

ORDINANCE NO. 14-727

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIFORNIA, CALIFORNIA, ADDING ARTICLE 4 (POTENTIALLY DANGEROUS AND VICIOUS DOGS) TO CHAPTER 1 (ANIMALS) OF TITLE 6 (SANITATION AND HEALTH) OF THE CITY OF CALIFORNIA CITY MUNICIPAL CODE, RELATING TO POTENTIALLY DANGEROUS AND VICIOUS DOGS

WHEREAS, the City of California City has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the city, Cal. Const. art. XI, § 7; and

WHEREAS, the City Council finds that potentially dangerous and vicious dogs constitute a serious threat to the safety and welfare of citizens and visitors of the City; and

WHEREAS, Chapter 9 (Potentially Dangerous and Vicious Dogs) of Division 14 (Regulation and Licensing of Dogs) of the California Food & Agriculture Code provides the procedures and authority of cities to have dogs who frighten or attack people and other animals declared potentially dangerous or vicious, and to take measures to protect the public; and

WHEREAS, Section 31621 of the California Food & Agriculture Code authorizes the City to establish an administrative hearing procedure to hear and dispose of petitions seeking to have dogs declared potentially dangerous or vicious; and

WHEREAS, the City Council finds that an administrative hearing procedures will accomplish the City's goals of protecting the public safety, providing an efficient procedure to review potentially dangerous or vicious dog petitions, and provide the owner or keeper of a dog that is the subject of such a petition with the necessary due process.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIFORNIA CITY DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council finds that all the facts, findings, and conclusions set forth above in this Ordinance are true and correct.

SECTION 2: Article 4 (Potentially Dangerous and Vicious Dogs) of Chapter 1 (Animals) of Title 6 (Sanitation and Health) of the City of California City Municipal Code is hereby added as follows:

ARTICLE 4: POTENTIALLY DANGEROUS AND VICIOUS DOGS

6-1.401. Purpose.



The purpose of this article is to regulate and control potentially dangerous and vicious dogs within the City of California City.

6-1.402. Definitions.

- (a) "Animal Control" means the Animal Control Division of the California City Police Department, and shall include Animal Control and Police Department officers, and any city employee or agent deputized by the Chief of Police to enforce this article.
- (b) "City" means the City of California City.
- (c) "City council" means the City Council of the City of California City.
- (d) "Enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a vicious dog in conjunction with other measures which may be taken by the owner or keeper of the dog. The enclosure shall be designed in order to prevent the animal from escaping. The dog shall be housed pursuant to Section 597t of the Penal Code.
- (e) Cal Food & Agr Code § 31605
- (f) "Impounded" means taken into the custody of the public pound or Animal Control, or provider of animal control services to the city or county where the potentially dangerous or vicious dog is found.
- (g) "Notice of intent" means a Notice of Intent to Hold Potentially Dangerous or Vicious Dog Hearing, which shall be issued by Animal Control.
- (h) "Potentially dangerous dog" means any of the following:
 - (1) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person or the dog are on or off the property of the owner or keeper of the dog.
 - (2) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in subdivision (k), below.
 - (3) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six months, has killed, seriously bitten, inflicted injury or otherwise caused injury to a domestic animal off the property the owner or



keeper of the dog.

- (i) "Review board" means the potentially dangerous and vicious dogs review board of the City of California City.
- (j) "Vicious dog" means any of the following:
 - (1) Any dog seized under Section 599(a) of the Penal Code, or any successor provisions, and upon the sustaining of a conviction of the owner or keeper under subdivision A of Section 597.5 of the Penal Code, or any successor provisions.
 - (2) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
 - (3) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in subdivision (h), above, or is maintained in violation of California Food and Agricultural Code Sections 31641, 31642, or 31643, or any successor provisions, and in violation of Section 6-1.409 (Disposition of Potentially Dangerous or Vicious Dogs) of this Code.
- (k) "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.

6-1.403. Exceptions.

- (a) This article does not apply to licensed kennels, humane society shelters, animal control facilities or veterinarians.
- (b) This article does not apply to dogs while utilized by any police department or any law enforcement officer in the performance of police work.

6-1.404. Establishment of review board.

- (a) A potentially dangerous or vicious dog review board is hereby established consisting of three members appointed by the city council of the, priority for which shall be given to California City residents.
- (b) The three members of the review board shall consist of one member at large who shall be eighteen years of age or older who is a resident of the city, one



member who is a California licensed doctor of veterinary medicine, and one member who is a certified dog trainer or certified animal behaviorist. Whenever possible the city council shall attempt to appoint members to this board who reside or whose businesses are operated in the city. Each member shall be appointed and serve for a two year term or until a successor is appointed, whichever is last to occur. Such members serve at the pleasure of the city council and may at any time be removed by a vote of the majority of the city council.

