


STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JIM COPSEY, CHIEF OF POLICE/ASSISTANT CITY MANAGER 
SUBJECT: CONSIDERATION OF INTRODUCTION AND FIRST READING OF PROPOSED ORDINANCE AMENDING ARTICLE III CHAPTER 5 OF THE GROVER BEACH MUNICIPAL CODE REGARDING ANIMAL REGULATIONS ADDING SECTION 3552 (MENACING AND AGGRESSIVE ANIMALS)

BACKGROUND

The City of Grover Beach is one of seven cities within San Luis Obispo County to contract with the San Luis Obispo County Division of Animal Services for the provision of animal care and control services. Under the terms of this agreement, the City of San Luis Obispo is required to enact municipal codes which are similar to and consistent with the County's codes regarding the care, keeping and management of animals. In May of 2012, the San Luis Obispo County Board of Supervisors adopted a new ordinance addressing menacing and aggressive animals.

DISCUSSION

Each year, hundreds of encounters with aggressive animals from around the county are reported to Animal Services. These calls range broadly in terms of severity, from fenced dogs barking aggressively at passersby to serious or even life-threatening attacks on other animals and people. The Division's authority to respond to these cases is established by both state and local codes related to the keeping of domestic animals.

These codes currently allow for the misdemeanor or felony prosecution of a person who either negligently or intentionally allows their animal to injure a person. Under specific circumstances civil action may also be taken to have individual dogs declared as *Potentially Dangerous* or *Vicious* following documentation of events involving significant aggression by the animal. Such a designation places specific restrictions and requirements on the keeping of that specific animal or may actually result in the issuance of a judicial order for the dog's euthanasia.

Collectively, these codes provide for a consequential response to those cases in which a person is injured by an aggressive animal or in which a dog has engaged in sequential attacks on domestic animals. However, they do not preclude the keeping of aggressive animals nor do they provide for a means to address those situations in which an animal clearly represents a potential public safety risk but has not yet injured a person.

For example, Animal Services regularly receives calls from individuals who, while walking on public sidewalks, are aggressively charged and threatened by dogs from behind fencing which is clearly inadequate for keeping them confined. In such circumstances, concerned callers are

APPROVED FOR FORWARDING



ROBERT PERRAULT
CITY MANAGER

Please Review for the Possibility of a Potential Conflict of Interest:

- None Identified by Staff
- Peterson
- Lee
- Bright
- Marshall
- Nicolls

dismayed to be told that until the animal actually succeeds in escaping the property and attacking a person or animal, there is little that Animal Services can do to address the situation.

Similarly, while the codes allow for a consequential response to even a single animal attack on a person, no such provision exists for situations in which the negligence of an animal owner directly contributes to their animal attacking or even killing another animal unless a track record of multiple similar events has been documented.

It is expected that the proposed ordinance will assist enforcement officers in dealing with potentially aggressive animals in public areas such as our parks. Should an animal owner permit or fail to properly control any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, the officers would now have a law to help mitigate the situation. The enforcement action could be a warning and notification of a violation of this ordinance or a citation for violation of this ordinance along with the confinement of the aggressive animal. It is expected to have a positive impact on the enforcement officers ability to deal with potential problems.

The ordinance proposed herein helps close these gaps by requiring the owner or keeper of any animal whose aggressive behavior indicates a potential risk to public safety to ensure that it is securely confined and by establishing a penalty for individuals whose negligence gives rise to a serious attack on another privately owned animal.

In the process of developing the menacing and aggressive animal ordinance, all seven police chiefs in San Luis Obispo County were consulted resulting in a general consensus of support for the ordinance, with no objections voiced. Also discussed was the fact that it is within the purview of each affected City Council to decide whether or not to enact the "landlord responsibility" section of the County's ordinance. This section is intended to address landlords who knowingly allow their tenants to keep menacing and aggressive animals on their property and states that the landlord "may" be liable for penalties if the violation has not been corrected subsequent to a two-week notice. Staff recommends inclusion of this language to provide an additional problem-solving tool to address public safety concerns in what would be anticipated to be a minority of cases.

Staff recommends adoption of the attached ordinance, which defines aggressive animals, menacing animals, and severe bodily injury, in addition to penalties consistent with the City's existing fine schedule for violation of the noise ordinance and other misdemeanor Municipal Code violations related to public peace and safety. Additionally, staff also recommends violations remaining unmitigated beyond a 24-hour period be treated as new violations. Finally, inclusion of language excluding police or military canines utilized in an official capacity from the definition of a "menacing animal" is also recommended. Staff has also made other minor modifications in wording, different from the County ordinance, for consistency regarding how menacing and aggressive behavior is to be established (i.e. through observable behaviors creating a reasonable fear for personal safety or that of a pet), as well as reordering and reformatting the ordinance for consistency with the City's Municipal Code.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Consider public testimony, introduce and conduct the first reading of the Ordinance, by title only, and schedule the second reading and adoption for the next regular Council meeting.

2. Decline to adopt the proposed ordinance. This alternative is not recommended because the City of Grover Beach's contract with Animal Services requires it to enact municipal codes which are similar to and consistent with the County's codes regarding the care, keeping, and management of animals; or
3. Provide other direction to staff.

RECOMMENDED ACTION

Staff recommends the City Council consider public testimony, introduce and conduct the first reading of the Ordinance, by title only, and schedule the second reading and adoption for the next regular Council meeting.

FISCAL IMPACT

There are no direct General Fund impacts associated with this action. Enforcement of the ordinance would occur during the normal shifts of Grover Beach police officers and County Division of Animal Services officers.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. A Public Hearing Notice was published in The Tribune on Friday, September 26, 2014, and mailed to the County Animal Services Manager. A copy of this staff report and the meeting agenda was mailed to the County Animal Services Manager.

