



CITY COUNCIL AGENDA REPORT

MEETING DATE: July 17, 2007

ITEM NUMBER: VIII-2

SUBJECT: REVISIONS TO ANIMAL REGULATIONS ORDINANCE

DATE: JULY 9, 2007

FROM: CITY ATTORNEY'S OFFICE

PRESENTATION BY: KIMBERLY HALL BARLOW, CITY ATTORNEY

FOR FURTHER INFORMATION CONTACT: KIMBERLY HALL BARLOW, 714-754-5399

RECOMMENDATION:

Introduce and give first reading to the attached Ordinance Amending Title 3 relating to Animal Regulations as well as the provisions relating to dogs in City parks (Section 12-42 of Title 12).

BACKGROUND:

On May 8, 2007, a Study Session was held to discuss the proposed changes to the Animal Regulations. Animal Control staff had requested many of the changes, since it has been over twenty years since the last major revision and, in the interim, the character of the community has evolved from a rural to a more urban one. Furthermore, there have been changes in the laws and the revisions are needed to bring the City's Code into conformance with the changes and to facilitate enforcement. This item was scheduled for the July 3, 2007 meeting, but was continued at the request of Member Dixon and some members of the public.

ANALYSIS:

The ordinance changes proposed at the Study Session along with the Staff Report are attached for information and comparison. As requested by Council, the draft ordinance has been revised to match the County code setting the maximum number of adult dogs and cats which can be kept as three of each (Sec. 3-14). With respect to Section 3-55, Animal Control staff would prefer to either completely prohibit the feeding of strays or leave the Code as is. The recommended changes were proposed by the City Attorney's Office as a way of addressing the stray problem without prohibiting feeding.

As noted in the Study Session Report, the provisions relating to fees have been changed, animal zones have been deleted and new sections regulating animal slaughter have been added. A voluntary licensing procedure for cats has also been added for those who would like to obtain a license for their cat(s). Significantly, an appeal process for contesting a potentially dangerous or vicious dog determination is proposed for consideration.

ALTERNATIVES CONSIDERED:

The changes included in the proposed ordinance were the result of staff review of numerous statutes, ordinances of other cities and enforcement options as well as discussion at the Study Session. Council could decide to adopt the proposed revisions or request changes to the draft ordinance prior to final Council action.

FISCAL REVIEW:

None required.

LEGAL REVIEW:

The City Attorney's office has prepared the draft ordinance with considerable input from the Police Department for your consideration.

CONCLUSION:

The Council is requested to introduce and give first reading to the attached Ordinance, to be read by title only and waive further reading.



ALLAN L. ROEDER
City Manager



KIMBERLY HALL BARLOW
City Attorney



CHRISTOPHER SHAWKEY
Chief of Police

DISTRIBUTION: City Manager

ATTACHMENTS: 1 Ordinance
2 Study Session Report from May 8, 2007

File Name Date Time

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA AMENDING TITLE 3 OF THE COSTA MESA MUNICIPAL CODE RELATING TO ANIMAL REGULATIONS AND SECTION 12-42 RELATING TO DOGS

WHEREAS, many of the City's ordinances relating to animal regulations were adopted over twenty years ago and need to be updated; and

WHEREAS, the City of Costa Mesa has evolved from a more rural community to a mostly urban environment; and

WHEREAS, new state laws have been enacted, affecting local ordinances; and

WHEREAS, since existing ordinances are inadequate to protect public health and safety, an overhaul of the City's animal regulations is needed to address such deficiencies.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 3 of the Costa Mesa Municipal Code is hereby amended to read as follows:

TITLE 3

ANIMALS AND FOWL ANIMAL REGULATIONS

CHAPTER I. IN GENERAL

Sec. 3-1. "Animal" defined. As used in this title, "animal" shall include dogs and all other animals, reptiles, fowl, birds and poultry. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

- (a) Animal: Any vertebrate creature, domestic or wild.
- (b) Bee: Any insect of the superfamily Apoidea in the order Hymenoptera characterized by sucking and chewing mouthparts for gathering nectar and pollen.
- (c) Bird: Any of the class Aves of warm-blooded vertebrates distinguished by having the body more or less completely covered with feathers and the forelimbs modified as wings.
- (d) Cat: Any Felis catus, over four months of age.
- (e) Dog: Any Canis familiaris, over four months of age.
- (f) Domesticated animal: Any animal trained or adapted to live in a human environment and be of use to humans.
- (g) Kitten: Any Felis catus, under four months of age.
- (h) Livestock: Horses, ponies, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and poultry.

- (i) Nondomesticated animal: Animals normally found in the wild state which are being kept for exhibition purposes or as private pets.
- (j) Person: Any individual, partnership, corporation, trust or association.
- (k) Poultry: All domesticated fowl and all game birds which are held in captivity.
- (l) Puppy: Any *Canis familiaris*, under four months of age.
- (m) Reptile: Any of the various cold-blooded, usually egg-laying vertebrates of the class *Reptilia*, such as a snake, lizard, crocodile or turtle, having an external covering of scales or horny plates and breathing by means of lungs.

Sec. 3-2. "Animal control officer" defined.

As used in this title, the term "animal control officer" shall mean the officer any person employed, under contract or appointed by the City who is charged with the duty of enforcing the provisions of this title and all state laws relating to animal regulations.

Sec. 3-3. "City block" defined.

The term "city block" as used in this title shall mean the land area bounded by streets on all four (4) sides.

"Business establishments" shall mean any commercial enterprise lawfully engaged in the sale, treatment or care of animals.

Sec. 3-4. "City health officer" defined.

As used in this title, the term "city health officer" includes any person appointed by the city council as such, and also the Orange County health officer when designated as the city health officer and acting as such for and on behalf of the city.

Sec. 3-5. "Dog" defined.

The term "dog" shall mean and include any canine.

Sec. 3-6 5. "Keep" defined.

Whenever the word "keep" is used in this title, it shall mean and include having custody or control of, keeping, maintaining, harboring, or exercising, grazing and allowing to run at large.

Sec. 3-7. License year established.

The license year under this title shall commence on July first of each year and shall end on June thirtieth of the following year.

Sec. 3-8 6. "Owner" defined.

As used in this title, "owner" shall include any person who owns has possession of, harbors, has charge of, has control of, keeps or maintains any dog or animal in the city.

