term "guardian" in place of the term "owner" in those sections of the City's Animal Control Ordinance that pertain to dogs and cats. (Division 5, Chapter 1, Articles 5-9 of the Ukiah City Code, commencing with Section 4151.) The attached proposed ordinance makes these changes. (Attachment 1.)

In Section 4152, which contains the definitions of certain words or phrases used in Chapter 1, the proposed amendment would add a definition of the term "guardian," which reads as follows: "The term "guardian," as used in this Chapter, means "owner" as defined this Section 4152 and has no other meaning."

The amendments to the remaining sections replace the word "owner" formerly used in those sections with the term "guardian." A redlined version of the ordinance is attached as Attachment 2 to aid the City Council in locating these changes. No other changes to the existing code sections are proposed.

The term owner is not replaced with the term guardian in code sections that reference animals generally or other species than dogs and cats.

Since the City Council received the request to make these changes to the City Code, the City has received numerous written and oral comments on this proposed change. Most of those comments are concerned that the term "guardian," as used in state statutes and court decisions, has a very different meaning than the term "owner." These comments are concerned that if the owner of an animal were held to the standard of a guardian, as defined in state statute and common usage, that could result in numerous limitations on animal

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Recommended Action: Consider whether to introduce the proposed ordinance. If the City Council decides to make the amendments, it should pass a motion to introduce the ordinance by title only, request the Deputy City Clerk to read the ordinance title, and, then, pass a motion to introduce the ordinance. If the ordinance is introduced, it will be brought back for adoption at the next City Council meeting.

Alternative Council Option(s): N/A

Citizens advised: N/A
Requested by: City Council
Prepared by: David J. Rapport, City Attorney
Coordinated with: Jane Chambers, City Manager
Attachments: Attachment 1 – Proposed Ordinance
Attachment 2 – Redlined version of proposed ordinance

Approved: _____
Jane Chambers, City Manager

owners that do not currently exist. They are concerned that these limitations could prevent owners from using animals for commercial purposes and could result in other complications and potential litigation.

The proposed amendments attempt to avoid these possibilities by carefully defining guardian to mean only owner as owner is defined in the City Code. As such, from a legal standpoint, the amendment is not necessary or useful. However, if the City Council elects to make these changes for other reasons, in my opinion, with respect to the administration and enforcement of the Ukiah Animal Control Ordinance, the proposed amendments should not result in the confusion and other consequences described in the referenced letters and comments to the City Council.

Fiscal Impact:

Budgeted FY 08/09 New Appropriation Not Applicable Budget Amendment Required

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING SECTIONS 4152, 4153, 4155, 4160, 4161, 4171, 4182, 4184, 4186, and 4187 OF THE UKIAH CITY CODE, PERTAINING TO DOGS AND CATS, TO USE THE WORD “GUARDIAN” INSTEAD OF “OWNER” IN THOSE SECTIONS.

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

Sections 4152, 4153, 4155, 4160, 4161, 4171, 4182, 4184, 4186, and 4187 in Division 5, Chapter 1 of the Ukiah City Code are hereby amended to read as follows:

4152: DEFINITIONS:

Unless the context otherwise requires, the following terms shall have the following meanings when those terms are used in this Chapter.

ANIMAL. Any wild or domestic animal, fowl, reptile, fish and non-human animals.

ANIMAL CONTROL, DIVISION OF ANIMAL CONTROL/ANIMAL CONTROL AUTHORITY. That department or division of the City government and/or contracting agency which is specifically charged with the regulation of and enforcement of laws relating to animals within the jurisdiction of the City.

ANIMAL CONTROL OFFICER. Any person duly appointed by the Agricultural Commissioner, the City Council, or a Humane Society pursuant to Civil Code section 607f, if that society has contracted with the City to enforce this Chapter within the City limits.

ANIMAL ESTABLISHMENT. Any pet shop, grooming shop, auction, performing animal exhibition, kennel, animal shelter operated by other than a government agency, or Humane Society for the purposes specified in this ordinance.

ANIMAL SHELTER. Any facility operated by a local governmental agency, contracting agency or Humane Society for the purposes specified in this ordinance.

ANIMAL EXHIBITION. Any display containing one or more live domesticated wild or exotic animals which are exposed to public view for entertainment, instruction or advertisement.

AT LARGE. Any animal, excepting a working animal, shall be deemed to be at large when off the premises of the guardian and not under restraint by leash or physical control of its guardian.

BOARDING KENNEL. A commercially operated establishment for the care and keeping of dogs and cats, other than those belonging to the operator.

CAT. Any member of the domestic feline species.

CITY. The City of Ukiah and when the context so indicates, City employees or contractors designated to carry out the provisions of this Chapter.

COUNTY. The County of Mendocino.

CONTRACT AGENCY. Any entity, including a Humane Society, which has entered into a contract with the City Council for the regulation and control of animals within the City and the duly designated officers of said contract shall have the authority to enforce the terms of this ordinance, including the authority to issue citations, in all areas covered by said contract.

COUNTY VETERINARIAN. Through a recommendation by the County Health Officer, shall be annually appointed by the County Board of Supervisors. He serves with or without compensation in the furtherance of the program of vaccination of dogs and cats against rabies.

DANGEROUS ANIMALS. Any animal which, because of its disposition or other characteristic would constitute a danger to persons or property, but this definition does not include domestic dogs or cats.

DOG. Any member of the domestic canine species.

DOMESTIC ANIMAL. Any animal, other than wild or exotic animals, customarily confined or cultivated by man for domestic or commercial purposes.

ESTRAY. The act of any animal to wander or roam at large.

EXOTIC ANIMAL. Any wild animal not customarily confined or cultivated by man for domestic or commercial purposes.

FERRAL DOG. A dog, escaped from domestication, running free and becoming wild.

GUARD DOG. A dog trained specially for the protection of personal, commercial or private property and registered as a recognized guard dog with the local governing body.

GUARDIAN. The term "guardian," as used in this Chapter, means "owner" as defined in this Section 4152 and has no other meaning.

GUIDE DOG. A dog that physically assists a person who has a physical disability.

GROOMING SHOP/PARLOR. A commercial establishment where animals are bathed, clipped, plucked, or otherwise conditioned.

HEALTH DEPARTMENT. The Health Officer or authorized agents of the County Health Officer or City Health Officer.

INFRACTION. Public offense as defined by Penal Code section 16.

IMPOUNDMENT. Any taking custody of, taking up, or confining of any animal(s) by the Animal Control authority.

COMMERCIAL KENNEL. Any place where five (5) or more dogs or cats are kept for commercial purposes, including a commercial kennel, pet grooming shop/parlor, commercial dog breeding business, boarding kennel, commercial or nonprofit dog adoption agency, or pet shop; provided, however, that a commercial kennel shall not include a licensed veterinary hospital or licensed agricultural kennel.

NONCOMMERCIAL RESIDENTIAL KENNEL. A place where five (5) or more dogs are kept, harbored, or confined for other than commercial purposes. Each dog in this type of kennel is subject to the regular dog license fee and is subject to compliance with certain kennel provisions of 4161.

CERTIFIED AGRICULTURAL KENNEL. Any place where five (5) or more dogs used solely for the herding or protection of farm animals or hunting dogs are actually kept, and the applicant signs a statement verifying proof of that status when applying for the certified agricultural license.

KITTEN. Any member of the domestic feline species under four (4) months of age.

LEASH. Any rope, leather strap, chain or other material not exceeding six feet (6') in length being held in the hand of the person capable of controlling and actually controlling the animal to which it is attached.

LICENSE. Refers to the license issued for the specified licensing period within City with all fees being paid as evidenced by a valid receipt.

LIVESTOCK. Includes all domesticated bovine, equine, caprine, ovine, swine, avian, poultry, and rodent species.

NUISANCE. Without limitation, any animal shall be considered a nuisance if it damages, soils, defiles, or defecates on private property other than the owner's, or public property; causes a disturbance by excessive barking or other noise making; or molests, attacks, or interferes with persons or passers-by on public property and property not that of the animal's owner; or attacks, worries, or molests or kills other animals or repeatedly chases passing vehicles on public highways or streets.

OWNER. Any person who is the keeper, harborer, possessor, or custodian, or who has control of an animal, or legal owner of any animal. Any occupant of premises upon which an animal is found shall be deemed prima facie the owner of said animal for the purposes of this

Chapter. In addition, it shall be evidence of ownership of any animal for any person to refuse to present that animal to an Animal Control Officer for inspection or to refuse to permit such Officer to impound any animal on the premises of such person, when said animal is found in violation of the provisions of this Chapter.