Attachments

1. Draft Ordinance No. ____
2. Grover Beach Municipal Code Article III, Chapter 5 reflecting the amendments to the current Municipal Code for Menacing and Aggressive Animals, added text is double underlined.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF GROVER BEACH, CALIFORNIA
ADDING SECTION 3552 (MENACING AND AGGRESSIVE ANIMALS) TO ARTICLE III
CHAPTER 5 OF THE GROVER BEACH MUNICIPAL CODE**

WHEREAS, the City contracts with the San Luis Obispo County Division of Animal Services for the provision of animal care and control services; and

WHEREAS, the City is required to enact municipal codes, which are similar to and consistent with the County's codes regarding the care, keeping, and management of animals.

WHEREAS, the City Council desires to support the safe and responsible keeping of animals within the City; and

WHEREAS, the City desires to protect the safety and welfare of responsible pet owners and their pets from animals demonstrating aggressive or menacing behavior that threatens to cause or actually causes harm to city residents and their pets; and

WHEREAS, the City Council finds that current laws governing aggressive and menacing animals are insufficient to address the adverse health, safety and welfare impacts of aggressive and menacing animals within the City; and

WHEREAS, the County of San Luis Obispo enacted an ordinance to strengthen the regulation of aggressive and menacing animals, which the City Council finds to serve the best interests of the citizens of the City of Grover Beach.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Grover Beach as follows:

SECTION 1. Section 3552 (Menacing and aggressive animals) is hereby added to Article III Chapter 5 of the Grover Beach Municipal Code, to read as follows:

Section 3552 Menacing and Aggressive Animals

A. It is unlawful for any person to keep, harbor, or maintain any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, unless it is contained in an enclosure of a construction adequate to keep it securely confined and prevent its escape.

B. It is unlawful for any person to permit any animal owned, harbored, or controlled by him or her to attack and cause severe bodily injury or death to another domestic or captive animal while off the property of its owner or keeper.

C. Upon notification of a violation of subsection A, the animal owner(s) must immediately confine the animal to an enclosure or location which mitigates the aggressive and menacing behavior.

D. For the purposes of this section, the following definitions apply:

1. "Aggressive animal" any animal whose observable behavior causes a person observing that behavior reasonably to believe that the animal may attack a person or another animal.

2. "Menacing animal" means any animal which, through its behavior, causes a person observing or subject to that behavior to be in reasonable fear for his or her safety, or the safety of animals kept by him or her. Police or military service canines being utilized in an official capacity are excluded from this definition.

3. "Severe bodily injury" means any physical injury which results in deep lacerations with separation of subcutaneous tissues, muscle tears or lacerations, fractures, or joint dislocations, or permanent impairment of locomotion or special senses.

E. Penalties for violation:

1. A violation of this Chapter is an infraction and is subject to punishment as provided for in Article 1, Chapter 2 of the Grover Beach Municipal Code.

2. For the purposes of this section, a first violation of subsection A will be deemed to have occurred if the menacing or aggressive animal is not confined as required by subsection C within 24 hours of notification; a separate violation of subsection A shall be deemed to exist for each 24 hour period following notification in which an animal's menacing or aggressive behavior continues unmitigated.

F. Liability of property owners

1. Owners of properties upon which a tenant keeps, harbors, or maintains any aggressive or menacing animal may, along with the animal owner(s), be jointly and severally liable for penalties related to violations of subsection A, provided that they have received at least fourteen (14) days prior written notice of the existence of such violation and the violation has not been abated. No penalty shall be imposed upon the property owner if the property owner can demonstrate, within fourteen (14) days following notification that a violation has occurred, that the property owner has initiated action to abate the illegal activity on the property.

SECTION 2. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

SECTION 3. This Ordinance shall become effective thirty (30) days after the date of its adoption, and within fifteen (15) days after its adoption, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held on _____, 2014, and **PASSED, APPROVED, and ADOPTED** by the City Council on _____ on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

DEBBIE PETERSON, MAYOR

ATTEST:

DONNA L. McMAHON, CITY CLERK

APPROVED AS TO FORM:

MARTIN D. KOCZANOWICZ, CITY ATTORNEY

DRAFT

CHAPTER 5 - ANIMAL REGULATIONS

PART 1 - GENERAL PROVISIONS

Sec. 3500. Establishment of a Public Pound. A public pound is authorized and established, and the same, and any branches thereof, shall be located and established at such place in the County as shall be fixed from time to time by the Board of Supervisors. The public pound, or any authorized branches thereof, shall provide suitable buildings and enclosures to adequately keep and safely hold all dogs, cats or household pets subject to being impounded by the provisions of this chapter. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3501. Animal Control Officer; Duties. There shall be in this City, a Chief Animal Control Officer responsible for the administration of the animal regulation control department. It shall be the duty of the Chief Animal Control Officer and his duly authorized deputies and employees to carry out the provisions of this Chapter, and all applicable statutes of the state and to be in charge of the public pound hereby authorized and established. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1) Amended September 1, 2004 III-30

Sec. 3502. Animal Control Officer; Citation Authority; Authority to Carry Weapons. (A) The Chief Animal Control Officer and his duly authorized deputies shall have the power to issue citations pursuant to this code.