Sec. 3-9 7. "Small animal pets" defined.

The term "small animal pets" as used in this title shall mean ducks, rabbits, monkeys, chickens, rodents and similar type animals.

"Stray animals" shall include any animal which is lost, roaming or wandering in the city.

Sec. 3-8 – 3-10. Reserved.

Sec. 3-10 11. Liability of city.

Neither the city nor any of its officers, employees or agents shall be liable for any injury suffered or disease contracted by any animal while being captured, seized, transported or impounded pursuant to this title.

Sec. 3-12. Nuisances generally.

(a) It shall be unlawful for the owner or person having charge, custody or control of any animal, to permit either willfully or through failure to exercise due care or control, any such animal, to commit any nuisance by leaving its feces and to allow said feces to thereafter remain on any public sidewalk, public gutter, public park, public street, or any other public property or on any improved private property other than that of the owner or person who has custody or control of such animal.

(b) The provisions of this section shall not apply to a disabled or vision impaired person whose disability or impairment would prevent the picking up of the feces, nor to a person using a dog trained in rescue while engaged in a city-recognized emergency or rescue activity.

Sec. 3-13. Keeping of livestock prohibited.

No person shall keep any livestock ~~cow, pig, goat, horse, mule, poultry, or any other animal usually considered as a farm animal or bird and not as a domestic animal~~ within the city unless an application is made to the police chief for a Special Animal Permit as set forth in Chapter VII of this title and is granted ~~except in specifically permitted animal zones.~~ This shall not apply to the Orange County Fairgrounds and Exposition Center.

Sec. 3-14. Keeping more than ~~four animals~~ three dogs and three cats.

It shall be unlawful for any person to keep, possess or harbor more than ~~four (4)~~ three (3) dogs and three (3) cats ~~animals~~ over the age of ~~three (3)~~ four (4) months on any premises, except on a business establishment premises on which a licensed business is operated, providing for the keeping of animals. Any person desiring to keep or maintain any dogs or cats in excess of the allowed number may make application to the police chief for a permit as set forth in Chapter VII of this title.

Sec. 3-15. Running at large generally.

(a) No person having control, charge or custody of any animal, ~~bird or reptile~~ shall permit the same to stray or run or be at large in or upon any public street or other public place within the city, or upon any private road or upon the premises of another without the permission of the owner of such premises, and any such animal, ~~bird or reptile~~ found at large in any such place may be impounded as herein provided.

(b) It shall be unlawful for any person who owns, or is in charge of, or possesses any animal to permit, allow, or cause the animal to run, stray, or be uncontrolled in violation of this title so that the animal bites, attacks, or causes injury to any human being or other animal.

(c) Any animal running at large creating an annoyance or endangering public health or safety which cannot be seized for impoundment by ordinary means may be summarily destroyed by the animal control officer or a police officer.

Sec. 3-16. Noisy animals.

No person shall keep, maintain or permit on any lot or parcel of land under his control any animal, ~~bird or reptile~~ which, by any sound or cry disturbs the peace and comfort of the inhabitants of any neighborhood, or interferes with any person in the reasonable and comfortable enjoyment of life or property.

Sec. 3-17. Fences and outdoor enclosures, requirements.

Where a fence or outdoor enclosure is used to confine an animal in order to comply with a provision of this title, the structure must be adequate to contain the animal and to prevent the animal from sticking its muzzle or body over or through the structure. The structure must be constructed so that the animal cannot escape by any means, must be of sufficient strength and stability so that it cannot be broken down by any action of the animal and must prevent entry by children. Fences or gates providing access to unsecured portions of the property must have a self-closing and latching mechanism to prevent the animal from escaping the secured fenced area.

Sec. 3-18. Keeping bees.

It shall be unlawful for any person to have, keep or maintain any hive or swarm of bees within the City. The provisions of this section shall not apply to the keeping of bees within an educational institution for study or observation, or within a physician's office or laboratory for medical research, treatment, or other scientific purposes, provided they are not permitted to fly at large.

Sec. 3-19. Harassing police dogs.

No person shall strike, threaten to strike, tease or harass any official police dog while any such dog is in the company of a peace officer or is located within an official police vehicle or police kennel.

Sec. 3-20. Reporting bites, scratches or injuries.

Any person having charge, control, custody or possession of any ~~non~~domesticated animal, ~~bird or reptile~~ which bites, scratches or injures any person or ~~domestic~~ other animal shall, immediately after becoming aware of such fact, notify the police department. Notification shall include the date, time and place of the incident, a description of the animals, ~~bird or reptile and any domesticated animal~~ involved, and the name and address of any person who was a victim of the incident.

Secs. 3-21--3-50. Reserved.

CHAPTER II. ANIMAL ZONES

~~Sec. 3-29. Established.~~

~~In order to classify, regulate and restrict the maintaining and keeping of animals, poultry and livestock in the city, the territory within the city is hereby divided into two (2) zones designated zone 1 and zone 2.~~

~~Sec. 3-30. Map.~~

~~The two (2) zones are hereby established and the boundaries thereof are shown upon the revised animal zone map of the city on file in the office of the city clerk, and hereby~~

~~referred to for a particular description of such zones. The Revised Animal Zone Map dated August 15, 1978, shall become a part of this title.~~

~~Sec. 3-31. Changes from zone 2 to zone 1.~~

~~Territory within zone 2 shall be rezoned to zone 1 as follows: Each city block shall be divided into six thousand (6,000) square foot lots. When the city council finds that seventy five (75) per cent or more of such six thousand (6,000) square foot lots within said city block have become occupied by residences, or commercial or industrial buildings, it shall thereupon rezone such city block to zone 1.~~

~~Sec. 3-32. Hearing on rezoning.~~

~~Prior to rezoning any city block from zone 2 to zone 1, the city council shall hold a hearing and shall give at least ten (10) days' notice of said hearing by at least one publication in a newspaper published within the city, and by posting at least three (3) notices in each city block proposed to be changed.~~

~~Sec. 3-33. Zoning of newly annexed territory.~~

~~All territory annexed to the city after June 6, 1957, shall be zoned on the animal zone map in accordance with the procedure set forth in section 3-32.~~

~~Sec. 3-34. Animals prohibited in zone 1.~~

~~No person shall keep or maintain any animal, except as set forth in this title, in zone 1.~~