PHYSICAL CONTROL. Confined or restrained by a chain, rope, or leash.

PET SHOP. An establishment operated by any person, firm, or corporation, where live animals are kept for wholesale or retail sale, barter, or hire.

PROTECTIVE CUSTODY HOLD. Is a hold placed on any animal or dog which the animal enforcement authority determines should extend beyond seventy two (72) hours, excluding Saturday, Sunday and holidays.

PUPPY. Any member of the domestic canine species under the age of four (4) months.

QUARANTINE. The act of strict isolation and confinement of any animal to prevent the exposure to and the spread of a contagious disease or to prevent the animal from injury to any person or other animal.

STRAY. Any animal that is at large without an identification tag, license tag, rabies tag, brand, tattoo, or any apparent identification that would identify the true ownership of said animal, or an animal that may be lost or abandoned with or without such means of identification.

UNCONTROLLED. Any animal at large.

UNLICENSED. That the licensing fee has not been paid for the current licensing period in the City.

VACCINATION. A rabies vaccination of a dog or cat with a vaccine approved by and in the manner prescribed by the State Department of Public Health.

VETERINARIAN. A person licensed to practice veterinary medicine in the State of California.

VICIOUS ANIMAL. Any animal which has bitten a person or animal without provocation, or attacks, bites, harasses, scratches, or which has a disposition or propensity to attack, bite, harass or scratch any person or animal, or constitutes a physical threat to human beings or other animals.

WILD ANIMAL. Any animal not actually confined or cultivated by man.

WORKING ANIMAL. Animals under the control of humans used for the movement of livestock, fowl, tracing, obedience show, or in the taking of wild animals or wild fowls during the season established by law or in field trials.

4153: DOGS:

It shall be unlawful and an infraction for any person who owns, harbors or keeps any dog:

- A. To permit or cause such dog to run at large, roam or run estray; to fail to keep the dog under physical control when the dog is upon any public property or private property without the express permission of the owner or the custodian of such property. Dogs permitted on public property must be on a leash not exceeding six feet (6') in length.
- B. To permit the dogs to defecate upon public property, including but not limited to, any public sidewalk or public area commonly occupied or traversed on foot by members of the public, unless the person immediately removes the feces and properly disposes of it. Visually handicapped persons who use guide dogs are exempt from this law.
- C. To permit any dog to be unlicensed.
- D. To permit any dog to remain unrestrained without an appropriate fence, chain, leash, or enclosure.
- E. To permit or take any dog into a restaurant, grocery store, meat market, supermarket, fruit store or any place where food is sold, dispensed or served to members of the public. Exempted from this law are guide dogs under the immediate and effective control of their guardians.
- F. To permit any dog, known to be vicious and/or at large, to be kept on any private property in such a manner as to endanger the safety of any person lawfully entering such premises. In addition, a sign must be posted in a conspicuous place at or near the entrance to the premises with lettering at least two inches (2") in height and width reading:

"BEWARE OF VICIOUS DOG"

4155: NUISANCE:

It shall be unlawful and an infraction to permit dogs, cats or other animals to engage in any conduct which would constitute a public nuisance. When Animal Control receives a complaint regarding a dog or animal which presents a physical menace to the safety or the neighborhood and, upon receiving a written complaint(s) from one or more persons residing or working in the surrounding neighborhood who complains that any dog, cat or other animal is a habitual nuisance so as to disturb the peace and quiet of the surrounding neighborhood, or by reason of its actions causes undue annoyance, or whose habitual barking, howling or other sound, cry, or habitual excessive loud and shrill noises interferes with any person of ordinary sensitivity in the reasonable and comfortable enjoyment of life and property, the City will investigate the complaint, and if such condition is found to exist, an order to conform may be issued requiring said guardian or custodian of the dog, cat or other animal to abate such nuisance immediately. Failure to comply with the notice to abate such nuisance in compliance with the specific requirements contained in the notice shall be deemed a violation

of this Section and subject the violator to such penalties and fines as are set forth in this Chapter, and may subject the animal to impoundment. The aggrieved animal guardian may file a written appeal of such order of abatement or an impoundment of said animal in the form of a written "Notice of Appeal" with Animal Control. The appeal hearing will be conducted pursuant to procedures set forth in §4185.

4160: DOG LICENSES:

A. General Requirements:

1. Guardians of dogs four (4) months or older shall at all times have a valid City dog license for each dog in their possession and must license their dogs within ten (10) days of the dog coming into their possession or within ten (10) days after the dog reaches four (4) months of age. Licenses are valid for a period of one year beginning on the first day of the month in which they are first issued and ending the first day of that same month in each following year. If a license is sought more than ten (10) days after the dog turns four (4) months of age or first comes into the guardian's possession the license shall be effective for a period of one year on the first day of the month in which a license was first required.

Evidence of spaying or neutering when required shall be furnished by the guardian and shall consist of certification from a licensed veterinarian. Any guardian of the same dog so licensed may transfer a valid license and registration to another person upon payment of the transfer fee.

2. No license or tag of any type shall be issued pursuant to this Chapter for any dog until a valid certificate of rabies vaccination is presented to City Finance Department for each dog to be licensed.

3. A current valid dog license tag bearing the month and year in which it was issued shall be securely affixed to the dog's collar, harness or device and shall be worn at all times by said dog for whom the license registration is issued.

4. A reduced license fee shall be charged for all dogs that are spayed or neutered according to a fee schedule set by resolution of the City Council.

5. Any disabled person using a dog as a recognized guide dog shall be issued a license without charge upon proof of a valid rabies vaccination.

6. A dog owned and used exclusively for law enforcement purposes by a public agency requires a valid rabies vaccination and a dog license. The license requested shall be issued without charge upon documentary proof that such dog is certified for law enforcement activities only.

B. License Forms and Tags: The City Finance Department or Division of Animal Control shall provide forms for the licenses required herein. Such licenses when completed, shall state

the age, sex, color, and breed of the dog for which a license is requested and the name and address of the guardian thereof. The City Finance Department or a Division of Animal Control shall maintain on file in its office for public inspection copies of all licenses issued pursuant to this Chapter. Upon completion of the license form by the applicant, payment of the fees required, and presentation of a valid certificate of rabies vaccination as required herein, the City Finance Department or a Division of Animal Control shall issue the necessary license tags which shall be of a durable material and bear the name "City of Ukiah", the month and year of issuance, and the number of the license tag.

- C. Notice to Public: The City shall annually between May 15 and June 15 of each year, cause to be published at least once in a newspaper of general circulation, a notice addressed to all persons who own or harbor dogs. Said notice shall state the amount of the license fee, the date payable, and the penalty for failure to pay within the time prescribed by this Chapter. Thirty (30) days before the expiration date the City Finance Department or Division of Animal Control shall send a renewal notice to each guardian of a licensed dog as shown on the City's records. Failure to publish or send such notices shall not relieve any dog guardian of the obligation to comply with any provisions of this Chapter.

The Finance Department or Division of Animal Control is also authorized to require businesses which sell pet food or pet supplies to permit the posting of a notice next to such items reminding pet guardians to comply with City licensing regulations, rabies vaccination requirements and City animal control laws. These notices will be supplied and posted by the City.

- D. Late Procurement and Penalty: Any guardian failing to obtain and pay for a nonprorated license or licenses under the provisions of this Chapter by the thirtieth day of the month in which the license was originally Issued ("the renewal date") shall, in addition to the license fee, pay a penalty for each dog. Dog guardians who are cited for not having obtained the required license(s) for their dog(s) as required by this Chapter shall obtain a license and will be charged the additional delinquent penalty fee. Any license after the renewal date will be effective for one year from date on which the license originally expired.
- E. Nonresidents: Provisions of §4160 A through G, shall not apply to nonresident guardians of dogs who are temporarily within the City with their dogs for thirty (30) days or less, nor to dog guardians whose dogs are brought into the City to participate in any dog show, field trial, or tracking activity, providing said dogs have a current valid dog license and rabies vaccination from a city or county or state of origin. The dog license must be attached pursuant to §4160 A.
- F. Imported Dogs: Any dog guardian not falling within the exemption of §4160 E above, bringing a dog(s) into the City from out of State or out of the City after July 1, shall within ten (10) days, excluding Saturdays, Sundays, and holidays, upon presentation of a valid rabies vaccination certificate, obtain the license(s) for the ensuing fiscal year. Guardians of any such aforementioned dogs brought into the City before July 1 of the existing fiscal year, shall obtain the required nonprorated license for that fiscal year. Said license shall expire on July 1, and said dog guardian shall be subject to normal license renewal.