(B) Animal control officers, when acting in the course and scope of their duties, shall be authorized to carry on their person or in county vehicles loaded firearms or weapons of the type approved by the Chief Animal Control Officer. Each officer shall qualify under California Penal Code Section 832 in the use of firearms. (Ord. 111; Am. Ord. 77-9; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3503. Badges. The Chief Animal Control Officer and his duly authorized and appointed deputies, while engaged in the execution of their duties, shall each wear in plain view a badge, having, in the case of the Chief Animal Control Officer, the word "Chief Animal Control Officer", in the case of the lead animal control officers, the words "Sergeant - Animal Control Officer", and in the case of the deputy animal control officer, the words "Deputy Animal Control Officer" engraved thereon. Any person who has not been appointed as provided hereinabove, or whose appointment has been revoked, who shall represent himself to be or shall attempt to act as an animal control officer shall be guilty of a misdemeanor. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3504. Record of Chief Animal Control Officer. The Chief Animal Control Officer shall keep a record of the number, description and disposition of all dogs, cats and household pets impounded, showing in detail in the case of each, the date of receipt, the date and manner of disposal, the name of the person reclaiming, redeeming or receiving such dogs, cats or household pets, the reason for destruction and such additional records as the City Council may from time to time feel necessary. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3505. Chief Animal Control Officer; Reports. The Chief Animal Control Officer shall make a monthly report to the City Administrator, or as often as may be required by the City, of the actions, transactions and operations of the public pound. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3506. Fees. (A) Whenever fees are to be charged by the Department of Animal Regulation these fees shall be set annually by ordinance of the City Council.

(B) Whenever a penalty fee is to be assessed, it shall be double the regular established fee. (Ord. 91-1)

Sec. 3507. Unnecessary Noise. It is unlawful for any person to keep, maintain, or permit on any lot or parcel of land, any dogs, cats, poultry, fowl or household pets, which by any sound or cry shall disturb the peace and comfort of any neighborhood. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3508. Abatement of Noise or Nuisance. Whenever it shall be affirmed in writing by three or more persons living in separate dwelling units in the neighborhood that any dog, cat, animal, poultry or household pet is a habitual nuisance by reason of howling, barking, or other noise, or is in any other manner causing undue annoyance, that shall constitute a public nuisance, the Department, if it finds such public nuisance to exist, shall serve notice upon the owner or custodian that the public nuisance shall be abated or the animal shall be impounded in a legal manner. If the nuisance and annoyance is not successfully abated, the Department determines it necessary to impound such dog, cat, animal, poultry or household pet, he shall not permit the reclaiming or redemption of the animal to the owner or custodian unless adequate arrangements have been made by the owner or custodian to insure abatement of the annoyance or public nuisance. Department shall present the results of the investigation of such nuisance to the officer responsible for prosecution within the jurisdiction wherein such nuisance is being maintained. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3509. Owner's Responsibility to Dispose of Dead Dogs, Cats, and Household Pets. It is unlawful for any owner or person who, having had the possession or control of any dog, cat, or household pet that has died to place the body of any dog, cat, or household pet, after its death, or cause to permit it to be placed or to knowingly allow or permit it to remain, in or upon any public road, highway, street, alley, square, park, school ground or other public place, or in or upon any lot, premises, or property of another. (Ord. 111; Am. Ord. 81-10; Am. Ord. 82-5, Am. Ord. 91-1)

Sec. 3510. Disposition of Dead Dogs, Cats, and Household Pets Upon Request. It shall be the duty of the Chief Animal Control Officer, upon the request of any owner of any dead dog, cat or household pet which was kept or maintained in the city immediately prior to its death, or upon the request of any person or persons discovering a dead dog, cat or household pet upon his premises or upon any public road, highway, street, alley, square, park, school ground or other public place, or in or upon any lot or premises, to forthwith bury or dispose of the animal in such manner as may be prescribed by law. The Department shall charge and collect fees for the transportation and disposal of the dog, cat or household pet from the owner or person having had the possession or control of the animal if same can be ascertained. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3511. Definitions. (A) Whenever the word "Chief Animal Control Officer" is used in this title it means the Department of Animal Regulation, the Chief Animal Control Officer and/or his duly authorized representative(s).

(B) Whenever "household pets" is referred to in this chapter, it includes cats, dogs, canaries, parrots, fish, hamsters, rabbits, turtles, lizards, and other reptiles including but not limited to snakes, and other kindred animals usually and ordinarily kept as household pets.

(C) Whenever "livestock" is referred to in this chapter, it means and includes horses, ponies, mules, donkeys, cattle, sheep, goats, swine and all other domestic and domesticated animals other than household pets.

(D) Whenever "poultry" is referred to in this chapter, it means and includes pigeons, ducks, geese, turkeys, chickens and all other domestic or domesticated fowl.

(E) A "commercial animal operation" means any lot, building, structure, enclosure or premises whereon or wherein, animals are kept or maintained for any commercial purpose, such as breeding, selling, advertising for sale, boarding, or rental of animals, provided that if more than one species of animal is kept for sale, barter or trade, the classification shall be that of a pet shop; and provided further, this definition of commercial animal operation shall not be construed as applying to a duly licensed veterinary hospital or any public pound. The operation must be consistent with current zoning.

(F) A "noncommercial animal operation" means any lot, building, structure, enclosure, or premises whereon or wherein four (4) or more dogs are kept for noncommercial use, including, but not limited to hunting and herding livestock.

(G) A "pet shop" means any lot, building, structure, enclosure or premises whereon or wherein is carried on the business of buying and selling or bartering household pets. This definition shall not be construed as applying to the business or activities of a duly licensed veterinary hospital, nor to the business or activities of any public pound. The operation must be consistent with current zoning.