~~Sec. 3-35. Exceptions to zone 1 prohibitions.~~

~~Animals may be kept in zone 1 as follows:~~

~~(a) *Educational purposes.* Any student may keep any animal as part of a school program when the curriculum of said school includes a project which requires the keeping of such animal by the student, provided, however, that such student shall maintain any such animal in accordance with the regulations hereinafter set forth in this title.~~

~~(b) *Business establishments.* Business establishments lawfully engaged in the sale, treatment or care of animals.~~

~~(c) *Household pets.* Dogs, cats, canary birds and birds of the psittacine family, and also other small animal pets not exceeding four (4) in number, not to include animals normally considered wild in their natural, adult status.~~

~~(d) *Existing animals.* Any animal kept in zone 1 on May 6, 1957, except male goats, bulls, swine, roosters or peacocks. All owners of such animals, except owners of animals set forth in subsections (a), (b) and (c), shall register such animals with the director of finance of the city. The owner may, either by mail or personally, fill out a registration form provided by the director of finance, stating the location of the premises on which the animals are located, a description of the animals, the number of animals and the distance such animals are kept and maintained from adjacent residences.~~

~~Any owner of male goats, bulls, swine, roosters or peacocks shall remove such animals from zone 1 within thirty (30) days after June 6, 1957.~~

~~Upon signing such registration form and filing the same with the director of finance, such owner shall be allowed to keep all such animals on his premises, and to replace any such animal so long as the same are kept and maintained in accordance with the regulatory provisions of this title and all other ordinances, laws, rules and regulations covering the keeping and maintaining of animals.~~

~~Sec. 3-36. Revocation of right to keep existing animals.~~

~~Any person keeping or maintaining any animal under the provisions of section 3-35 shall lose such right whenever the city council finds that such animals are being kept or maintained in violation of any of the provisions of this title.~~

~~Sec. 3-37. Animals prohibited in zone 2.~~

~~No person shall keep any male goat, bull, swine, rooster or peacock on any real property within zone 2, except for educational purposes as set forth in section 3-35(a),~~

~~Sec. 3-38. Number of animals in zone 2.~~

~~No person shall keep or maintain any of the following animals or combination of animals on any property in zone 2 zoned for residential, commercial or industrial use, in excess of the following number for each three thousand (3,000) square feet of land:~~

- ~~(a) One horse plus twenty five (25) chickens and twenty five (25) rabbits.~~
- ~~(b) One cow or steer plus twenty five (25) chickens and twenty five (25) rabbits.~~
- ~~(c) One burro or mule plus twenty five (25) chickens and twenty five (25) rabbits.~~
- ~~(d) Twenty five (25) chickens.~~
- ~~(e) Twenty five (25) rabbits.~~
- ~~(f) Five (5) poultry and domestic fowl and birds other than specifically named herein.~~

~~Sec. 3-39. Permit required for excess number of animals.~~

~~Any person desiring to keep or maintain any of the animals set forth in section 3-38 in excess of the allowed number may make application to the city council for a permit to maintain any number in excess thereof.~~

CHAPTER III II. CITY POUND AND IMPOUNDMENT

Sec. 3-51. Establishment of pound.

The city shall arrange for an animal shelter or pound facilities either through private sources, the County of Orange, in joint powers or contracts with other cities or as its own facility, and said institution shall be deemed the city pound for purposes of this title. The fees to be levied for pound services under this title shall be charged, due and payable in the sums and manner as set forth in the rules governing said pound; provided that same are not greater than as established for like services to other cities in the County of Orange.

Sec. 3-52. Impoundment authorized.

Animal control officers may take into custody:

- (a) Any animal kept or maintained contrary to the provisions of this Code, any regulation adopted thereunder, or any California statute.
- (b) Animals running at large, contrary to the provisions of this Code or any statute.
- (c) Sick, injured, stray, unwanted animals, for which the owner or custodian cannot be found, or is unable or unwilling to provide proper care.
- (d) Animals quarantined for which no other place of quarantine is acceptable to the animal control officer.
- (e) Animals delivered or requested to be impounded by a peace officer, or public officer or employee as defined in penal code section 836.5.

- (f) Any wild animal found to be at large upon any public property, or upon request of the owner or tenant, found to be at large upon private property.
- (g) Animals impounded pursuant to section 3-165 of this Code.
- (h) Any other animal authorized to be impounded under this division.

The animal control officer may place animals which he takes into custody in the city animal shelter or other facility designated by him, except that animals impounded pursuant to subparagraph (f) above, may be summarily destroyed.

Sec. 3-53. Disposition of impounded ~~dog~~ licensed or permitted animals.

Any impounded ~~dog animal~~ which is licensed or for which a permit has been issued may be redeemed by the owner upon payment of impoundment fees and care and feeding charges, upon proof of rabies vaccination, if applicable, and upon payment of any fines owed pursuant to California Food and Agricultural Code section 30804.7. The owner shall immediately be notified by person or by mail that ~~his dog~~ the animal has been impounded. If the ~~dog animal~~ is not redeemed within the time period established by the pound, it shall be deemed abandoned and may be sold, released or destroyed; provided that said time limits, as established, are no different than those of other cities utilizing said pound facilities.

Sec. 3-54. Disposition of impounded unlicensed animals, ~~birds or reptiles.~~

Any impounded animal for which a license or special permit has not previously been issued, bird or reptile may be redeemed upon payment of the license fee and/or Special Animal Permit, if required, all impoundment fees, care and feeding charges and upon proof of rabies vaccination, if applicable, and upon payment of any fines owed pursuant to California Food and Agricultural Code section 30804.7. If the owner is known, he shall be immediately notified that his animal, ~~bird or reptile~~ has been impounded. If such animal, ~~bird or reptile~~ is not redeemed within the time period established by the pound it shall be deemed abandoned and may be sold, released or destroyed; provided that said time limits, as established, are no different than those of other cities utilizing said pound facilities.

Sec. 3-55. Notice to police required when taking possession of animal at large.

No person shall feed, nor in any manner provide food or cause to be fed, or take possession of any animal, bird or reptile found wandering, roaming or running at large in the city, without notifying the police department within four (4) hours after discovering, capturing or receiving possession, giving a full description of the animal and the address of the place where the animal may be found. Such person shall, upon request of the police department, surrender such animal, ~~bird or reptile~~ to it.

Sec. 3-56. Unauthorized removal from pound.