The additional penalty provided for nonpayment of license fees on or prior to June 30 in any year shall not apply to the said guardian of a dog or dogs who brings such out of City dog or dogs into the City after June 30 of any year, providing such guardian shall within ten (10) days (excluding holidays, Saturdays and Sundays) after bringing each dog or dogs into said City, procure a license or licenses for such dog or dogs, and it is hereby made the duty of such guardians to secure said license or licenses within said ten (10) day period.

G. Lost Tags: In the event a license tag issued to a dog be lost or destroyed, the guardian shall within ten (10) days thereafter procure a new duplicate license tag for a fee, and if said guardian shall fail to secure a duplicate license within ten (10) days (excluding Saturdays, Sundays and holidays) from the loss of said tags, said guardian or guardians shall be subject to a delinquent penalty fee, as well as the duplicate tag fee as set forth by resolution by the City Council of the City.

H. Prohibitions:

1. It is further provided that any person who secures a dog license, or any type of dog kennel license, or dangerous animal permit at any time by means of fraud or misrepresentation shall be guilty of a misdemeanor.

2. Any person who owns or harbors or keeps any dog and fails, neglects or refuses to attach and keep a valid current license tag affixed to said dog in the manner prescribed by this ordinance and State law is guilty of an infraction. Such unlawful conduct may also result in the impoundment of the dog.

3. No person shall and it shall constitute an infraction to remove a dog license tag from any dog without the consent of the guardian thereof, except in cases of emergency.

4. It is unlawful and an infraction for any person to place a dog license tag on any dog for which the tag was not issued or place an imitation or false dog license tag on any dog.

5. It shall constitute an infraction for any person to fail or refuse to show to the Animal Control Officer or peace officer the dog license tag or license certificate or rabies certificate for any dog upon request.

6. It is unlawful and a misdemeanor to possess, own, keep or harbor any unlicensed dog or to maintain, conduct, or cause to be operated any unlicensed kennel, grooming shop/parlor, pet shop, commercial kennel and profit or nonprofit dog adoption agency.

I. Disposition of Funds: All fees collected for the issuance of dog licenses and tags and all fines collected pursuant to this Chapter shall be paid into the City treasury and shall be used as required, in Food and Agriculture Code section 30652, as it now reads or may be hereafter amended.

J. §§4160, requiring dog licenses, 4161, requiring kennel licenses, 4162, requiring licenses for dangerous animals, and §4163, prescribing rules for denial, cancellation or revocation of licenses shall not become effective until the City Council adopts a resolution declaring those sections effective in the City. Until said resolution is adopted by the City Council and published as provided in Government Code section 6061, the provisions of Mendocino County Code, chapter 10.12, including section 10.12.010, requiring dog licenses, section 10.12.020, requiring kennel licenses, section 10.12.30, requiring licenses for dangerous animals and section 10.12.040, prescribing rules for cancellation, denial or revocation of licenses, shall continue to apply in the City.

Until said resolution is adopted and published as provided herein, persons who own or possess dogs or dangerous animals and kennel owners and operators shall continue to apply to Mendocino County for required licenses and permits as provided in Mendocino County Code, chapter 10.12.

4161: KENNEL LICENSES:

No person shall conduct a commercial kennel without a current commercial kennel license, in addition to a City business license, issued by the Finance Department.

No person(s) shall be issued a certified agricultural kennel license without verifying to the fact that their dogs (5 or more) are solely used for the purpose of herding or protection of farm animals, or hunting, and further agrees that these dogs are not to be sold or traded for commercial purposes. Applicants will be required to complete a signed statement attesting to the validity of the information as being true and correct.

Such kennel license must be obtained before July 1st. Persons failing to obtain the license by June 30 shall pay double the fee. Licenses shall be valid for a period of one year extending from July 1st through June 30th of the following year. The fee schedule for this type license is set by resolution of the City Council.

Exempt from the double fee penalty provisions are premises where dogs are kept, harbored or maintained for the sole purpose of raising, training, and providing guide dogs to the blind, deaf or other physically disabled persons. A nonprofit dog adoption agency will likewise be exempt from this penalty. However, a special fee-exempt commercial kennel license is provided for and required for such nonprofit adoption agencies as well as those persons raising and selling dogs for the physically disabled. All dogs shall be currently Individually licensed in accordance with the provisions of Article 7 of this Chapter.

The Finance Department shall issue to such owner without additional charge individual license tags for each of the dogs covered by the kennel license and, during the term of that license, shall upon written application, issue to such owner without charge additional license tags for any additional dogs that come into the possession of the owner within that license year.

A. Application for License: The application for above-mentioned licenses shall be in writing on a form approved by the Finance Department. The applicant shall furnish a list of the types of animals to be maintained or used for any purpose, together with the approximate number of animals of each type.

B. Regulations and Standards: The City Council may establish by resolution regulations and standards relating to:

1. The maximum number and species of animals to be kept or maintained on the premises;

2. The construction, sanitation and maintenance of the facility;

3. Any other regulations and standards in conformity with and for the purposes of carrying out the intent of this Section. Compliance with such rules and regulations shall be prerequisite to the issuance and continued validity of any license provided pursuant to this Section.

The licensee shall maintain a record of the names and addresses of persons from whom animals are received and to whom the animals are sold, traded or given. This shall be available to the City upon request.

C. Inspection: The City shall have the authority to inspect any facility for which a noncommercial residential kennel or commercial kennel license is to be issued or renewed for the purpose of determining inhumane treatment of animals and/or violations of State and local health and sanitation laws.

D. Conditions Relating to Animal Facilities and Care:

1. Structural Strength: Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.

2. All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.

3. All animals shall be maintained in a clean and sanitary condition.

4. All animals shall be so maintained as to eliminate excessive and nighttime noise.

5. No animals shall be without attention more than eighteen (18) consecutive hours. Whenever an animal is left unattended at a commercial animal facility, the telephone number of Animal Control or the name, address and telephone number of the person in charge of the facility shall be posted in a conspicuous place at the front of the property.

6. Every reasonable precaution shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.

7. No condition shall be maintained or permitted that is or could be injurious to the animals.

8. Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

9. Every animal establishment shall isolate sick animals sufficiently so as not to endanger the health of other animals.

10. Every building or enclosure wherein animals are maintained shall be constructed of material easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling are to be provided as may be required, according to the physical need of the animals, with sufficient light to allow observation of animals and sanitation.

11. Licensees shall take any animals to a veterinarian for examination or treatment if Animal Control or other enforcement agencies finds this necessary in order to maintain the health of the animal and orders the owner or custodian to do so.

12. All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations for the animals.

13. Every violation of an applicable regulation shall be corrected when specified by Animal Control or other enforcement agencies.

14. Licensees shall provide proper shelter and protection from the weather at all times.

15. Licensees shall not give any animal any alcoholic beverage, unless prescribed by a veterinarian.

16. Licensees shall not allow animals which are natural enemies, temperamentally unsuited, or otherwise incompatible, to be quartered together or so near each other as to cause injury, or torment.

If two (2) or more animals are so trained that they can be placed together and do not attack each other or perform or attempt any hostile act to the others, such animals shall not be deemed to be natural enemies.

17. Licensees shall not allow the use of any equipment, device, substance or material that is injurious or causes pain or cruelty to any animal.

18. Licensees shall give working animals proper rest periods. Confined or restrained animals shall be given exercise proper for the individual animal under the particular conditions.

19. Licensees shall not work, use, or rent any animal which is overheated, weakened, exhausted, sick, injured, diseased, lame, or otherwise unfit.

20. Licensees shall not display animals bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition.

21. Licensees shall not display any animal whose appearance is or may be offensive or contrary to public decency.

22. Licensees shall not allow any animal to constitute or cause a hazard or be a menace to the health, peace or safety of the community.

E. Nothing contained in this Section shall be construed to permit a commercial or noncommercial kennel where such use is not allowed by applicable zoning laws.

4171: ADMINISTRATIVE CONTROL:

A. Harboring Unvaccinated Dogs: No person shall own or harbor any dog after such dog attains the age of four (4) months which has not been vaccinated by a duly licensed veterinarian.