(H) A "hobby breeder's" permit shall be obtained by any person offering for sale, barter or trade household pets in a manner that is accessory to residential use. A permit will be required in the following cases:

(1) When offspring from any female is being offered for sale in an amount in excess of \$50.00 per animal, and

(2) The owner is offering more than one litter for sale, barter or trade in a calendar year, and/or #1, and

(3) The owner is offering for sale, barter or trade more than one household pet of a species that bear single offspring for sale in one calendar year. In the case of dogs, each dog shall be individually licensed as provided in Sec. 3527. (Ord. 111; Am. Ord. 81-10; Am. Ord. 82-5, Am. Ord. 91-1)

Sec. 3512. Animal Use Operation, Pet Shop, Regulation. It is unlawful for any person, firm, corporation or association to erect, establish or maintain any animal use operation, commercial, noncommercial, hobby breeder or pet shop, as defined in this chapter, without first obtaining the appropriate permit from the Chief Animal Control Officer. The granting of such permit shall be in the discretion of the Department who shall take into consideration the type of construction to be employed as it relates to sanitation and the manner in which the animals, birds or livestock are to be housed, as well as such zoning regulations or regulations concerning the operations of commercial, noncommercial, hobby breeder or pet shops as may be adopted by the City Council from time to time. The permit will be for a calendar year, with a permit fee due and payable on January 1st of each year. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3513. Requirement of Business License. It is unlawful for any person, firm, corporation or association to erect, establish or maintain any commercial animal use facility, or pet shop, without first obtaining a license from the City. After approval by the Department of the permit that is required by this chapter, the City, upon the payment of the required annual license fee for the privilege of maintaining such facilities, commercial animal use facilities or pet shops, shall issue to the applicant a license in such form as he may prescribe. Such annual license shall be for the calendar year or any part thereof during which the commercial animal use operation or pet shop shall be maintained, and shall be due and payable in advance on January 1st of each year, and shall expire on December 31st of such year, provided the above mentioned permit has not been revoked. Every person, firm, or corporation maintaining a commercial animal use operation or pet shop shall post a notice in a conspicuous place where it may be seen outside the locked premises, listing names, addresses and telephone numbers of persons who may be contacted in the event of an emergency. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3514. Animal Use Operation and Pet Shop Permits--Refusal, Suspension or Revocation Thereof.

(A) The permit for the maintenance and operation of an animal use facility, commercial, noncommercial, hobby breeder, or pet shop shall be refused by the Department upon a determination that a violation exists of the provisions of any health law of the State of California, or any of the applicable provisions of this Chapter.

(B) A permit may be immediately suspended by the Department Officer for violation of any provision of this chapter when, in its opinion, the danger to public health or safety, or when necessary to assure humane care and treatment of the animals under permit, is so imminent, immediate and threatening as not to admit of delay. In the event of such suspension, the holder shall be given an opportunity for an office hearing before an impartial hearing officer from outside the Department, within forty-eight hours of the time of suspension. Upon conclusion of the office hearing, the hearing officer may decide to:

- (1) Dismiss the charges and reinstate the permit; or
- (2) Reinstate the permit conditioned upon correction of the violation; or
- (3) Revoke the permit.

(C) If, in the opinion of the Department, the danger to public health is not so imminent, immediate and threatening as to admit of delay, the Department shall send a notice of violation to the permittee and seek to achieve compliance informally by means of a correction schedule

and reasonable inspections. If, as a result of subsequent inspection, it is determined that the permittee has failed to comply with the schedule and correct the noticed deficiencies, the Department shall send a notice to the permittee advising the permittee of the remaining deficiencies and the convening of an office hearing to determine whether or not the permit should be revoked. Upon conclusion of the office hearing from outside the Department, to determine whether or not the permit should be revoked. Upon conclusion of the office hearing, the hearing officer may decide to:

- (1) Dismiss the charges; or
- (2) Establish a correction schedule; or
- (3) Revoke the permit.

(D) All office hearings referred to herein shall be conducted in accordance with procedures adopted by the Department. The applicant or permittee may call and examine witnesses, introduce exhibits, question county officials and opposing witnesses on any matter relevant to the issues, and may rebut evidence against him. The hearing shall not be conducted according to technical rules relating to procedure, evidence or witnesses. The Department shall insure that an informal record of the proceedings is maintained.

(E) Whenever the issuance of a permit is refused, or a permit is revoked and the required office hearing has been held, the applicant or permittee may appeal the action to the City Council within ten days. The clerk shall set the matter for hearing at the earliest possible date and shall give reasonable notice of the time and place thereof to the applicant or permittee and to the Department. The City Council shall hear the evidence offered by the applicant or permittee and the Department, and shall forthwith decide the issue. The decision of the City Council shall be final. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3515. Interference with Performance of Duties. It is unlawful for any person to resist, hinder, or obstruct the Chief Animal Control Officer or any of his deputies or employees in the exercise of their duties. Any person who violates this section is guilty of a misdemeanor. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3516. Violation of Order. Any person who after notice, violates, or who upon the demand of any animal control officer or deputy, refuses or neglects to conform to any rule, order, or regulation prescribed by the Animal Regulation Department, is guilty of an infraction. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3517. Limitations. (A) It is unlawful for any person, or persons, to own, harbor or maintain, at any single-family dwelling, more than three dogs or cats four months of age or older without obtaining the appropriate permit.

(B) Poultry and Rabbits. No person shall keep upon any premises in the City any poultry or rabbits:

- (1) Within fifteen (15) feet of any dwelling; or
- (2) If more than ten (10) in all of any such rabbits or poultry are kept within thirty-five (35) feet of any dwelling. No person shall keep upon any premises in the City more than ten (10) such rabbits or poultry, except by special permit of the City Council first had and obtained, or keep

any rooster of crowing age within one hundred (100) feet of any dwelling. This provision limiting the maximum number of rabbits or poultry shall not be retroactive or effective as to rabbit or poultry ranches or processing plants actually in operation on the effective date of this Chapter. The owners or persons in charge of such rabbits or poultry kept in the City shall provide suitable houses or cotes with board or cement floors in each and every house and cote and said houses, cotes or pens shall at all times be kept clean.