No person shall remove, cause to be removed or attempt to remove any animal, ~~bird or reptile~~ which is impounded in the city pound without first obtaining the consent of the animal control officer to do so.

Sec. 3-57. Interference with animal control officer.

No person shall interfere with, oppose, or resist the animal control officer in the performance of his/her duties and in the enforcement of any provision of this title.

~~Secs. 3-57-3-67. Reserved.~~

CHAPTER IV. SANITATION*

~~*Cross references: Health and sanitation generally, Title 8.~~

~~Sec. 3-68. Scope.~~

~~The provisions of this chapter shall apply to zone 1 and zone 2 and to all animals except dogs, cats, canary birds and birds of the psittacine family or animals in business establishments lawfully engaged in the sale, treatment or care of animals.~~

~~Sec. 3-69. Distance from inhabited structures, schools, hospitals.~~

~~No person shall keep any animal, fowl or bird, wild or domestic, other than dogs, cats, canaries or birds of the psittacine family, within thirty five (35) feet of any inhabited structure, school or hospital; provided, however, that when any person keeps more than four (4) birds of the psittacine family, he shall keep such birds at least thirty five (35) feet from any inhabited structure, school or hospital.~~

~~Sec. 3-70. General cleanliness of premises.~~

~~Every person keeping any animal, fowl or bird, except those animals, fowl or birds exempted in section 3-68, shall keep the entire premises on which such animals, fowl or birds are kept in a clean and sanitary condition at all times, including the stable, barn, stall, pen, coop, building or place in which such animals, fowl or birds are kept.~~

~~Sec. 3-71. Location for keeping of manure.~~

~~No person shall keep any manure within thirty five (35) feet of any window or door of any inhabited structure, or within one hundred (100) feet of any church, school, hospital or place where food products are kept, stored, manufactured or served to the public.~~

~~Sec. 3-72. Bins and removal of manure.~~

~~Every person owning or occupying premises where manure accumulates shall remove the same before such manure becomes a fly production source or place such manure in boxes, bins or receptacles. Such boxes, bins or receptacles shall be used only for the purpose of containing the accumulation of manure, and shall be kept tightly closed at all times except when manure shall be placed therein or removed therefrom, and in no instance shall manure be placed in such boxes or receptacles in such manner as to prevent the tight closing of the lid; provided, however, that nothing contained herein shall apply to manure which is spread as fertilizer over or around cultivated plants, vines, vegetables, lawns, bushes, shrubs or trees, or to manure kept by any nursery for commercial fertilizer purposes, unless such manure creates a nuisance either from fly breeding or excessive obnoxious odors. Said boxes, bins or receptacles shall be constructed of brick, stone, concrete, metal or wood, lined with metal or other sound material, and shall be flyproof. The contents of said boxes, bins or receptacles shall be removed once a week.~~

~~Secs. 3-73 58--3-83. Reserved.~~

CHAPTER V III. RABIES CONTROL

Sec. 3-84. Duty to report bites and scratches by species subject to rabies.

Any person having knowledge of anyone having been bitten or scratched by an animal of a species subject to rabies (all warm-blooded animals) shall immediately notify the police department.

Sec. 3-85. Impoundment and quarantine authorized.

The animal control officer is hereby empowered to enter upon any private property where any animal is kept, which animal is alleged to have bitten any person or animal, to inspect or seize and impound such animal for a period prescribed by state law or by the health officer, and may, in lieu of impounding said animal require the owner thereof, by a notice in writing personally served upon such owner, to quarantine said animal for such period. The animal control officer shall immediately quarantine any animal infected with or believed to be infected with rabies.

Sec. 3-86. Notification of health officer.

The animal control officer shall promptly notify the city health officer of the location and description of the animal having or suspected of having rabies, and shall supply the city health officer with the names and addresses of the persons who have been bitten, scratched or had other contact with such animal.

Sec. 3-87. Place of quarantine; costs.

The animal control officer shall determine the place of quarantine. The place may be on the premises of the owner of such animal, at a commercial kennel, veterinary kennel or hospital or city pound. The owner of any animal placed in quarantine by the animal control officer shall be liable for all costs incurred in the quarantine of such animal.

Sec. 3-88. Quarantined animals at large.

No owner of any dog or animal in quarantine shall permit quarantined animals to be at large.

Sec. 3-89. Removing quarantined animals.

No owner or person, either by himself or through his agent, shall remove any animal from quarantine from any place in which such animal has been quarantined without the consent of the animal control officer and the health officer:

Sec. 3-90. Destruction of rabid animals.

If, upon examination, the city health officer ~~shall~~ determines that any animal is afflicted with rabies, he may cause such animal to be immediately destroyed; provided, however, when any animal shall be known to have bitten, scratched or otherwise is believed to have exposed any person or animal to rabies, such animal shall be quarantined for such period of time as may be prescribed by state law or by the health officer.

Sec. 3-91. Skunks.

Because of the presence of rabies in skunks in California, it shall be unlawful for any ~~no~~ person ~~shall to~~ do any of the following: Trap or capture skunks for pets; or trap, capture, or hold skunks in captivity for sale, barter, exchange, or gift; transport skunks from or into the city except by permit from the California State Department of Health Services to a recognized zoological garden or a research institution.

Secs. 3-92--3-101. Reserved.

CHAPTER ~~VI~~ IV. DOGS

ARTICLE 1. GENERALLY

Sec. 3-102. Licenses; reduced fees.

(a) Every person who owns, possesses, keeps, or harbors a dog of whatever sex over the age of four (4) months within the city shall pay to the city an annual license fee, to be set by a resolution of the city council, for each dog. Every such person whose dog has been spayed or neutered shall pay one-half of the applicable license fee; provided, however, that said person can present a certificate of sterility issued by a licensed veterinarian.

(b) Any dog which cannot be spayed or neutered for health reasons shall, upon proof of this fact in writing from a licensed veterinarian, be required to pay one-half the applicable license ~~tax~~ fee.

(c) Senior citizens over 62 years of age may register their dogs at one-half of the applicable license fee.

Sec. 3-103. Issuance, contents of license; record.

The city shall deliver to the person making such payment a license which shall describe the dog, together with a seal or tag having thereon the number of such license ~~and figures indicating the year for which the license has been paid~~. The city shall keep a record of the name of the owner and a description of the dog licensed.