B. Certificate of Vaccination: After vaccinating any dog, the veterinarian performing such vaccination shall sign a certificate in triplicate containing the following information:

1. The name and address of the guardian or harbinger of the vaccinated dog.

2. The date of expiration of the vaccination.

3. The breed, color, sex and approximate size.

The Finance Department or the Division of Animal Control shall not issue license tags for any dog until it has been vaccinated with an antirabies vaccine by a licensed veterinarian in a manner approved by the County Health Officer. The guardian of such dog shall exhibit to the Finance Department or the Division of Animal Control or the City a certificate of vaccination on the form provided by the Health Officer.

Every licensed veterinarian practicing veterinary medicine within the City shall submit to the Division of Animal Control or the City one copy of each rabies vaccination certificate issued. Copies of all certificates issued shall be submitted on a quarterly basis.

The Division of Animal Control shall retain and file its copy of the certificate for a period of no less than three (3) years.

When a certificate of rabies vaccination is issued for the purpose of issuing a dog license, the vaccination must be valid for the entire licensing period.

- C. Exemption from Rabies Vaccination: Any dog may be exempted from antirabies vaccination during an illness or when the dog is not in physical condition to be vaccinated and the antirabies vaccination would be detrimental for a physiological reason to such dog's health if a licensed veterinarian has examined the dog and certified in writing within five (5) days of examination that such vaccination should be postponed because of a specified illness. Old age, debility, and pregnancy will not exempt a dog from rabies vaccination. Exemption statements shall be valid only for the duration of the illness. The temporary exemption from vaccination does not exempt a dog from the licensing requirements once its physical condition permits.
- D. Evidence of Vaccination: Possession of a certificate of vaccination on a duly approved form signed by a duly licensed veterinarian shall be prima facie evidence of vaccination of the dog referred to therein on the date indicated on said certificate.
- E. False Representation of Certification: No person shall represent that any vaccination certificate in his possession or under his control was issued as a result of the vaccination of any dog other than the dog that was in fact vaccinated.
- F. Stolen Certificate: No person shall make use of or have in his possession or under his control a stolen, counterfeit or forged vaccination certificate.
- G. Presentation of Certificate on Demand: No person who owns or harbors any dog shall fail or refuse to exhibit the certificate required herein upon demand of the Health Officer, any Public Health Sanitarian, peace officer, or Animal Control Officer.
- H. Time Limit for Vaccination: Any person who owns or harbors any dog which has been brought into the City shall, in the event such a dog has not been vaccinated as provided herein, have a period of ten (10) days from and after the arrival of such dog into the City within which to comply with this Chapter.
- I. Reporting of Bites: It shall be the duty of any person having knowledge that any dog or other mammal has or is suspected of having bitten any human being, or other mammal, or in all cases of mammal bites treated by a physician to immediately report such occurrence or fact to the County Health Officer or to the Division of Animal Control and to furnish complete information regarding the incident.

The report shall state the name and address, and age and sex of the person bitten, and/or description of the mammal bitten, if any, location and extent of bite wound, address or location where such attack occurred, and any other specific information relating to the biting animal or the biting incident so requested by the Health Department or the Division of Animal Control and/or Animal Control Officer. A copy of the report shall be forwarded by the Division of Animal Control and/or Animal Control Officer to the County Health Department within seventy two (72) hours.

In the event that the Animal Control Officer secures information of the existence of a case of rabies or other animal diseases dangerous to human beings, he/she shall immediately report same to the Health Officer. The owner of any mammal which has or is suspected of having bitten any person or other mammal within the preceding ten (10) days for dogs and cats, and fourteen (14) days for all other mammals, shall immediately, upon demand, surrender such mammal to the Health Officer, peace officer, or Animal Control Officer for purposes of quarantine or confinement pursuant to Section 4172.

4182: IMPOUNDMENT OF DOGS RUNNING AT LARGE:

An Animal Control Officer shall not seize or impound a dog for running at large under the provisions of this Chapter when the dog has not strayed from and is upon the private property of the dog guardian or the person who has a right to control the dog, or upon private property to which the dog guardian or person who has a right to control the dog has a right of possession, nor shall the Animal Control Officer seize or impound a dog which has strayed from, but then returned to the private property of his/her guardian or the person who has a right to control the dog, but in such a case, a citation may be issued; provided, however, that if the guardian or person who has a right to control the dog is not at home, the dog may be impounded, but the officer shall post a notice of such impoundment on the front door of the residence of the guardian or person who has a right to control the dog. The notice shall state the following: that the dog has been impounded, where the dog is being held, the name, address, and telephone number of the agency or person to be contacted regarding the release of the dog, and an indication of the ultimate disposition of the dog, if no action to regain it is taken within a specified period of time by its guardian or by the person who has a right to control the dog.

This Section shall not be construed as prohibiting any person from killing a dog in the situation authorized by Food and Agricultural Code sections 31102, 31104, 31152.

4184: HEARING PRIOR TO ANIMAL DEPRIVATION:

Except as provided in §4182 of this Article, a peace officer, agents of the Department of Public Health and the Division of Animal Control may not seize or impound any animal, unless an appeal hearing is held as set forth in §4185 of this Article.

If the guardian or person who has a right to control an animal refuses to consent to an impoundment of his/her animal, the Animal Control Officer may issue a notice commanding the person to appear at a specified time before the City Manager or a person or persons designated by the City Manager to hear and decide such appeals. (Ord. 923, 2, adopted 1991)

4186: FAILURE TO APPEAL IMPOUNDMENT:

Any person who fails to appeal any seizure or impoundment or order of abatement by the Animal Control Officer, the Department of Health or the Police Department or their authorized agents will forfeit all rights of ownership and control of the animal to the Division of Animal Control. Final disposition of the animal shall be determined by the agency in accordance with the provisions of this Chapter and State law.

- A. Redemption: Upon proper identification to the Division of Animal Control as the true guardian or other person entitled to custody of an impounded dog, said person may redeem such dog.

The same dog being redeemed from impoundment for a second or third time offense shall be redeemed by none other than its actual guardian.

No dog shall be redeemed without a valid rabies vaccination certificate, current valid dog license, payment of the fees or charges for impoundment, board and care, or veterinary services rendered.

No large domestic animal shall be redeemed without payment of fees or charges to cover impoundment, capture, or hauling and other expenses incurred in taking-up the animal.

The amount of such fees and charges shall be set by resolution of the City Council.

Any animal or dog impounded by an Animal Control Officer or peace officer into his patrol vehicle prior to being impounded at the animal shelter for reasons of violations of this Chapter, or for the health and safety of the animal, may be released to its owner, or the person entitled to custody upon proper identification by the Animal Control Officer at his/her discretion. However, a notice of warning or citation may be issued to the owner or other person entitled to custody. It is a misdemeanor for any person to remove any animal from the custody of the impounding officer without the express permission of the officer.

- B. Adoption/Sale: All dogs and cats adopted or sold from the City Animal Control Shelter shall be spayed or neutered within thirty (30) days of adoption or sale. An amount to cover the cost of spaying or neutering shall be deposited with the Division of Animal Control at the time the animal is obtained. This deposit will be returned when evidence that the animal has been spayed or neutered by a licensed veterinarian is presented. The amount of the deposit shall be set by resolution by the City Council. For animals too young to be spayed or neutered a period of time recommended by a veterinarian will be allowed, but in no case, over ten (10) months of age. Failure to comply will forfeit the deposit. Fees for adoption are set forth by resolution of the City Council.

All dogs and cats adopted or sold from nonprofit fee-exempt kennels shall be neutered or spayed within thirty (30) days of adoption or sale. For animals too young to be spayed or neutered, a period of time recommended by a veterinarian will be allowed, but in no case over ten (10) months of age.

It is a misdemeanor for any person to give false or misleading information to the Division of Animal Control in the adoption of an animal that has been impounded for violation of this Chapter in order to avoid impoundment, boarding care fees or penalties for such violations, if it should be established the adoptee is, in fact, the true guardian of the animal being adopted.

As a condition of adoption, the adoptee shall sign a notice agreeing to the provision for adoption that any person adopting any dog or cat from the animal shelter who fails to provide proper and adequate care in accordance with the Penal Code section 597(a) through (t), repeatedly allows the dog to be at large, or fails to obtain required vaccination and license in the case of dogs, or fails to spay or neuter the dog or cat as required, or said animal becomes a nuisance and is in three (3) repeated violations of this Chapter, shall be prohibited from any further adoption of animals from any animal shelter. In addition, said animal shall be taken-up and impounded and not returned to the adoptee. Said adoptee shall forthwith forfeit any right or title to said animal which will then become the property of the City. Adoptee may be subject to any fees, charges, penalties or citations.