(C) Swine, Hogs, Pigs. No person shall keep upon any premises in the City any swine, hog, or pig, whatsoever, excepting Assessor's Parcel Numbers 060-562-012 and 060-562-015 (Ord 91-2).

(D) Other Animals. No person shall keep upon any premises in the City any other animals as defined in this Chapter:

- (1) On any lot containing less than 43,560 square feet; or
- (2) In any corral, barn or other enclosure within one hundred (100) feet of any dwelling.

No person shall tie, stake, or pasture, or permit the tying, staking, or pasturing, of any animal upon any private property in the City without consent of the owner or occupant of such property or in such a way as to permit any such animal to trespass upon any street or public place or upon any such private property. No person shall permit any such animal to be or remain during the night time secured by a stake or secured in any manner other than by enclosing such animal in a pen, corral, or barn sufficient and adequate to restrain such animal. All such animals shall be provided with adequate food, water and shelter or protection from the weather.

All fences or enclosures used for the above purposes must be of such material and maintained in such manner as is humane for the safety and protection of such animals.

Sec. 3518. Violation. Except as otherwise provided, violation of the provisions of this Chapter is an infraction. (Ord. 81-10)

PART 2 – DOGS

Sec. 3520. Stray Dogs Defined. A "stray dog" is any dog licensed or unlicensed, which is in or on any public road, highway, street, alley, square, park, school ground or other public place, or in or upon any lot, premises or property of another when not accompanied in the near vicinity by the person owning, having interest in, harboring, or having charge, care, control, custody or possession of such dog. Any stray dog shall be immediately seized and impounded by the Chief Animal Control Officer. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3521. Leash Law. It is unlawful for any person to suffer or permit any dog owned, harbored, or controlled by him to be on any public street, alley, lane, park or place of whatever nature open to and used by the public in the incorporated area of the county unless such dog is securely leashed and the leash is held continuously in the hand of a responsible person capable of controlling such dog, or unless the dog is securely confined in a vehicle, or unless the dog is at "heel" beside a competent person and obedient to that person's command. Dogs used on farms and ranches for the primary purpose of herding livestock are not required to be leashed or at "heel" beside their owner or person controlling the use of these dogs while on a public street, alley, lane, or place of whatever nature open to and used by the public in the incorporated area

of the county while herding such livestock and as long as these dogs are obedient to the commands of the person controlling their use for this purpose. Dogs used for the primary purpose of hunting are not required to be leashed or at "heel" while used in hunting as long as these dogs are obedient to the commands of the person controlling their use for this purpose. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3522. Duty of Chief Animal Control Officer to Patrol and Enforce Regulations. It shall be the duty of the Chief Animal Control Officer to patrol the City from time to time and without notice to the public for the purpose of enforcing the provisions of this Chapter. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3523. Duty of Chief Animal Control Officer to Seize and Impound Stray Dogs. It shall be the duty of the Chief Animal Control Officer to seize and impound, in a lawful manner, and subject to the provisions of this Chapter, all stray or unlicensed dogs found within the City in which the Department provides animal control services. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3524. Dogs Running at Large. Any dog found trespassing on any private property in the City may be taken up by the owner or possessor of the property and delivered to the Chief Animal Control Officer or detained on the property until picked up by the Chief Animal Control Officer. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3525. Delivery to Chief Animal Control Officer by Private Persons. Every person taking up any dog under the provisions of this Chapter and every person finding any lost, strayed or stolen dog shall, within twenty-four hours thereafter, give notice thereof to the Chief Animal Control Officer and every such person in whose custody such dog may, in the meantime, be placed shall surrender such animal to the Chief Animal Control Officer without fee or charge and the Chief Animal Control Officer shall thereupon hold and dispose of such dog in the same manner as though such dog has been found running at large and impounded by the Chief Animal Control Officer. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3526. Notice of Impounding Dog. As soon as possible, but not later than twenty-four hours after impounding any dog currently licensed under the provisions of this chapter, the Chief Animal Control Officer shall notify the registered owner or person having control of the dog by written or oral communication that such dog is impounded and that it must be redeemed within three days from the date of such communication, and unless redeemed the dog will be disposed of in any manner as provided by this chapter. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3527. Redemption of Impounded Dogs. The Chief Animal Control Officer shall securely keep any dog impounded for a period of three days unless the dog be sooner reclaimed or redeemed by the owner or person having control thereof. Except as may be provided in Section 3507, the owner or person entitled to the custody of the dog so impounded may, at any time before the sale or other disposition thereof, during the office hours of the pound, reclaim or redeem the dog by exhibiting to the Chief Animal Control Officer the license certificate or license tag showing that the license for the dog for the then current year has been paid and by paying the Chief Animal Control Officer any charges. No fees whatsoever shall be charged or collected for or on account of any dog which has been unlawfully taken up or impounded. If the owner or person entitled to the custody of the dog believes that the dog has been unlawfully taken up or

impounded, that owner or person may, within the seventy-two hour redemption period, request that an impartial hearing by a hearing officer from an outside Department be conducted to determine the sole issue of whether the dog was lawfully seized and impounded. If a dog has been unlawfully taken up or impounded, it shall be returned to its owner or the person entitled to the custody thereof. (Ord. 111; Am. Ord. 77-9; Am. 81-10, Am. Ord. 91-1)

Sec. 3528. Redemption Fees. The owner or person entitled to the custody of the dog impounded shall pay impound fees to the Chief Animal Control Officer before such dog is released.