~~Sec. 3-104. License and fee due date.~~

~~The license fees herein mentioned shall be due and payable on the first day of July, 1973, and the first day of July of each year thereafter. Where a dog is acquired after the first day of July in any year, the license fee shall be due on the date of acquisition of such dog on a quarterly prorated basis.~~

Sec. 3-105. License delinquency date; additional fee.

Licenses shall become delinquent thirty (30) days following the date on which they are due, and all delinquent licenses shall be subject to the payment of a penalty of three dollars ~~(\$3.00)~~ in an amount to be set by resolution of city council in addition to the license fee.

Sec. 3-106. Collection, disposition of fees.

a) The license collector, animal control officers and any other designated personnel are each authorized to collect dog license fees.

(b) All license fees collected pursuant to the terms of this chapter shall be paid into the general fund of the city.

Sec. 3-107. License fee exemptions.

No license fee shall be required for the following:

(a) ~~Seeing Eye dogs.~~ Guide dogs for the blind, signal dogs for the hearing impaired and service dogs for the physically disabled registered and identified pursuant to Food and Agricultural Code sections 30850-30854. For the purpose of this subsection, an individual shall be considered to be disabled if he or she is unable to engage in substantial gainful activity by reason of any medically determinable physical or mental

impairment which can be expected to result in death or to be of long continued and indefinite duration.

(b) Dogs honorably discharged from the Armed Forces of the United States of America.

c) Dogs in the care, custody and control of nonresidents who are traveling through the city or temporarily staying in the city for a period not exceeding thirty (30) days, or dogs temporarily brought into the city for the exclusive purpose of being entered in a bench show or dog exhibition, provided such dogs are so entered and not kept elsewhere in the city.

(d) Dogs used in crime detection or apprehension by public officers.

(e) Dogs housed in a duly licensed pet shop prior to sale.

(f) Dogs owned by any duly licensed kennel operator.

Sec. 3-108. Tag, collar required; license not transferable.

The person licensing a dog shall attach the tag to a collar or harness and shall cause such collar or harness with the attached tag to be kept on such dog at all times. Licenses shall not be transferable or refundable.

Sec. 3-109. ~~Duplicates~~ Replacement for lost tags.

~~Duplicates shall be issued for lost tags for one dollar (\$1.00), upon showing such proof required of such loss. In the event any registration tag is lost or destroyed, replacement may be obtained upon showing such proof as may be required and upon payment of the replacement fee in an amount set by city council resolution.~~

Sec. 3-110. Unauthorized removal of tags.

No unauthorized person shall remove from any dog any collar or harness or other device to which is attached a license tag ~~for the current year~~ or remove such license tag from any dog.

Sec. 3-111. Improper license tagging.

No person shall attach any current license tag to any dog, which tag was not issued to the dog, or shall remove a tag from any dog which is the property of another, or shall counterfeit or imitate a dog tag, or attach a counterfeit or imitation tag to any dog.

Sec. 3-112. Leash required; enforcement.

No person having the care, charge or control of any dog shall permit or allow the dog to be present upon any street, alley, park or public place in the city unless such dog is securely restrained by a leash or chain not exceeding six (6) feet in length and to be held by that person. Any police or other city enforcement officer may order that the owner or person having the care, charge or control of any dog determined to be in violation of this section shall immediately remove such dog from the street, alley, park or public place.

Secs. 3-113--3-120. Reserved.

ARTICLE 2. VACCINATION

Sec. 3-121. Defined.

The word "vaccination" shall mean the inoculation of a dog with a vaccine approved by the Orange County health department.

Sec. 3-122. Required.

Every person who owns, possesses, or harbors any dog shall have such dog vaccinated against rabies by a duly licensed veterinarian, or some person under his supervision, in accordance with the following:

(1) *Primary immunization.* Primary immunization or initial immunization shall be defined as the first rabies vaccination administered to dogs after the age of four (4) months and prior to twelve (12) months. ~~as required by California Health and Safety Code, section 1920 121690 requires that the primary immunization be administered within thirty (30) days after the dog attains the age of four (4) months.~~

(2) *Revaccination intervals.* Dogs shall be vaccinated one year (12 months) after the primary immunization. Thereafter dogs shall be revaccinated at least once every three years (36 months). If the primary immunization was done after the dog reached the age of twelve (12) months, then the revaccination shall be at least once every three years (36 months).

A dog may not be licensed prior to vaccination, and the period of vaccination must last the length of the full term of the licensing period. A revaccination may not be ordered sooner than twelve (12) months following a primary immunization nor sooner than twenty-four (24) months for a dog over the age of twelve (12) months.

Sec. 3-123. Vaccination upon importation.

Every person who brings into the city a dog which has not been vaccinated with the approved vaccine as herein prescribed: (a) within twelve (12) months prior to the importation, for dogs between the ages of four (4) months and twelve (12) months; or (b) within thirty (30) months prior to the importation, for dogs over the age of twelve (12) months, shall have such dog vaccinated within seven (7) days from and after its arrival in the city. A certificate of vaccination issued by a duly licensed veterinarian, or person under his direct supervision, from any other jurisdiction, establishing vaccination of the specific dog with an approved vaccine may be accepted, provided it is within the interval prescribed by this section.

Sec. 3-124. Exception.

The vaccination requirement in this article shall not apply to a dog where a certificate has been issued by a duly licensed veterinarian doing business in the County of Orange setting forth that the giving of the inoculation would endanger the life of the dog. In such an event, the dog shall be confined at all times within the premises of the owner or within a motor vehicle owned by or under the supervision of the owner of such dog.

Sec. 3-125. Veterinarian's certificate required.

Every duly licensed veterinarian, or person under his direct supervision, after vaccinating any dog, shall sign a certificate in triplicate containing the following information:

- (a) The name, address, and telephone number of the owner or harborer of the vaccinated dog.
- (b) The type of rabies vaccine administered, the name of the manufacturer, the lot number of the vaccine, and the date of immunization.

- (c) The year, number of dog license tag, and name of city where issued or, in the event the dog has not previously been licensed, a notation to that effect.
- (d) A description of the vaccinated dog, including breed, color, age, and sex.

Such veterinarian, or person under his direct supervision, shall immediately present the original certificate to the owner, possessor, or harbinger of the dog, shall deliver the duplicate copy of the certificate to the Orange County Health Department, and shall retain the triplicate copy thereof.