- (c) The purpose of the review board is to review any petition filed by Animal Control that seeks to declare a dog as a potentially dangerous or vicious dog.

6-1.405. Probable cause; Seizure and impoundment of dog.

- (a) If, upon investigation, Animal Control determines that probable cause exists to believe the dog in question poses an immediate threat to public safety, then Animal Control may seize and impound the dog pending the hearing before the review board. The owner or keeper of the dog shall be liable to the city where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated to be potentially dangerous or vicious.
- (b) If Animal Control deems it appropriate for the dog's owner or keeper to keep the dog pending the hearing, the owner or keeper of the dog shall immediately keep the dog in an enclosure on the owner's property, and the dog may be off the owner's premises only if it is restrained by a substantial leash of an appropriate length not to exceed six (6) feet, is wearing an Animal Control-approved muzzle, and is under the control of a responsible adult. If any of these means of restraint is impossible or impractical, the dog shall be impounded pursuant to subdivision (a), above.
- (c) When a dog has been impounded pursuant to this section and it is not contrary to public safety, Animal Control may permit the animal to be confined at the owner's expense in a department approved kennel or veterinary facility or such other private property as may be approved by Animal Control.

6-1.406. Notice of intent.

Whenever Animal Control has probable cause to believe that a dog may be potentially dangerous or vicious dog, Animal Control officers shall investigate the dog's alleged behavior and if the officers find that the dog has done any of the acts or shown a disposition or propensity to do any of the acts described in Section 6-1.402(h), (j) (Definitions), above, the officers shall deliver in writing to the owner or keeper of the dog a notice of intent, which shall include a statement



of the facts and circumstances concerning the dog's behavior.

6-1.407. Hearing process.

(a) When Animal Control petitions the review board to determine that a dog is potentially dangerous or vicious, the owner or keeper of the dog shall be served with notice of the hearing and a copy of the petition, either personally, or by first class mail, with return receipt requested. The property owner, if different from the owner or keeper of the dog, shall also be served with notice of the hearing and a copy of the petition.

(b) All available Animal Control reports, photographs and documentary evidence, which form the basis of the petition shall be included with the petition. 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 sworn to and verified by the complainant and shall be attached to the petition.

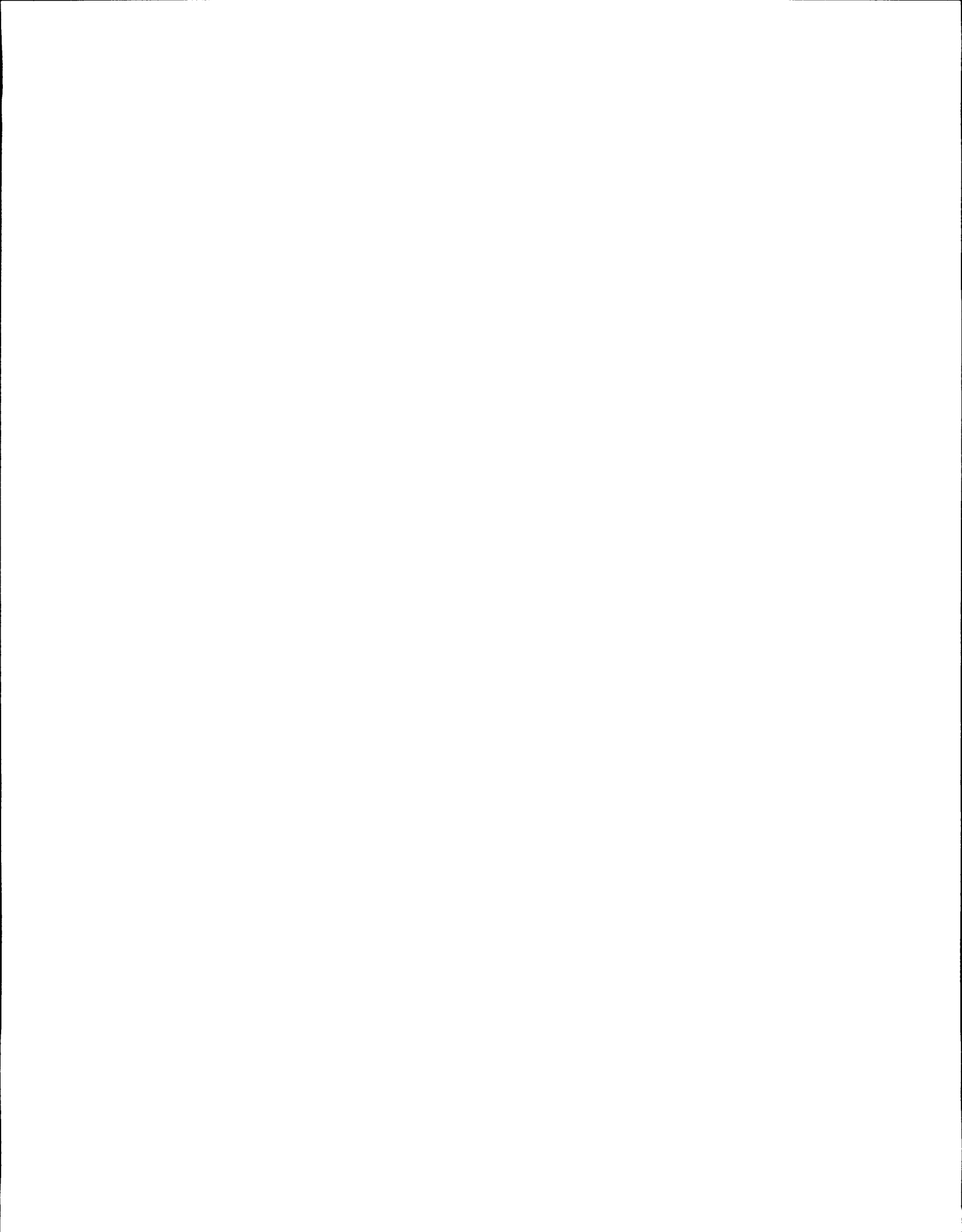
(c) The review board shall hold a hearing within 10 business days after the service of notice upon the owner or keeper of the dog and upon the property owner, but in no event any sooner than five business days after such notice.

