

TO: James L. App, City Manager
FROM: Robert Burton, Chief of Police
SUBJECT: Municipal Code Amendment – Menacing and Aggressive Animals
DATE: March 4, 2014

NEEDS: For the City Council to consider amending Title 8 of the Paso Robles Municipal Code (Animal Control) to add new Chapter 8.06 - Menacing and Aggressive Animals.

- FACTS:**
1. The City contracts with the San Luis Obispo County Division of Animal Services for animal care and control services.
 2. 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.
 3. The City desires to support the safe and responsible keeping of animals within the City.
 4. 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.
 5. The City desires to protect the safety and welfare of responsible pet owners and their pets from animals demonstrating aggressive or menacing behavior that threaten to cause, or actually cause, harm to city residents and their pets
 6. The County of San Luis Obispo enacted an ordinance to strengthen the regulation of aggressive and menacing animals.

**ANALYSIS &
CONCLUSION:**

The City of Paso Robles 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 Paso Robles 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.

The County Division of Animal Services found a need for a new ordinance because of a gap in the current statutes regarding aggressive animals. Current laws do not address aggressive or menacing dogs that have not yet attacked a person, dogs that have attacked or killed "only" one animal, dogs that have been previously designated as a potentially and vicious animal, and other dangerous or aggressive animals.

In addressing the gap, the new County ordinance requires owners to ensure that aggressive animals are securely confined, and it establishes penalties for owners of animals that fit the defined criteria with the intent to prevent attacks. The landlord responsibility 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. Inclusion of this language provides an additional problem-solving tool to address public safety concerns.

In the process of developing this 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.

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).

**FISCAL
IMPACT:**

None.

OPTIONS:

- A.** Introduce for the first reading Ordinance No. XXX to amend Title 8 of the Paso Robles Municipal Code to add new Chapter 8.06 to address and regulate Menacing and Aggressive Animals, and set April 4, 2014, as the date for adoption of said ordinance.

- B.** Amend, modify or reject the above options.

Attachments:

- 1. Ordinance No. XXX
- 2. San Luis Obispo County Menacing and Aggressive Animal Ordinance

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES AMENDING TITLE 8 OF THE MUNICIPAL CODE ADDING CHAPTER 8.06 – MENACING AND AGGRESSIVE ANIMALS

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 recently 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 and visitors of the City of Paso Robles.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 8 – Animal Control, of the Paso Robles Municipal Code is hereby revised to add new Chapter 8.04 – Menacing and Aggressive Animals, in substantially the form set forth in Exhibit A hereto.

SECTION 2. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 3. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code Section 36937.

SECTION 4. Publication. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code Section 36933.

Introduced at a regular meeting of the City Council held on _____, 2014 and passed and adopted by the City Council of the City of El Paso de Robles on the ___ day of _____, 2014 by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

Exhibit A

Title 8 – Animal Control

Chapter 8.06 – Menacing and Aggressive Animals

8.06.10 – Animal owner and property owner responsibility.

- 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.

8.06.20 - Definitions

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 without provocation.

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.

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.

8.06.30 - Penalties

1. \$100 for the first violation.
2. \$200 for the second violation of subsection A or B within one year.
3. \$500 for each additional violation of subsection A or B within one year.
4. 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.

8.06.40 - 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), may be jointly and severally liable for penalties related to violations of subsection A, provided that they have received at least 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 14 days following notification that a violation has occurred, that the property owner has initiated action to abate the illegal activity on the property.

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 9.16 OF THE COUNTY CODE, GENERAL PROVISIONS

The Board of Supervisors of the County of San Luis Obispo, State of California, does ordain as follows:

Section 1: Chapter 9.16, Animals, Poultry and Household Pet, is hereby amended add section 9.16.030:

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

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

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

(1) An "aggressive animal" includes, but is not limited to, any animal whose behavior indicates it is prone to unprovoked attacks against a person or other animal.

(2) A "menacing animal" includes, but is not limited to, any animal which, through its behavior, demonstrates an intention to inflict harm or otherwise places a person in reasonable fear for his or her safety, or the safety of animals kept by him or her.

(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) \$100 for the first violation.

(2) \$200 for the second violation of subsection (a) or (c) within one year.

(3) \$500 for each additional violation of subsection (a) or (c) within one year.

(4) For the purposes of this section, a separate violation of subsection (a) shall be judged to exist for each 24 hour period in which an animal's menacing and 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 14 days prior written notice of the existence of such violation and the violation has not been abated.

Section 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The Board of Supervisors of the County of San Luis Obispo hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 3: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names, of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

Introduced at a regular meeting of the Board of Supervisors held on the _____ day of _____, 20____, and passed and adopted by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

Chairperson of the Board of Supervisors
of the County of San Luis Obispo
State of California

ATTEST:

County Clerk and Ex-Officio Clerk of
the Board of Supervisors, County of
San Luis Obispo State of California

APPROVED AS TO FORM AND LEGAL EFFECT:
WARREN R. JENSEN

By: _____
Deputy County Counsel

Dated: _____