4187: DISPOSITION OF IMPOUNDED ANIMALS:

No dog may be disposed of until seventy two (72) hours have elapsed from the time of impoundment, exclusive of the days of impoundment that the impoundment facility is closed, Saturdays, Sundays and holidays.

No stray cat which has been impounded by a public pound, society for the prevention of cruelty to animals, shelter, or humane shelter shall be disposed of before seventy two (72) hours have elapsed from the time of capture of the stray cat, exclusive of the days of that the impoundment facility is closed, Saturdays, Sundays and holidays.

This Section shall not apply to cats which are severely injured or seriously ill, or to newborn cats unable to feed themselves.

The Division of Animal Control may retain any dog, cat or animal under a protective custody hold beyond the seventy two (72) hour period at no charge to the guardian.

In lieu of destruction, any dog or cat, at the discretion of the Division of Animal Control, may be released without charge to any humane organization that proves an animal adoption service providing such release or adoption is not in conflict with any provision of this Chapter. Any dog or cat may be returned to the Division of Animal Control without charge should such agency be unable to provide adoption for said animal.

SECTION THREE

This Ordinance shall become effective thirty (30) days after adoption.

Introduced by title only on _____, 2009, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Adopted on _____, 2009 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Phil Baldwin, Mayor

ATTEST:

Linda Brown, City Clerk

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UKIAH AMENDING SECTIONS 4152, 4153, 4155, 4160, 4161, 4171, 4182, 4184, 4186, and 4187 OF THE UKIAH CITY CODE, PERTAINING TO DOGS AND CATS, TO USE THE WORD “GUARDIAN” INSTEAD OF “OWNER” IN THOSE SECTIONS.

The City Council of the City of Ukiah hereby ordains as follows:

SECTION ONE.

Sections 4152, 4153, 4155, 4160, 4161, 4171, 4182, 4184, 4186, and 4187 in Division 5, Chapter 1 of the Ukiah City Code are hereby amended to read as follows:

4152: DEFINITIONS:

Unless the context otherwise requires, the following terms shall have the following meanings when those terms are used in this Chapter.

ANIMAL. Any wild or domestic animal, fowl, reptile, fish and non-human animals.

ANIMAL CONTROL, DIVISION OF ANIMAL CONTROL/ANIMAL CONTROL AUTHORITY. That department or division of the City government and/or contracting agency which is specifically charged with the regulation of and enforcement of laws relating to animals within the jurisdiction of the City.

ANIMAL CONTROL OFFICER. Any person duly appointed by the Agricultural Commissioner, the City Council, or a Humane Society pursuant to Civil Code section 607f, if that society has contracted with the City to enforce this Chapter within the City limits.

ANIMAL ESTABLISHMENT. Any pet shop, grooming shop, auction, performing animal exhibition, kennel, animal shelter operated by other than a government agency, or Humane Society for the purposes specified in this ordinance.

ANIMAL SHELTER. Any facility operated by a local governmental agency, contracting agency or Humane Society for the purposes specified in this ordinance.

ANIMAL EXHIBITION. Any display containing one or more live domesticated wild or exotic animals which are exposed to public view for entertainment, instruction or advertisement.

AT LARGE. Any animal, excepting a working animal, shall be deemed to be at large when off the premises of the guardian and not under restraint by leash or physical control of its guardian.

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BOARDING KENNEL. A commercially operated establishment for the care and keeping of dogs and cats, other than those belonging to the operator.

CAT. Any member of the domestic feline species.

CITY. The City of Ukiah and when the context so indicates, City employees or contractors designated to carry out the provisions of this Chapter.

COUNTY. The County of Mendocino.

CONTRACT AGENCY. Any entity, including a Humane Society, which has entered into a contract with the City Council for the regulation and control of animals within the City and the duly designated officers of said contract shall have the authority to enforce the terms of this ordinance, including the authority to issue citations, in all areas covered by said contract.

COUNTY VETERINARIAN. Through a recommendation by the County Health Officer, shall be annually appointed by the County Board of Supervisors. He serves with or without compensation in the furtherance of the program of vaccination of dogs and cats against rabies.

DANGEROUS ANIMALS. Any animal which, because of its disposition or other characteristic would constitute a danger to persons or property, but this definition does not include domestic dogs or cats.

DOG. Any member of the domestic canine species.

DOMESTIC ANIMAL. Any animal, other than wild or exotic animals, customarily confined or cultivated by man for domestic or commercial purposes.

ESTRAY. The act of any animal to wander or roam at large.

EXOTIC ANIMAL. Any wild animal not customarily confined or cultivated by man for domestic or commercial purposes.

FERRAL DOG. A dog, escaped from domestication, running free and becoming wild.

GUARD DOG. A dog trained specially for the protection of personal, commercial or private property and registered as a recognized guard dog with the local governing body.

[GUARDIAN.](#) The term "guardian," as used in this Chapter, means "owner" as defined herein and has no other meaning.

GUIDE DOG. A dog that physically assists a person who has a physical disability.

GROOMING SHOP/PARLOR. A commercial establishment where animals are bathed, clipped, plucked, or otherwise conditioned.

HEALTH DEPARTMENT. The Health Officer or authorized agents of the County Health Officer or City Health Officer.

INFRACTION. Public offense as defined by Penal Code section 16.

IMPOUNDMENT. Any taking custody of, taking up, or confining of any animal(s) by the Animal Control authority.

COMMERCIAL KENNEL. Any place where five (5) or more dogs or cats are kept for commercial purposes, including a commercial kennel, pet grooming shop/parlor, commercial dog breeding business, boarding kennel, commercial or nonprofit dog adoption agency, or pet shop; provided, however, that a commercial kennel shall not include a licensed veterinary hospital or licensed agricultural kennel.

NONCOMMERCIAL RESIDENTIAL KENNEL. A place where five (5) or more dogs are kept, harbored, or confined for other than commercial purposes. Each dog in this type of kennel is subject to the regular dog license fee and is subject to compliance with certain kennel provisions of 4161.

CERTIFIED AGRICULTURAL KENNEL. Any place where five (5) or more dogs used solely for the herding or protection of farm animals or hunting dogs are actually kept, and the applicant signs a statement verifying proof of that status when applying for the certified agricultural license.

KITTEN. Any member of the domestic feline species under four (4) months of age.

LEASH. Any rope, leather strap, chain or other material not exceeding six feet (6') in length being held in the hand of the person capable of controlling and actually controlling the animal to which it is attached.

LICENSE. Refers to the license issued for the specified licensing period within City with all fees being paid as evidenced by a valid receipt.

LIVESTOCK. Includes all domesticated bovine, equine, caprine, ovine, swine, avian, poultry, and rodent species.

NUISANCE. Without limitation, any animal shall be considered a nuisance if it damages, soils, defiles, or defecates on private property other than the owner's, or public property; causes a disturbance by excessive barking or other noise making; or molests, attacks, or interferes with persons or passers-by on public property and property not that of the animal's owner; or attacks, worries, or molests or kills other animals or repeatedly chases passing vehicles on public highways or streets.

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OWNER. Any person who is the keeper, harborer, possessor, or custodian, or who has control of an animal, or legal owner of any animal. Any occupant of premises upon which an animal is found shall be deemed prima facie the owner of said animal for the purposes of this

Chapter. In addition, it shall be evidence of ownership of any animal for any person to refuse to present that animal to an Animal Control Officer for inspection or to refuse to permit such Officer to impound any animal on the premises of such person, when said animal is found in violation of the provisions of this Chapter.

PHYSICAL CONTROL. Confined or restrained by a chain, rope, or leash.

PET SHOP. An establishment operated by any person, firm, or corporation, where live animals are kept for wholesale or retail sale, barter, or hire.

PROTECTIVE CUSTODY HOLD. Is a hold placed on any animal or dog which the animal enforcement authority determines should extend beyond seventy two (72) hours, excluding Saturday, Sunday and holidays.

PUPPY. Any member of the domestic canine species under the age of four (4) months.

QUARANTINE. The act of strict isolation and confinement of any animal to prevent the exposure to and the spread of a contagious disease or to prevent the animal from injury to any person or other animal.

STRAY. Any animal that is at large without an identification tag, license tag, rabies tag, brand, tattoo, or any apparent identification that would identify the true ownership of said animal, or an animal that may be lost or abandoned with or without such means of identification.

UNCONTROLLED. Any animal at large.

UNLICENSED. That the licensing fee has not been paid for the current licensing period in the City.

VACCINATION. A rabies vaccination of a dog or cat with a vaccine approved by and in the manner prescribed by the State Department of Public Health.

VETERINARIAN. A person licensed to practice veterinary medicine in the State of California.