(A) Registration or license fee for the then current year unless such fee has been previously paid and evidence of paid fee is adequately exhibited;

(B) Impound fee for first, second, third and subsequent impounds in a one-year period from the date of the first impound.

Sec. 3529. Sale, Gift, or Destruction of Dogs. At any time after the expiration of the period of three days, the Chief Animal Control Officer may, without further notice, and without advertising in any manner, sell, give away or dispose of in a humane way, any dog not reclaimed or redeemed as aforesaid. Provide, however, the Chief Animal Control Officer may not sell, give away or transfer title to any dog or any other animal to any institution engaged in the diagnosis or treatment of human or animal disease, or in research for the advancement of veterinary, dental, medical, or biologic sciences, or in the testing or diagnosis, improvement or standardization of laboratory specimens, biologic products, pharmaceuticals, or drugs. The Chief Animal Control Officer may not sell or give away any female dog that has not been spayed, or any male dog that has not been neutered, unless a deposit toward the cost of spaying or neutering such dog, as determined and promulgated by the Chief Animal Control Officer, has been deposited. Deposit is refundable, through normal County Refund Procedures, upon proof of sterility. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3530. Injured and Diseased Dogs. Every dog taken into custody by the Chief Animal Control Officer which by reason of injury, disease or other good cause as determined by a licensed veterinarian as dangerous or inhumane to keep impounded, shall be forthwith destroyed by the Chief Animal Control Officer in a humane manner unless the owner or person entitled to the custody of the dog can be notified by the Chief Animal Control Officer within a reasonable period of time to arrange and provide for medical care. The Chief Animal Control Officer shall release such dog to its owner or person having control thereof upon payment of the redemption fees and other charges as provided in this title. However, if the licensed veterinarian determines that the dog is diseased and by reason of such disease is dangerous to persons or to other animals, or to the general health and welfare of the county, the Chief Animal Control Officer shall destroy the dog. Injured or diseased animals may be humanely destroyed without regard to the prescribed holding time in order to alleviate suffering or to protect other impounded animals from exposure to a contagious disease. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3531. Care of Dog While Impounded. The Chief Animal Control Officer shall provide all dogs in his custody with proper food and water, and shall give them all necessary care and attention. The Chief Animal Control Officer shall charge a fee at the time an impounded dog is

redeemed by its owner or person having custody or may charge these fees at such time an unclaimed dog is sold. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3532. Biting Dogs. It is a misdemeanor for any person to suffer or permit any dog or other animal owned, harbored, or controlled by him, to inflict upon any human being a bite that penetrates the skin while the person bitten is on any public place, or legally upon any private property. The person bitten may request the Chief Animal Control Officer to initiate criminal proceedings against such other person by submitting a signed, written complaint. (Ord. 111; Am. Ord. 80-4; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3533. Impounding of Biting Dogs. Upon written notice by the Chief Animal Control Officer, the owner or person having the control of any dog which has, within the preceding ten days, bitten any person or animal shall, upon demand, and in the discretion of the Chief Animal Control Officer, shall do one of the following:

(A) Confine the dog to his own premises; or

(B) Surrender the dog to the Chief Animal Control Officer who shall impound and keep the dog at the public pound in a separate enclosure for a period of not less than ten days; or

(C) Surrender the dog to a licensed veterinarian as designated by the Chief Animal Control Officer; or

(D) Surrender the dog to the Chief Animal Control Officer for quarantine at any other location or facility designated and approved by the Chief Animal Control Officer. If the dog is quarantined on the premises of the owner, the Chief Animal Control Officer may post a quarantine sign on such premises, and it is unlawful for any person to remove the sign during the term of such quarantine without the consent of the Chief Animal Control Officer. Any quarantine provided in this section shall be for a term of not less than ten days unless otherwise specified by the Chief

Animal Control Officer. During the period, it shall be the duty of the Department to determine whether or not such animal is suffering from any disease. If a duly licensed veterinarian designated by the Chief Animal Control Officer shall determine that the animal is diseased and, by reason of such disease, is dangerous to persons or to other animals, he shall so notify the Chief Animal Control Officer in writing, to destroy the animal. A copy of the notice may also be served upon the owner or person having control of the animal. If the veterinarian shall determine that the dog is not so diseased, the Chief Animal Control Officer shall notify the person owning or having control of the animal at the address from which the animal was surrendered to the Chief Animal Control Officer and shall, upon demand, release the animal to the owner or person lawfully entitled thereto, upon payment of any charges provided therefor, including expenses of quarantine and veterinary care; provided, however, that if no person lawfully entitled to such animal shall within three days after the date of giving the last mentioned notice, appear at the public pound and request the release of the animal, and pay the charges, the animal may be sold or destroyed by the Chief Animal Control Officer in the same manner hereinbefore provided.

Whenever a dog is ordered to be quarantined on the premises of the owner, an administrative fee to cover the expense of monitoring the quarantine will be charged. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91- 1)

Sec. 3534. Violation of Quarantine. It is unlawful for any person to suffer or permit any dog, cat, animal or household pet owned, harbored, or controlled by him to violate any written quarantine notice. Any person who violates such written notice shall be guilty of a misdemeanor. (Ord. 111; A. Ord. 77-9; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3535. Symptoms of Rabies. Whenever the owner or person having the custody or possession of an animal shall observe or learn that such animal shows symptoms of rabies, or acts in a manner which would lead to a reasonable suspicion that it may have rabies, the owner or person having the custody or possession of such animal shall immediately notify the Chief Animal Control Officer. The Chief Animal Control Officer shall make or cause an inspection or examination of such animal to be made by a licensed veterinarian until the existence or nonexistence of rabies in such animal is established by the veterinarian. Such animal shall be kept isolated in a pound, veterinary hospital, or other adequate facility in a manner approved by the Chief Animal Control Officer and shall not be killed or released for at least ten days after the onset of symptoms suggestive of rabies, after which time the animal may be released by the Chief Animal Control Officer, provided the Chief Animal Control Officer has first determined that the animal does not have rabies. If the Chief Animal Control Officer determines that the dog or other animal does have rabies, the Chief Animal Control Officer shall destroy the animal.