Sec. 3-126. Display of certificate.

No person who owns, possesses, keeps or harbors any dog shall fail or refuse to exhibit the certificate required by section 3-125 upon demand of any person charged with enforcement of this chapter.

Sec. 3-127. Stolen or counterfeit certificate.

No person shall make use of or have in his possession or under his control a stolen, counterfeit or forged vaccination certificate or license tag.

Sec. 3-128. Authority, duties of health department.

In furtherance of the program of the city for vaccination of dogs against rabies, the Orange County health department is authorized to:

- (a) Approve of such vaccines as it may find suitable for such use, designate approved vaccines and file a statement of such approval with the office of the city finance department as a public record.
- (b) Change said approved vaccines when as a result of experience, research, practice or tests it finds that new or different vaccine is suitable for such use, and designate such changes and file them in the office of the city finance department as a public record.
- (c) Prescribe the form of certificate to be used by duly licensed veterinarians, or persons under their direct supervision, under the provisions hereof and to distribute such form of certificate to duly licensed veterinarians practicing in this city upon request.

CHAPTER V. CATS

Sec. 3-129. Registration of cats.

Cats over four months of age may be registered with the City in the same manner in which dogs are registered.

Secs. 3-130--3-140. Reserved.

CHAPTER VII VI. NONDOMESTICATED ANIMALS

Sec. 3-141. Defined generally.

The term "nondomesticated animal" shall mean and include any animal whose natural habitat is other than the domicile of man and shall not be construed to include cats and dogs. The term "cats" shall not include lions, tigers, leopards, pumas, cheetahs, bobcats, panthers or any other branch of the cat family, except household cats.

Sec. 3-142. Reptiles considered nondomesticated.

All snakes and other reptiles shall be deemed nondomesticated under the terms of this title.

Sec. 3-143. Birds considered nondomesticated.

All birds, except canaries, cockatoos, parakeets, finches, pigeons, parrots and myna birds, shall be deemed nondomesticated under the terms of this title.

Sec. 3-144. Allowing to run at large.

No person owning or having charge, custody, control or possession of any nondomesticated animal, ~~bird or reptile~~ shall permit or allow the same to run at large upon any highway, street, lane, alley, court or other public place, or upon any private property, or on or within the premises of such person in such manner as to endanger the life or limb of any person lawfully entering such premises.

CHAPTER VII. SPECIAL ANIMAL PERMIT

Sec. 3-145. Permit required to keep.

Except as hereinafter provided, no person shall keep, maintain or have in his possession within the city any nondomesticated or other prohibited animals, ~~birds or reptiles~~ without first obtaining a permit from the police chief as hereinafter provided.

Sec. 3-146. Application for permit.

An application for a permit required pursuant to this chapter shall be made in writing to the police chief upon a form furnished by the city, and shall be accompanied by an application fee in the amount of ~~fifteen dollars (\$15.00)~~ set by city council resolution. The application shall be verified by the person who desires to keep, maintain or have in his possession or under his control in the city, the nondomesticated or other prohibited animal, ~~bird or reptile~~ for which a permit is required, and shall set forth the following:

- (a) Name, address and telephone number of the applicant.
- (b) The applicant's interest in such nondomesticated or other prohibited animal, ~~bird or reptile~~.
- (c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- (d) The number and general description of all animals, ~~birds or reptiles~~ for which the permit is sought, as well as all other animals being or to be housed at the location.
- (e) Any information known to the applicant concerning vicious or dangerous propensities of all such animals, ~~birds or reptiles~~.
- (f) The housing arrangement for all such animals, ~~birds or reptiles~~ with particular details as to safety of structures, locks, fencing, etc.
- (g) Safety precautions proposed to be taken.
- (h) Noises or odors anticipated in the keeping such animals, ~~birds or reptiles~~.
- (i) Prior history of incidents concerning the public health or safety, involving any of such animals, ~~birds or reptiles~~.
- (j) Proof that the animal, ~~bird or reptile~~ has been immunized against rabies if known to be susceptible to or a carrier of rabies.
- (k) Any additional information required by the police chief at the time of filing such application or thereafter.

Sec. 3-147. Issuance of permit; conditions authorized; annual fee.

(a) The police chief may issue a permit for the keeping of any animal, ~~bird or reptile~~, if he determines that such animal, ~~bird or reptile~~ may be kept or maintained without menacing the safety of any person or property; provided, however, that the police chief may impose such conditions in granting a permit as he may deem necessary to protect the public and the animals and may limit the term of such permit.

(b) Within ten (10) days of notification of the issuance of a permit to keep a nondomesticated or other animal, the owner shall pay to the city an annual permit fee for each such animal, in an amount to be set by resolution of the city council.

Sec. 3-148. Notice of action on permits.

The applicant shall be notified in writing of the action of the police chief in either granting or denying the permit, and if the application has been denied, the notice shall advise the applicant of his right to appeal to the city council. Service of the notice may be made by personal service or by registered mail. If service is made by mail, it shall be deemed complete upon deposit in the United States Mail directed to the applicant at his latest address shown on the application.

Sec. 3-149. Revocation, suspension of permit.

The police chief may, for good cause, revoke any permit or modify any terms or provisions thereof, after informal hearing, and may, in the event it is reasonably necessary to protect against an immediate threat to the public health or safety, suspend any permit or portion thereof without hearing for a period not to exceed thirty (30) days. The permittee shall be given at least three (3) days' prior written notice of any such hearing.

Sec. 3-150. Commercial establishments.

Commercial establishments possessing such nondomesticated animals, ~~birds or reptiles~~ for the purpose of sale or display may replace the same with others of the same kind, but the number of each shall not be in excess of the number allowed by the terms of such permit. Such establishments may, in the discretion of the city, be granted a permit for such numbers of each kind of nondomesticated animals, birds or reptiles as do not exceed the maximum such establishments estimate will be maintained by them in the city at any one time during the period of the permit. Such permit shall require the immediate notification of the police chief upon the acquisition of any nondomesticated animal, ~~bird or reptile~~ having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.

Sec. 3-151. Appeals from action of police chief.

(a) If any person is aggrieved by any action of the police chief taken pursuant to this chapter, such person may appeal to the city council by filing with the city clerk a statement addressed to the city council setting forth the facts and circumstances regarding the action or failure to act on the part of the police chief. The city clerk shall notify the applicant in writing by registered mail of the time and place set for hearing his appeal. The city council shall hold a hearing and determine the merits of the appeal, and may sustain, overrule or modify the action of the police chief. The decision of the city council shall be final.