(d) At the hearing, the owner or keeper of the dog may present evidence as to why the dog should not be declared potentially dangerous or vicious. The hearing shall be open to the public and the review board may consider any relevant evidence, including incident reports and the affidavits of witnesses, they may limit the scope of discovery and may determine and limit the time to produce records or witnesses. The review board may find, upon a preponderance of the evidence, that the dog is potentially dangerous or vicious and may make such other orders as may be reasonably necessary and as they may be recommended by Animal Control.

(e) The review board may decide all issues for or against the owner or keeper of the dog at a properly noticed hearing of the review board even if the owner or keeper of the dog fails to appear at the hearing.

(f) Exceptions.

(1) No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time of the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting



to commit a crime.

- (2) No dog may be declared potentially dangerous or vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.
- (3) No dog may be declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal which, at the time of the injury or damage, was teasing, tormenting, abusing or assaulting the dog.
- (4) No dog may be declared potentially dangerous or vicious if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, predator control dog, on the property of or under the control of its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

(g) Following the hearing, the owner or keeper of the dog shall be notified in writing of the determination and orders issued by the review board with such notice either being presented personally or by first class mail, postage prepaid by the City of California City. If a determination is made that the dog is potentially dangerous or vicious, the owner or keeper shall comply with all requirements of Sections 31641, 31642, 31643, 31644, 31645, and 31646 of the California Food and Agricultural Code, California City Code Section 6-1.409 (Disposition of Potentially Dangerous or Vicious Dogs), and such other additional orders as may be determined and issued by Animal Control. Animal Control shall provide the dog owner or keeper with a time schedule for compliance with the orders of the review board regarding the potentially dangerous or vicious dog.

6-1.408. Appeal of review board decision.

If Animal Control or the owner or keeper of the dog contests the review board's determination, either party may appeal that decision to the superior court of the local jurisdiction, as a limited civil proceeding. Such appeal shall be made within five (5) days of the receipt of the notice of determination. The fee for filing such an appeal shall be established by the local county clerk. The party filing the appeal shall serve notice of the appeal upon the other party and upon the property owner, if applicable. Notice of the appeal shall be served personally or by first class mail. Any such appeal shall be conducted pursuant to Section 31622(b) of the California Food and Agricultural Code.