The Chief Animal Control Officer, or his duly authorized representative, is authorized and empowered to enter in a manner authorized by law, upon private property where any dog or other animal is kept, or believed by him to be kept, for the purpose of ascertaining whether the dog or other animal is afflicted or infected with rabies or other contagious disease. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3536. Dog Registration and Licenses. Except as provided in Section 3547, it is unlawful to own, keep or control any dog unless and except a license has been procured therefor as herein provided. This section shall have no application to dogs under the age of four months. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91- 1)

Sec. 3537. Dogs--Vaccination Required. It is unlawful for any person owning, harboring, or having the care of, custody, or possession of any dog to keep or maintain such dog in any place in the City, or except as prohibited in Section 3547, unless such dog has been vaccinated as provided herein. This section shall have no application to dogs under the age of four months. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1) III-33

Sec. 3538. No Licensing Without Vaccination. The Chief Animal Control Officer shall not license any dog until it has been vaccinated with canine rabies vaccine by injection or other method approved by the Chief Animal Control Officer during the time prescribed by state law or the rules and regulations of the State Department of Public Health, unless the owner or person in possession of the same submits a certificate from a licensed veterinarian issued within the preceding sixty days, stating that, in his opinion, the rabies vaccination would be likely to seriously injure the dog. Any dog so excepted from rabies vaccination shall be restricted to the enclosed yard of the owner or person in possession of the same except when held upon a rope,

chain, or leash. Any violation thereof by the owner or person in possession of such dog is unlawful. (Ord. 111; Am. Ord. 75-1; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3539. Vaccination Performance. The vaccination shall be performed by a duly qualified and licensed veterinarian. The veterinarian vaccinating the dog shall issue to the owner or person in possession of the dog a rabies vaccination tag and a certificate of vaccination, which certificate shall include:

- (A) The type of vaccine used;
- (B) The date of vaccination;
- (C) The duration of vaccination;
- (D) Description of dog, including age, breed and color;
- (E) Name and address of owner of dog; and
- (F) A copy of this certificate shall be sent to the Chief Animal Control Officer within 30 days of said vaccination. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3540. Rabies Deposit Fee Required. Any person procuring a dog license without a valid rabies vaccination for reason of redeeming an impounded animal or clearing a citation will pay a rabies deposit fee. Deposit is refundable upon proof of current vaccination certificate, through normal County refund procedures. Proof of rabies vaccination shall be made to the Chief Animal Control Officer within thirty days or the license will be void. (Ord. 91-1)

Sec. 3541. Registration Record. The Chief Animal Control Officer shall maintain a record in which it shall, upon the application of any person owning or having the custody of any dog in the City, and the payment to it of the license fee hereby prescribed, register the dog by entering in the record its name (if any), its sex and general description, whether it has been spayed or neutered, the name of its owner or custodian, the number of the tag issued therefor, the date of expiration of the rabies vaccine, the date of issuance and the amount received for the license fee. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3542. Dog License Tags. Upon exhibition of the proper evidence of vaccination and payment of the license fee, there shall be delivered to the person making such payment a metal tag with the number and one, two or three years stamped or cut thereon, and the words "DOG LICENSE TAG - County of San Luis Obispo," stamped thereon, which dog tag shall be securely fastened to a collar or harness which must be worn at all times by the dog for which the tag was issued. If the dog is exempted from vaccination, Sec. 3537, the dog tag shall have a distinguishing mark as evidence of such fact. (Ord. 111; Am. Ord. 75-1; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3543. Licensing of Dogs. Each license shall be effective for a period of one year, two years, or three years at the option of the owner, but contingent upon payment of all required fees, charges, and penalties required for the issuance of a license.

(A) A license will be valid from the date of issue and shall expire one year, two years, or three years from the date of issue, except when the performance of the rabies vaccination expires on the same date as the rabies vaccination.

(B) License renewals shall be required prior to the expiration date of the license. (Ord. 111; Am.

Ord. 75-1; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3544. License Fees. The Department shall collect a fee for dog licensing.

(A) The owner or custodian of an unaltered dog may place a deposit for spaying or neutering with the Chief Animal Control Officer for a one-year license. This deposit shall be forfeited if said operation is not performed by the expiration date of the license.

(B) A late penalty of twice the pre-penalty one-year license fee shall be charged if:

- (1) A license is not renewed prior to the expiration date;
- (2) Puppies are not licensed within thirty days after reaching four months of age;
- (3) Any dog brought into this county is not licensed within thirty days;
- (4) A person acquiring possession of a dog over four months of age does not license it within thirty days of taking possession.