(b) The right to appeal to the city council from any action or decision of the police chief under this chapter shall terminate upon the expiration of fifteen (15) days following the giving of notice to the applicant advising him of the action of the police chief.

Sec. 3-152. Exceptions.

The following persons are not required to obtain a special animal permit as provided in this chapter:

- (a) Owners who use animals for diagnostic purposes or research, and who have a valid permit issued by a governmental agency and whose animals are kept on the premises specified in the permit.
- (b) Owners who use animals for teaching purposes in recognized educational institutions and whose animals are kept on the premises of the institution or other authorized place.
- (c) Owners of establishments which treat or board animals on the premises and which are owned or operated by veterinarians licensed by the State of California.
- (d) Owners of establishments licensed to keep animals for the purpose of resale whose animals are kept on the premises of such establishment or other authorized place.

~~Sec. 3-152. Reporting bites, scratches or injuries. Former section renumbered. (See Sec. 3-20)~~

~~Any person having charge, control, custody or possession of any nondomesticated animal, bird or reptile which bites, scratches or injures any person or domestic animal shall, immediately after becoming aware of such fact, notify the police department. Notification shall include the date, time and place of the incident, a description of the animal, bird or reptile and any domesticated animal involved, and the name and address of any person who was a victim of the incident.~~

Secs. 3-1532--3-163. Reserved

CHAPTER VIII. AGGRESSIVE, POTENTIALLY DANGEROUS and VICIOUS ANIMALS

Sec. 3-164. Defined.

(a) *Potentially dangerous animal:* means any of the following:

(1) Any animal that menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person or domestic animal.

(2) Any animal that due to a combination of size, strength and aggressiveness, as demonstrated by aggressive or threatening behavior directed against a person or animal at a place and time where the person or animal was conducting themselves peaceably and lawfully, would constitute a substantial danger to the life or safety of people or animals if not subject to the potentially dangerous animal provisions of this article.

(3) Any animal that aggressively bites or causes physical injury to any person or domestic animal.

(b) *Vicious animal*: shall mean any animal which has bitten a person or animal without provocation, thereby killing or inflicting severe injury upon its victim or, which menaces, attempts to bite or attack any person or animal without provocation, more than once within a twelve (12) month period, or which habitually does any other act which reasonably endangers the health or safety of any person, or which habitually injures damages or destroys property.

(c) *Severe injury* means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

(d) No animal may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing or assaulting the animal, or was committing or attempting to commit a crime. No animal may be declared potentially dangerous or vicious if the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault. No animal may be declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained was teasing, tormenting, abusing, or assaulting the animal.

Sec. 3-165. Restraint.

Whenever an animal suspected of being potentially dangerous or vicious is reported, the circumstances shall be investigated and if it is found that such animal has done any of the acts or shown a disposition or propensity to do any of the acts declared in this chapter to constitute a potentially dangerous or vicious animal, the owner or harbinger shall be notified in writing, stating all of the facts and circumstances. The owner or harbinger shall be ordered to keep such animal within a substantial enclosure constructed of material easily cleaned and kept in a sanitary condition and, as a minimum, providing sufficient space to stand up, lie down, and turn around in a natural position or, securely attached to a chain or any other type of control in accordance with Health and Safety Code § 122335(c)(1) within an enclosure pursuant to section 3-17 of this title, which the police chief may deem adequate under the circumstances. If such restraint or control is impossible or impracticable, the animal shall be impounded until the owner or harbinger is able to comply with the police chief's order. If the owner or harbinger fails to provide adequate restraint or control of such animal as ordered by the police chief within a reasonable time, such owner or harbinger shall be liable to prosecution for violation of this section and the animal, ~~bird or reptile~~ shall be subject to summary destruction.

Sec. 3-166. "Beware of dog" notice.

Whenever the police chief receives a report of a potentially dangerous or vicious dog, he may order the owner to post and keep posted upon the premises where such dog is kept under restraint as provided by this article, a notice containing the words "Beware of Dog." Each letter of said notice shall be not less than two (2) inches in height and the notice will be displayed in plain and conspicuous view. Failure to obey such order in any

respect shall render such owner liable to prosecution for violation of this section and shall render such vicious dog subject to summary destruction.

Sec. 3-167. Hearing and Appeal Process.

(a) If after review of the animal control officer's investigation the Chief of Police, or his or her designee, determines that there exists probable cause to believe that an animal is potentially dangerous or vicious, he or she shall designate an Animal Control Officer or superior officer not involved in the investigation as the "hearing officer" to conduct an administrative hearing to determine whether or not said animal is potentially dangerous or vicious. Whenever possible, any complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be verified by the complainant. Said complaints shall be signed and dated by the complainant. The Chief of Police or his designee shall notify the animal owner or keeper of the animal that a hearing will be held by the police department at which time he or she may present evidence as to why the animal should not be declared potentially dangerous or vicious. The owner or keeper of the animal shall be served with notice of the hearing and the complaint, either personally or by first-class mail with return receipt requested. The hearing shall be held promptly within no less than five working days nor more than fifteen working days after the service of notice upon the owner or keeper of the animal. The hearing shall be open to the public. The hearing officer may admit into evidence all related evidence, including incident reports, photographs, witness's statements, veterinarian records, etc., and may shorten the time to produce records or witnesses. The hearing may find, upon a preponderance of the evidence, that the animal is potentially dangerous or vicious and make other orders authorized by this chapter.

(b) After a hearing is conducted pursuant to subsection (a), the owner or keeper of the animal shall be notified in writing of the determination and orders issued by the hearing officer, either personally or by certified mail with return receipt requested. If the owner or keeper of the animal contests the determination, he or she may, within 15 days of the receipt of the notice of determination, appeal the decision by filing a letter of appeal with the Chief of Police. The Chief of Police shall designate a superior officer to the hearing officer to schedule and conduct a hearing within 15 working days of receipt of the appeal request and shall notify the appellant of said date in person or by certified mail with return receipt requested. The appellant may introduce evidence to show that the animal is not potentially dangerous or vicious or that the imposed conditions of the order are inappropriate. The appeal officer shall conduct the hearing de novo, and shall make an independent determination as to whether the animal is potentially dangerous and/or vicious based upon the evidence presented. The decision of the appeal officer shall be final.