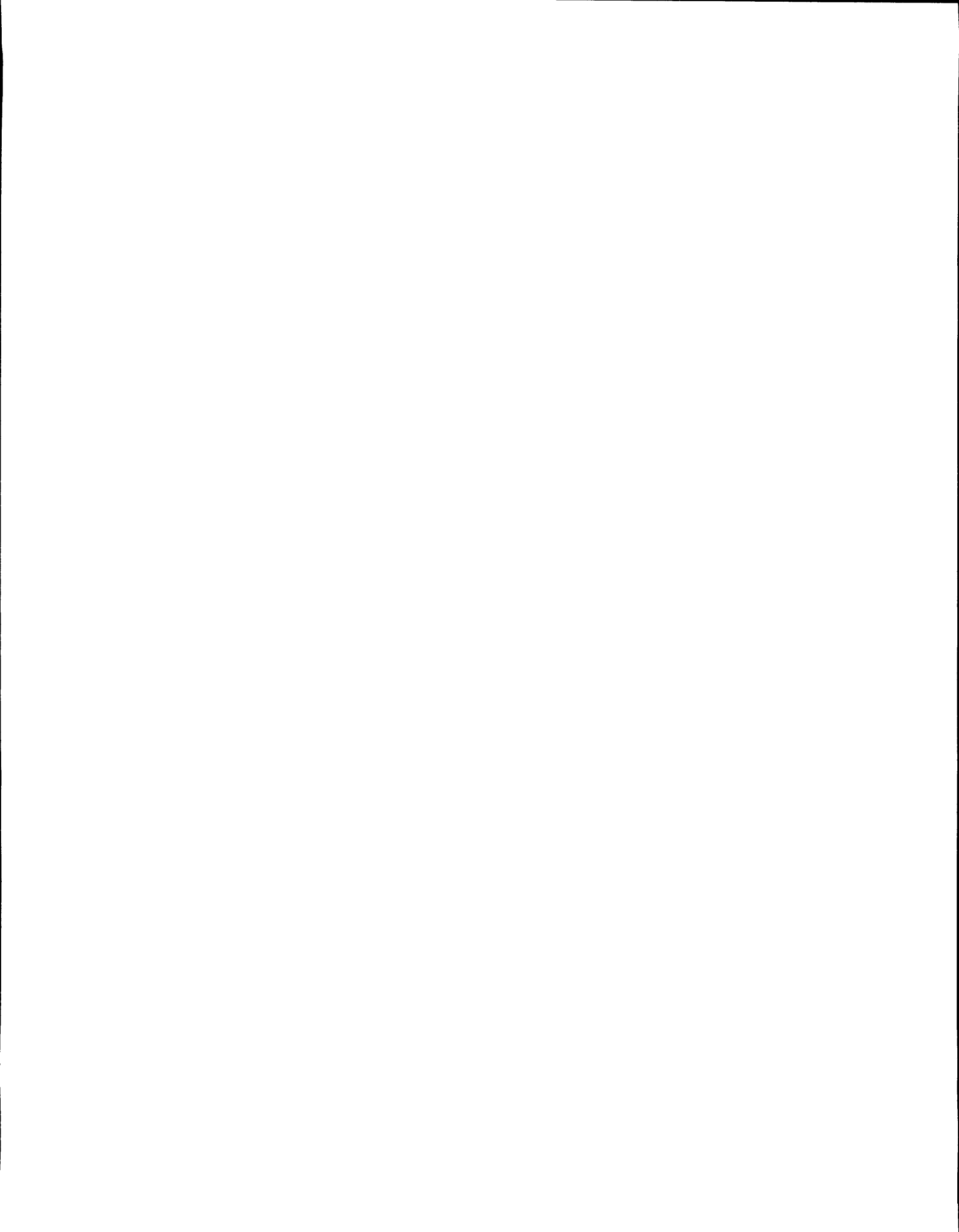
6-1.409. Disposition of potentially dangerous or vicious dogs.



- (a) All potentially dangerous or vicious dogs shall be properly licensed and vaccinated. The licensing authority shall include the potentially dangerous or vicious designation in the registration records of the dog either after the owner or keeper of the dog has agreed to the designation or the hearing review board has determined the designation applies to the dog. The city shall charge a potentially dangerous or vicious dog fee in addition to the regular licensing fee to provide for the increased cost of maintaining the records of the dog and such fees shall be set by resolution of the city council.
- (b) No owner or keeper of any potentially dangerous or vicious dog shall permit such dog to be at large.
- (c) A potentially dangerous or vicious dog, while on the owner's property, shall at all times be kept indoors or in a securely fenced yard from which the dog cannot escape and into which children cannot trespass. A potentially dangerous or vicious dog may be off the owner's premises only if it is restrained by a substantial leash of an appropriate length not to exceed six feet, is wearing an Animal Control-approved muzzle, and is under the control of a responsible adult. Animal Control shall have the right to make reasonable inspections of the premises and the dog at reasonable intervals to determine substantial compliance with this subdivision or any other applicable portions of this article of the California City Municipal Code.
- (d) If a potentially dangerous or vicious dog is sold, transferred or permanently removed from the City of California City, the owner or keeper of the dog shall notify Animal Control of the changed conditions and new location of the dog in writing within 10 working days, prior to removal to the new location. If a potentially dangerous or vicious dog dies, the owner or keeper shall provide notice of the dog's death to Animal Control within 48 hours of the dog's death and make the dog available to be viewed by Animal Control prior to the disposal of the dog's remains.
- (e) If there are no additional instances of the behavior described under Section 6-1.402(h), (j) (Definitions), or as defined pursuant to California Food and Agricultural Code Section 31602, for a 36 month period from the date of the designation of the dog as a potentially dangerous dog, the dog shall be removed from the list of potentially dangerous dogs. The dog may, but is not required to be removed from the list of potentially dangerous dogs prior to the expiration of the 36 month period if the owner or keeper of the dog demonstrates to Animal Control that changes in circumstances or measures taken by the owner or keeper such as training of the dog have mitigated the risk to the public safety.