VICIOUS ANIMAL. Any animal which has bitten a person or animal without provocation, or attacks, bites, harasses, scratches, or which has a disposition or propensity to attack, bite, harass or scratch any person or animal, or constitutes a physical threat to human beings or other animals.

WILD ANIMAL. Any animal not actually confined or cultivated by man.

WORKING ANIMAL. Animals under the control of humans used for the movement of livestock, fowl, tracing, obedience show, or in the taking of wild animals or wild fowls during the season established by law or in field trials.

4153: DOGS:

It shall be unlawful and an infraction for any person who owns, harbors or keeps any dog:

- A. To permit or cause such dog to run at large, roam or run stray; to fail to keep the dog under physical control when the dog is upon any public property or private property without the express permission of the owner or the custodian of such property. Dogs permitted on public property must be on a leash not exceeding six feet (6') in length.
- B. To permit the dogs to defecate upon public property, including but not limited to, any public sidewalk or public area commonly occupied or traversed on foot by members of the public, unless the person immediately removes the feces and properly disposes of it. Visually handicapped persons who use guide dogs are exempt from this law.
- C. To permit any dog to be unlicensed.
- D. To permit any dog to remain unrestrained without an appropriate fence, chain, leash, or enclosure.
- E. To permit or take any dog into a restaurant, grocery store, meat market, supermarket, fruit store or any place where food is sold, dispensed or served to members of the public. Exempted from this law are guide dogs under the immediate and effective control of their guardians.
- F. To permit any dog, known to be vicious and/or at large, to be kept on any private property in such a manner as to endanger the safety of any person lawfully entering such premises. In addition, a sign must be posted in a conspicuous place at or near the entrance to the premises with lettering at least two inches (2") in height and width reading:

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"BEWARE OF VICIOUS DOG"

4155: NUISANCE:

It shall be unlawful and an infraction to permit dogs, cats or other animals to engage in any conduct which would constitute a public nuisance. When Animal Control receives a complaint regarding a dog or animal which presents a physical menace to the safety or the neighborhood and, upon receiving a written complaint(s) from one or more persons residing or working in the surrounding neighborhood who complains that any dog, cat or other animal is a habitual nuisance so as to disturb the peace and quiet of the surrounding neighborhood, or by reason of its actions causes undue annoyance, or whose habitual barking, howling or other sound, cry, or habitual excessive loud and shrill noises interferes with any person of ordinary sensitivity in the reasonable and comfortable enjoyment of life and property, the City will investigate the complaint, and if such condition is found to exist, an order to conform may be issued requiring said guardian or custodian of the dog, cat or other animal to abate such nuisance immediately. Failure to comply with the notice to abate such nuisance in compliance with the specific requirements contained in the notice shall be deemed a violation

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of this Section and subject the violator to such penalties and fines as are set forth in this Chapter, and may subject the animal to impoundment. The aggrieved animal guardian may file a written appeal of such order of abatement or an impoundment of said animal in the form of a written "Notice of Appeal" with Animal Control. The appeal hearing will be conducted pursuant to procedures set forth in §4185.

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4160: DOG LICENSES:

A. General Requirements:

1. Guardians of dogs four (4) months or older shall at all times have a valid City dog license for each dog in their possession and must license their dogs within ten (10) days of the dog coming into their possession or within ten (10) days after the dog reaches four (4) months of age. Licenses are valid for a period of one year beginning on the first day of the month in which they are first issued and ending the first day of that same month in each following year. If a license is sought more than ten (10) days after the dog turns four (4) months of age or first comes into the guardian's possession the license shall be effective for a period of one year on the first day of the month in which a license was first required.

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Evidence of spaying or neutering when required shall be furnished by the guardian and shall consist of certification from a licensed veterinarian. Any guardian of the same dog so licensed may transfer a valid license and registration to another person upon payment of the transfer fee.

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2. No license or tag of any type shall be issued pursuant to this Chapter for any dog until a valid certificate of rabies vaccination is presented to City Finance Department for each dog to be licensed.

3. A current valid dog license tag bearing the month and year in which it was issued shall be securely affixed to the dog's collar, harness or device and shall be worn at all times by said dog for whom the license registration is issued.

4. A reduced license fee shall be charged for all dogs that are spayed or neutered according to a fee schedule set by resolution of the City Council.

5. Any disabled person using a dog as a recognized guide dog shall be issued a license without charge upon proof of a valid rabies vaccination.

6. A dog owned and used exclusively for law enforcement purposes by a public agency requires a valid rabies vaccination and a dog license. The license requested shall be issued without charge upon documentary proof that such dog is certified for law enforcement activities only.

B. License Forms and Tags: The City Finance Department or Division of Animal Control shall provide forms for the licenses required herein. Such licenses when completed, shall state

the age, sex, color, and breed of the dog for which a license is requested and the name and address of the guardian thereof. The City Finance Department or a Division of Animal Control shall maintain on file in its office for public inspection copies of all licenses issued pursuant to this Chapter. Upon completion of the license form by the applicant, payment of the fees required, and presentation of a valid certificate of rabies vaccination as required herein, the City Finance Department or a Division of Animal Control shall issue the necessary license tags which shall be of a durable material and bear the name "City of Ukiah", the month and year of issuance, and the number of the license tag.

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C. Notice to Public: The City shall annually between May 15 and June 15 of each year, cause to be published at least once in a newspaper of general circulation, a notice addressed to all persons who own or harbor dogs. Said notice shall state the amount of the license fee, the date payable, and the penalty for failure to pay within the time prescribed by this Chapter. Thirty (30) days before the expiration date the City Finance Department or Division of Animal Control shall send a renewal notice to each guardian of a licensed dog as shown on the City's records. Failure to publish or send such notices shall not relieve any dog guardian of the obligation to comply with any provisions of this Chapter.

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The Finance Department or Division of Animal Control is also authorized to require businesses which sell pet food or pet supplies to permit the posting of a notice next to such items reminding pet guardians to comply with City licensing regulations, rabies vaccination requirements and City animal control laws. These notices will be supplied and posted by the City.

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D. Late Procurement and Penalty: Any guardian failing to obtain and pay for a nonprorated license or licenses under the provisions of this Chapter by the thirtieth day of the month in which the license was originally issued ("the renewal date") shall, in addition to the license fee, pay a penalty for each dog. Dog guardians who are cited for not having obtained the required license(s) for their dog(s) as required by this Chapter shall obtain a license and will be charged the additional delinquent penalty fee. Any license after the renewal date will be effective for one year from date on which the license originally expired.

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E. Nonresidents: Provisions of §4160 A through G, shall not apply to nonresident guardians of dogs who are temporarily within the City with their dogs for thirty (30) days or less, nor to dog guardians whose dogs are brought into the City to participate in any dog show, field trial, or tracking activity, providing said dogs have a current valid dog license and rabies vaccination from a city or county or state of origin. The dog license must be attached pursuant to §4160 A.

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F. Imported Dogs: Any dog guardian not falling within the exemption of §4160 E above, bringing a dog(s) into the City from out of State or out of the City after July 1, shall within ten (10) days, excluding Saturdays, Sundays, and holidays, upon presentation of a valid rabies vaccination certificate, obtain the license(s) for the ensuing fiscal year. Guardians of any such aforementioned dogs brought into the City before July 1 of the existing fiscal year, shall obtain the required nonprorated license for that fiscal year. Said license shall expire on July 1, and said dog guardian shall be subject to normal license renewal.

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The additional penalty provided for nonpayment of license fees on or prior to June 30 in any year shall not apply to the said guardian of a dog or dogs who brings such out of City dog or dogs into the City after June 30 of any year, providing such guardian shall within ten (10) days (excluding holidays, Saturdays and Sundays) after bringing each dog or dogs into said City, procure a license or licenses for such dog or dogs, and it is hereby made the duty of such guardians to secure said license or licenses within said ten (10) day period.

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G. Lost Tags: In the event a license tag issued to a dog be lost or destroyed, the guardian shall within ten (10) days thereafter procure a new duplicate license tag for a fee, and if said guardian shall fail to secure a duplicate license within ten (10) days (excluding Saturdays, Sundays and holidays) from the loss of said tags, said guardian or guardians shall be subject to a delinquent penalty fee, as well as the duplicate tag fee as set forth by resolution by the City Council of the City.

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H. Prohibitions:

1. It is further provided that any person who secures a dog license, or any type of dog kennel license, or dangerous animal permit at any time by means of fraud or misrepresentation shall be guilty of a misdemeanor.