(c) If the animal in question dies, or is sold, transferred, or is permanently removed from the City of Costa Mesa, the owner of the dangerous or vicious animal shall notify the Animal Control staff of the changed condition and new location and ownership of the animal in writing within five working days.

(d) If there are no additional incidents of the behavior or acts as described in subsections 3-164 within a 36-month period from the date of designation as or

potentially dangerous animal, the animal may no longer be considered potentially dangerous animal and removed from such designation. The animal may, but is not required to be, removed from such designation prior the 36-month period, but not less than 12-month period, if the owner or harborer of the animal demonstrates to the satisfaction of the Chief of Police or his designee that changes in circumstances have occurred, or measures have been taken by the owner or harbor, such as behavioral training and/or appropriate restraint measures, to mitigated or eliminate any safety risk to the public and other animals.

(e) Any animal determined to be vicious under the provisions of this chapter may be ordered banned from the City or humanely destroyed if the Chief of Police or his designee finds that:

A. The owner or harborer of said animal has failed to, is unwilling to, or is unable to, comply with the conditions of any existing vicious declaration/order.

B. The owner or harborer of any said animal impounded under this chapter fails to, or is unwilling to, or is unable to, retrieve their pet and comply with the conditions of any new or established order within a 30-day period.

C. The release of the animal would create a significant threat to public health, safety, or welfare.

Sec. 3-168. Penalties.

Any owner of an animal who violates any provision of this title may be issued a correction warning or cited as an infraction or misdemeanor and punished in accordance with the provisions of this code.

Sec. 3-169 Reserved.

CHAPTER X. ANIMAL SLAUGHTER

Sec. 3-170. Animal slaughter or sacrifice restricted.

It shall be unlawful for any person to kill or slaughter any animal, fowl, or other living creatures within the City in order that it may be sold or used for food or other purposes, except:

(a) As part of a recognized educational project of an animal husbandry organization; or,

(b) In an enclosed building or in an enclosed area, not visible by the public outside the enclosed area; and

(c) The animals to be slaughtered shall be limited to:

- 1) Domestic rabbits.
- 2) Domestic fowl, which is defined to be chickens, geese, turdeys, pheasants, ducks or pigeons.

3) Wild and exotic fowl as permitted by the Fish and Game Code of California.

Section 2. Section 12-42 of Title 12 (Parks and Recreation) is hereby amended to read as follows:

Sec. 12-42. Dogs generally.

(a) For purposes of this section, the following words and phrases shall have the meanings as set forth below:

(1) *Responsible person* means any person who owns, has a proprietary interest in, harbors or has the care, charge, control, custody or possession of a dog.

(2) *Dog exercise area* means any fenced area or other enclosed area of a city park designated by the city council by resolution or ordinance as an area where dogs may be off a leash.

(b) No responsible person shall permit his dog(s) to be in or upon any public street, sidewalk, park or other public place unless such dog(s) is upon a secure leash not more than six (6) feet long held continuously in the hands of a person capable of controlling the dog, or unless the dog is securely confined within an automobile, or in or upon any fully enclosed lot or premises; provided, however, that this subsection shall not apply to a person who is in the possession or operating within the terms of a valid permit from the city to conduct obedience classes or other types of trial or show of dogs in or upon any public place. This subsection shall not apply to dogs under the control of a responsible person in a dog exercise area.

(c) All responsible persons shall clean up after their dog(s) and remove all dog feces left by their dog(s) upon any public street, sidewalk, park or other public place, or any private property not owned by the responsible person, and dispose of it in a sanitary and proper manner.

(d) In addition to such other regulations that may be adopted from time to time by the Parks and Recreation Commission, the following regulations and limitations shall apply to all dog exercise areas:

(1) No responsible person shall have more than four (4) dogs at once in a dog exercise area.

(2) Dog exercise areas will be open from dawn to dusk posted closing time and closed one (1) day per week as posted for maintenance. The operational hours may be adjusted as conditions require and shall be posted as established by the Parks and Recreation Commission from time to time.

(3) All responsible persons shall, at all times, take all reasonable precautions to prevent their dog(s) from biting, attacking or attempting to bite or attack any person or dog. A responsible person shall immediately remove his dog from the dog exercise area if it bites, attacks or attempts to bite or attack any person or dog. A responsible person whose dog is bitten or attacked shall immediately remove his dog from the dog exercise area.

(4) Any dog over the age of four (4) months must be vaccinated, spayed/neutered and legally licensed prior to use of the any dog exercise area. Dogs under the age of four (4) months are prohibited from any dog exercise area pursuant to section ~~4920~~ 121690 of the Health & Safety Code.

(5) Female dogs in heat are not permitted in any dog exercise area.

(6) There shall be no food or food products, whether intended for human or dog consumption, in any dog exercise area.

(7) All responsible persons using a dog exercise area must have a leash in their possession or reasonably accessible at all times for each of their dog(s) in the dog exercise area, which shall be worn by the dog(s) at all times the dog(s) is not in the exercise area. All responsible persons shall maintain control over their dog(s) at all times whether leashed or unleashed.

(8) All responsible persons shall also comply with all rules governing city parks and relevant parking regulations.

(9) Use of any dog exercise area by a responsible person and his dog(s) shall constitute implied consent of the responsible person to all of the conditions set forth in this section, a waiver of liability benefiting the City of Costa Mesa, and an agreement and undertaking to protect, indemnify, defend and hold the City of Costa Mesa harmless for any injury or damage caused by a responsible person's dog during any time that the dog is in the dog exercise area.

(e) The provisions of this section shall be enforceable by any police officer, animal control officer, park ranger or other code enforcement officer of the city pursuant to section 1-33 of this Code. In addition to any other remedies, the city officer shall have the authority to eject any person who violates this section pursuant to section 12-20 of this Title.

(f) Any dog which has been repeatedly aggressive or attempted to attack or bite another dog or a person, or whose responsible person fails on more than two occasions to abide by the reasonable rules and regulations applicable to the exercise area may be barred from further use of the exercise area by an animal control officer or park ranger upon written notice.

Section 3. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this ____ day of _____, 2007.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2007, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007.

City Clerk and ex-officio
Clerk of the City Council of the
City of Costa Mesa