(C) Persons obtaining possession of any dog currently licensed by San Luis Obispo County shall upon payment of a transfer fee have ownership of said dog changed. (Ord. 111; Am. Ord. 81-10, Am. Ord. 91-1)

Sec. 3545. Lost or Damaged Tag. If the tag issued for any duly registered dog be lost or accidentally destroyed during the period it is issued for, the owner or custodian of such dog, upon making proof to the Chief Animal Control Officer of its loss or destruction, shall, upon payment of established fee, receive for such dog another tag. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3546. License Exceptions. The provisions of this chapter requiring the licensing of dogs shall not apply to:

- (A) Dogs under four months of age;
- (B) Dogs owned by or in custody or control of person who are nonresidents of San Luis Obispo County traveling through the county or temporarily staying therein for a period not exceeding thirty days;
- (C) Dogs brought into the county exclusively for the purpose of entering the dogs in any dog show or exhibition, and which are actually entered in and kept at such show or exhibition;
- (D) Dogs on sale in duly licensed pet shops, or commercial animal operations;
- (E) Dogs under the ownership, custody and control of the owner of a commercial animal operation duly licensed under the provisions of this chapter, or his duly authorized employee or agent when such dogs are removed from such operation in the bona fide operation thereof for the purpose of exercise or training, provided that any such dog bear an identification tag attached to its collar, which tag shall set forth the name of the licensed operation. A dog bearing such identification tag shall be treated in all respects as any other dog in the event of its escape and subsequent impoundment. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3547. License Fee Exemptions. (A) Seeing Eye dogs and all dogs which have served with the armed forces of the United States of America during any period of actual hostilities must be licensed and vaccinated under the provisions of this chapter, but their owners shall be exempt from the license fee as therein imposed, providing adequate evidence can be furnished at such time the license is issued;

(B) Dogs used by any governmental agency for the purpose of law enforcement must be licensed and vaccinated under the provisions of this chapter, but their owners shall be exempt from the license fee as therein imposed, providing adequate evidence can be furnished at such time the license is issued;

(C) All dogs being raised and trained specifically to perform as a Seeing Eye dog must be licensed and vaccinated under the provisions of this chapter, but their owners shall be exempt from the license fee as therein imposed, providing adequate evidence can be furnished at such time the license is issued. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3548. Failure to Pay License Fee or Provide Information. It is unlawful for any person owning or having the care, custody or control of any dog in the county, to refuse, fail or neglect to pay the license fee at the time and in the manner herein provided, or to refuse, fail or neglect to furnish to the Chief Animal Control Officer, the Health Officer, or any of their duly qualified and authorized deputies or employees, the information necessary to properly license the dog. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3549. Counterfeiting. No person shall imitate or counterfeit such registration tags. It is unlawful for any person to remove any tag from any dog not owned by him or not lawfully in his possession or under his control or to place on any dog any such license tag not issued as provided for above for that particular dog for the then current year or to make or to have in his possession or to place on a dog any counterfeit or imitation of any license tag. (Ord. 81-10, Am. Ord. 91-1)

Sec. 3550. Dogs in Public Parks. It is unlawful for any person to permit any dog owned, harbored or controlled by him to be in any public park unless such dog is securely leashed on a leash not exceeding six (6) feet in length and the leash is held continuously in the hand of a responsible person, capable of controlling such dog. For purposes of this Section, the term "public park" shall mean any City park in the City of Grover City. (Ord. 79-3, Am. Ord. 91-1)

Sec. 3551. Duty of Dog Owner to Control Litter. Any person harboring or controlling a dog shall immediately remove any excrement deposited by such dog upon a sidewalk, street, park, or private property of any person other than that of the owner or person in control of such dog. Any person violating this Section shall be subject to a fine of Twenty-five Dollars (\$25.00) for each occurrence. (Ord. 79-3, Am. Ord. 91-1)

Sec. 3552. Menacing and Aggressive Animals.

(A) It is unlawful for any person to keep, harbor, or maintain any aggressive or menacing animal which threatens, harasses, or intimidates a person who is peaceably and lawfully upon public or private property, unless it is contained in an enclosure of a construction adequate to keep it securely confined and prevent its escape.

(B) It is unlawful for any person to permit any animal owned, harbored, or controlled by him or her to attack and cause severe bodily injury or death to another domestic or captive animal while off the property of its owner or keeper.

(C) Upon notification of a violation of subsection A, the animal owner(s) must immediately confine the animal to an enclosure or location which mitigates the aggressive and menacing behavior.

(D) For the purposes of this section, the following definitions apply:

1. "Aggressive animal" any animal whose observable behavior causes a person observing that behavior reasonably to believe that the animal may attack a person or another animal.

2. "Menacing animal" means any animal which, through its behavior, causes a person observing or subject to that behavior to be in reasonable fear for his or her safety, or the safety of animals kept by him or her. Police or military service canines being utilized in an official capacity are excluded from this definition.

3. "Severe bodily injury" means any physical injury which results in deep lacerations with separation of subcutaneous tissues, muscle tears or lacerations, fractures or joint dislocations, or permanent impairment of locomotion or special senses.

(E) Penalties for violation:

A violation of this Chapter is an infraction and is subject to punishment as provided for in Article 1, Chapter 2 of the Grover Beach Municipal Code.

For the purposes of this section, a first violation of subsection A will be deemed to have occurred if the menacing or aggressive animal is not confined as required by subsection C within 24 hours of notification; a separate violation of subsection A shall be deemed to exist for each 24 hour period following notification in which an animal's menacing or aggressive behavior continues unmitigated.

(F) Liability of property owners

1. Owners of properties upon which a tenant keeps, harbors, or maintains any aggressive or menacing animal may, along with the animal owner(s), be jointly and severally liable for penalties related to violations of subsection A, provided that they have received at least fourteen (14) days prior written notice of the existence of such violation and the violation has not been abated. No penalty shall be imposed upon the property owner if the property owner can demonstrate, within fourteen (14) days following notification that a violation has occurred, that the property owner has initiated action to abate the illegal activity on the property.