2. Any person who owns or harbors or keeps any dog and fails, neglects or refuses to attach and keep a valid current license tag affixed to said dog in the manner prescribed by this ordinance and State law is guilty of an infraction. Such unlawful conduct may also result in the impoundment of the dog.

3. No person shall and it shall constitute an infraction to remove a dog license tag from any dog without the consent of the guardian thereof, except in cases of emergency.

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4. It is unlawful and an infraction for any person to place a dog license tag on any dog for which the tag was not issued or place an imitation or false dog license tag on any dog.

5. It shall constitute an infraction for any person to fail or refuse to show to the Animal Control Officer or peace officer the dog license tag or license certificate or rabies certificate for any dog upon request.

6. It is unlawful and a misdemeanor to possess, own, keep or harbor any unlicensed dog or to maintain, conduct, or cause to be operated any unlicensed kennel, grooming shop/parlor, pet shop, commercial kennel and profit or nonprofit dog adoption agency.

I. Disposition of Funds: All fees collected for the issuance of dog licenses and tags and all fines collected pursuant to this Chapter shall be paid into the City treasury and shall be used as required, in Food and Agriculture Code section 30652, as it now reads or may be hereafter amended.

J. §§4160, requiring dog licenses, 4161, requiring kennel licenses, 4162, requiring licenses for dangerous animals, and §4163, prescribing rules for denial, cancellation or revocation of licenses shall not become effective until the City Council adopts a resolution declaring those sections effective in the City. Until said resolution is adopted by the City Council and published as provided in Government Code section 6061, the provisions of Mendocino County Code, chapter 10.12, including section 10.12.010, requiring dog licenses, section 10.12.020, requiring kennel licenses, section 10.12.30, requiring licenses for dangerous animals and section 10.12.040, prescribing rules for cancellation, denial or revocation of licenses, shall continue to apply in the City.

Until said resolution is adopted and published as provided herein, persons who own or possess dogs or dangerous animals and kennel owners and operators shall continue to apply to Mendocino County for required licenses and permits as provided in Mendocino County Code, chapter 10.12.

4161: KENNEL LICENSES:

No person shall conduct a commercial kennel without a current commercial kennel license, in addition to a City business license, issued by the Finance Department.

No person(s) shall be issued a certified agricultural kennel license without verifying to the fact that their dogs (5 or more) are solely used for the purpose of herding or protection of farm animals, or hunting, and further agrees that these dogs are not to be sold or traded for commercial purposes. Applicants will be required to complete a signed statement attesting to the validity of the information as being true and correct.

Such kennel license must be obtained before July 1st. Persons failing to obtain the license by June 30 shall pay double the fee. Licenses shall be valid for a period of one year extending from July 1st through June 30th of the following year. The fee schedule for this type license is set by resolution of the City Council.

Exempt from the double fee penalty provisions are premises where dogs are kept, harbored or maintained for the sole purpose of raising, training, and providing guide dogs to the blind, deaf or other physically disabled persons. A nonprofit dog adoption agency will likewise be exempt from this penalty. However, a special fee-exempt commercial kennel license is provided for and required for such nonprofit adoption agencies as well as those persons raising and selling dogs for the physically disabled. All dogs shall be currently Individually licensed in accordance with the provisions of Article 7 of this Chapter.

The Finance Department shall issue to such owner without additional charge individual license tags for each of the dogs covered by the kennel license and, during the term of that license, shall upon written application, issue to such owner without charge additional license tags for any additional dogs that come into the possession of the owner within that license year.

A. Application for License: The application for above-mentioned licenses shall be in writing on a form approved by the Finance Department. The applicant shall furnish a list of the types of animals to be maintained or used for any purpose, together with the approximate number of animals of each type.

B. Regulations and Standards: The City Council may establish by resolution regulations and standards relating to:

1. The maximum number and species of animals to be kept or maintained on the premises;
2. The construction, sanitation and maintenance of the facility;
3. Any other regulations and standards in conformity with and for the purposes of carrying out the intent of this Section. Compliance with such rules and regulations shall be prerequisite to the issuance and continued validity of any license provided pursuant to this Section.

The licensee shall maintain a record of the names and addresses of persons from whom animals are received and to whom the animals are sold, traded or given. This shall be available to the City upon request.

C. Inspection: The City shall have the authority to inspect any facility for which a noncommercial residential kennel or commercial kennel license is to be issued or renewed for the purpose of determining inhumane treatment of animals and/or violations of State and local health and sanitation laws.

D. Conditions Relating to Animal Facilities and Care:

1. Structural Strength: Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.
2. All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.
3. All animals shall be maintained in a clean and sanitary condition.
4. All animals shall be so maintained as to eliminate excessive and nighttime noise.
5. No animals shall be without attention more than eighteen (18) consecutive hours. Whenever an animal is left unattended at a commercial animal facility, the telephone number of Animal Control or the name, address and telephone number of the person in charge of the facility shall be posted in a conspicuous place at the front of the property.

6. Every reasonable precaution shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.

7. No condition shall be maintained or permitted that is or could be injurious to the animals.

8. Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.

9. Every animal establishment shall isolate sick animals sufficiently so as not to endanger the health of other animals.

10. Every building or enclosure wherein animals are maintained shall be constructed of material easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling are to be provided as may be required, according to the physical need of the animals, with sufficient light to allow observation of animals and sanitation.

11. Licensees shall take any animals to a veterinarian for examination or treatment if Animal Control or other enforcement agencies finds this necessary in order to maintain the health of the animal and orders the owner or custodian to do so.

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12. All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations for the animals.

13. Every violation of an applicable regulation shall be corrected when specified by Animal Control or other enforcement agencies.

14. Licensees shall provide proper shelter and protection from the weather at all times.

15. Licensees shall not give any animal any alcoholic beverage, unless prescribed by a veterinarian.

16. Licensees shall not allow animals which are natural enemies, temperamentally unsuited, or otherwise incompatible, to be quartered together or so near each other as to cause injury, or torment.

If two (2) or more animals are so trained that they can be placed together and do not attack each other or perform or attempt any hostile act to the others, such animals shall not be deemed to be natural enemies.

17. Licensees shall not allow the use of any equipment, device, substance or material that is injurious or causes pain or cruelty to any animal.

18. Licensees shall give working animals proper rest periods. Confined or restrained animals shall be given exercise proper for the individual animal under the particular conditions.

19. Licensees shall not work, use, or rent any animal which is overheated, weakened, exhausted, sick, injured, diseased, lame, or otherwise unfit.

20. Licensees shall not display animals bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition.

21. Licensees shall not display any animal whose appearance is or may be offensive or contrary to public decency.

22. Licensees shall not allow any animal to constitute or cause a hazard or be a menace to the health, peace or safety of the community.

E. Nothing contained in this Section shall be construed to permit a commercial or noncommercial kennel where such use is not allowed by applicable zoning laws.

4171: ADMINISTRATIVE CONTROL:

A. Harboring Unvaccinated Dogs: No person shall own or harbor any dog after such dog attains the age of four (4) months which has not been vaccinated by a duly licensed veterinarian.

B. Certificate of Vaccination: After vaccinating any dog, the veterinarian performing such vaccination shall sign a certificate in triplicate containing the following information:

1. The name and address of the guardian or harborer of the vaccinated dog.
2. The date of expiration of the vaccination.
3. The breed, color, sex and approximate size.

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The Finance Department or the Division of Animal Control shall not issue license tags for any dog until it has been vaccinated with an antirabies vaccine by a licensed veterinarian in a manner approved by the County Health Officer. The guardian of such dog shall exhibit to the Finance Department or the Division of Animal Control or the City a certificate of vaccination on the form provided by the Health Officer.

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Every licensed veterinarian practicing veterinary medicine within the City shall submit to the Division of Animal Control or the City one copy of each rabies vaccination certificate issued. Copies of all certificates issued shall be submitted on a quarterly basis.

The Division of Animal Control shall retain and file its copy of the certificate for a period of no less than three (3) years.

When a certificate of rabies vaccination is issued for the purpose of issuing a dog license, the vaccination must be valid for the entire licensing period.

- C. Exemption from Rabies Vaccination: Any dog may be exempted from antirabies vaccination during an illness or when the dog is not in physical condition to be vaccinated and the antirabies vaccination would be detrimental for a physiological reason to such dog's health if a licensed veterinarian has examined the dog and certified in writing within five (5) days of examination that such vaccination should be postponed because of a specified illness. Old age, debility, and pregnancy will not exempt a dog from rabies vaccination. Exemption statements shall be valid only for the duration of the illness. The temporary exemption from vaccination does not exempt a dog from the licensing requirements once its physical condition permits.
- D. Evidence of Vaccination: Possession of a certificate of vaccination on a duly approved form signed by a duly licensed veterinarian shall be prima facie evidence of vaccination of the dog referred to therein on the date indicated on said certificate.
- E. False Representation of Certification: No person shall represent that any vaccination certificate in his possession or under his control was issued as a result of the vaccination of any dog other than the dog that was in fact vaccinated.
- F. Stolen Certificate: No person shall make use of or have in his possession or under his control a stolen, counterfeit or forged vaccination certificate.
- G. Presentation of Certificate on Demand: No person who owns or harbors any dog shall fail or refuse to exhibit the certificate required herein upon demand of the Health Officer, any Public Health Sanitarian, peace officer, or Animal Control Officer.
- H. Time Limit for Vaccination: Any person who owns or harbors any dog which has been brought into the City shall, in the event such a dog has not been vaccinated as provided herein, have a period of ten (10) days from and after the arrival of such dog into the City within which to comply with this Chapter.
- I. Reporting of Bites: It shall be the duty of any person having knowledge that any dog or other mammal has or is suspected of having bitten any human being, or other mammal, or in all cases of mammal bites treated by a physician to immediately report such occurrence or fact to the County Health Officer or to the Division of Animal Control and to furnish complete information regarding the incident.

The report shall state the name and address, and age and sex of the person bitten, and/or description of the mammal bitten, if any, location and extent of bite wound, address or location where such attack occurred, and any other specific information relating to the biting animal or the biting incident so requested by the Health Department or the Division of Animal Control and/or Animal Control Officer. A copy of the report shall be forwarded by the Division of Animal Control and/or Animal Control Officer to the County Health Department within seventy two (72) hours.

In the event that the Animal Control Officer secures information of the existence of a case of rabies or other animal diseases dangerous to human beings, he/she shall immediately report same to the Health Officer. The owner of any mammal which has or is suspected of having bitten any person or other mammal within the preceding ten (10) days for dogs and cats, and fourteen (14) days for all other mammals, shall immediately, upon demand, surrender such mammal to the Health Officer, peace officer, or Animal Control Officer for purposes of quarantine or confinement pursuant to Section 4172.

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4182: IMPOUNDMENT OF DOGS RUNNING AT LARGE:

An Animal Control Officer shall not seize or impound a dog for running at large under the provisions of this Chapter when the dog has not strayed from and is upon the private property of the dog guardian or the person who has a right to control the dog, or upon private property to which the dog guardian or person who has a right to control the dog has a right of possession, nor shall the Animal Control Officer seize or impound a dog which has strayed from, but then returned to the private property of his/her guardian or the person who has a right to control the dog, but in such a case, a citation may be issued; provided, however, that if the guardian or person who has a right to control the dog is not at home, the dog may be impounded, but the officer shall post a notice of such impoundment on the front door of the residence of the guardian or person who has a right to control the dog. The notice shall state the following: that the dog has been impounded, where the dog is being held, the name, address, and telephone number of the agency or person to be contacted regarding the release of the dog, and an indication of the ultimate disposition of the dog, if no action to regain it is taken within a specified period of time by its guardian or by the person who has a right to control the dog.

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This Section shall not be construed as prohibiting any person from killing a dog in the situation authorized by Food and Agricultural Code sections 31102, 31104, 31152.

4184: HEARING PRIOR TO ANIMAL DEPRIVATION:

Except as provided in §4182 of this Article, a peace officer, agents of the Department of Public Health and the Division of Animal Control may not seize or impound any animal, unless an appeal hearing is held as set forth in §4185 of this Article.

If the guardian or person who has a right to control an animal refuses to consent to an impoundment of his/her animal, the Animal Control Officer may issue a notice commanding the person to appear at a specified time before the City Manager or a person or persons designated by the City Manager to hear and decide such appeals. (Ord. 923, 2, adopted 1991)

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4186: FAILURE TO APPEAL IMPOUNDMENT:

Any person who fails to appeal any seizure or impoundment or order of abatement by the Animal Control Officer, the Department of Health or the Police Department or their authorized agents will forfeit all rights of ownership and control of the animal to the Division of Animal Control. Final disposition of the animal shall be determined by the agency in accordance with the provisions of this Chapter and State law.

A. Redemption: Upon proper identification to the Division of Animal Control as the true guardian or other person entitled to custody of an impounded dog, said person may redeem such dog.

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The same dog being redeemed from impoundment for a second or third time offense shall be redeemed by none other than its actual guardian.

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No dog shall be redeemed without a valid rabies vaccination certificate, current valid dog license, payment of the fees or charges for impoundment, board and care, or veterinary services rendered.

No large domestic animal shall be redeemed without payment of fees or charges to cover impoundment, capture, or hauling and other expenses incurred in taking-up the animal.

The amount of such fees and charges shall be set by resolution of the City Council.

Any animal or dog impounded by an Animal Control Officer or peace officer into his patrol vehicle prior to being impounded at the animal shelter for reasons of violations of this Chapter, or for the health and safety of the animal, may be released to its owner, or the person entitled to custody upon proper identification by the Animal Control Officer at his/her discretion. However, a notice of warning or citation may be issued to the owner or other person entitled to custody. It is a misdemeanor for any person to remove any animal from the custody of the impounding officer without the express permission of the officer.

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B. Adoption/Sale: All dogs and cats adopted or sold from the City Animal Control Shelter shall be spayed or neutered within thirty (30) days of adoption or sale. An amount to cover the cost of spaying or neutering shall be deposited with the Division of Animal Control at the time the animal is obtained. This deposit will be returned when evidence that the animal has been spayed or neutered by a licensed veterinarian is presented. The amount of the deposit shall be set by resolution by the City Council. For animals too young to be spayed or neutered a period of time recommended by a veterinarian will be allowed, but in no case, over ten (10) months of age. Failure to comply will forfeit the deposit. Fees for adoption are set forth by resolution of the City Council.

All dogs and cats adopted or sold from nonprofit fee-exempt kennels shall be neutered or spayed within thirty (30) days of adoption or sale. For animals too young to be spayed or neutered, a period of time recommended by a veterinarian will be allowed, but in no case over ten (10) months of age.

It is a misdemeanor for any person to give false or misleading information to the Division of Animal Control in the adoption of an animal that has been impounded for violation of this Chapter in order to avoid impoundment, boarding care fees or penalties for such violations, if it should be established the adoptee is, in fact, the true guardian of the animal being adopted.

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As a condition of adoption, the adoptee shall sign a notice agreeing to the provision for adoption that any person adopting any dog or cat from the animal shelter who fails to provide proper and adequate care in accordance with the Penal Code section 597(a) through (t), repeatedly allows the dog to be at large, or fails to obtain required vaccination and license in the case of dogs, or fails to spay or neuter the dog or cat as required, or said animal becomes a nuisance and is in three (3) repeated violations of this Chapter, shall be prohibited from any further adoption of animals from any animal shelter. In addition, said animal shall be taken-up and impounded and not returned to the adoptee. Said adoptee shall forthwith forfeit any right or title to said animal which will then become the property of the City. Adoptee may be subject to any fees, charges, penalties or citations.

4187: DISPOSITION OF IMPOUNDED ANIMALS:

No dog may be disposed of until seventy two (72) hours have elapsed from the time of impoundment, exclusive of the days of impoundment that the impoundment facility is closed, Saturdays, Sundays and holidays.

No stray cat which has been impounded by a public pound, society for the prevention of cruelty to animals, shelter, or humane shelter shall be disposed of before seventy two (72) hours have elapsed from the time of capture of the stray cat, exclusive of the days of that the impoundment facility is closed, Saturdays, Sundays and holidays.

This Section shall not apply to cats which are severely injured or seriously ill, or to newborn cats unable to feed themselves.

The Division of Animal Control may retain any dog, cat or animal under a protective custody hold beyond the seventy two (72) hour period at no charge to the guardian.

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In lieu of destruction, any dog or cat, at the discretion of the Division of Animal Control, may be released without charge to any humane organization that proves an animal adoption service providing such release or adoption is not in conflict with any provision of this Chapter. Any dog or cat may be returned to the Division of Animal Control without charge should such agency be unable to provide adoption for said animal.

SECTION THREE

This Ordinance shall become effective thirty (30) days after adoption.

Introduced by title only on _____, 2009, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Adopted on _____, 2009 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Phil Baldwin, Mayor

ATTEST:

Linda Brown, City Clerk