- (f) A vicious dog may not be removed from the designation as a vicious dog without an order of the Review Board.
- (g) A dog determined to be a vicious dog may be euthanized by Animal Control when it is found, after proceedings conducted, Section 6-1.407 (Hearing Process), above, that the release of the dog would create a significant threat to the public health, safety and welfare. If the dog is not euthanized then any required enclosure shall meet the requirements of Section 6-1.402(d) (Definitions), above, or Section 31605 of the California Food and Agricultural Code.
- (h) The owner or keeper of a dog determined to be a vicious dog may be prohibited by the city from owning, possessing, controlling or having custody of any dog for a period of up to three (3) years, when the review board finds, after proceedings conducted pursuant to Section 6-1.407 (Hearing Process), above, that ownership or possession of a dog by that person would create a significant threat to the public health, safety and welfare of the community. Animal Control shall have the right to make reasonable inspections of the premises and the dog at reasonable intervals to determine compliance with the review board's order pursuant to this subdivision.
- (i) The owner or keeper of a potentially dangerous or vicious dog shall at all times maintain, and provide evidence to Animal Control of, Homeowners or General Liability Insurance, which provides for insurance coverage for any damage, injury or harm that may be the result of the conduct or action of the potentially dangerous or vicious dog in the amount at least equal to \$200,000.00. Proof of insurance shall be provided annually or upon demand by Animal Control.
- (j) If after a hearing has been held and after exhaustion of any appeal rights, the dog's owner or keeper fails to comply with the orders of the review board or Animal Control, Animal Control shall have the right to seize and impound the dog until evidence is provided that such orders are complied with to the satisfaction of Animal Control or the review board.
- (k) The owner or keeper of a potentially dangerous or vicious dog shall post and keep posted, in conspicuous view upon the premises where the dog is kept under restraint by order pursuant to this article, a notice not less than two inches in height which shall contain the words "BEWARE OF VICIOUS DOG". The sign must be visible from the public right-of-way so as to provide adequate warning to visitors to the property. The sign shall remain in place so long as the dog maintains its potentially dangerous or vicious designation.



6-1.410. Impound fees and fines; abandonment.

- (a) During the period the dog is impounded, all costs and impound fees associated with the impounding and care of the animal and any fines imposed pursuant to this article shall be the sole and exclusive responsibility of the owner or keeper of the dog and shall be paid prior to the release of the dog.
- (b) Failure by the keeper or owner of the dog to comply with Animal Control's or the review board's orders within 30 days of the dog being impounded will be considered grounds for abandonment of the dog. The dog may be euthanized at the direction of Animal Control after a noticed hearing before the review board, such hearing to be held upon a minimum of five days' notice to the dog's owner or keeper of such hearing and no later than 30 days.

6-1.411. Violation—Penalty.

- (a) Any person violating any provision of this article shall be punished in accordance with Chapter 2 (Penalty Provisions) of Title 1 (General Provisions) of this code, unless other fines are provided for in this article.
- (b) In addition to the penalties set forth in subdivision (a), above, any violation of the provisions of this article is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person responsible for the violations, pursuant to Section 5.-1.106 (Cost Recovery) of Article 1 (Property Maintenance) of Chapter 1 (Public Nuisance) of Title 5 (Public Welfare) of this code. Any abatement or cost recovery orders issued under this article are appealable pursuant to Chapter 4 (Appeals) of Title 1 (General Provisions) of this code.

SECTION 3: Any provision of the California City 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: 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. The City Council of the City of California City declares that it would have adopted all the provisions of this ordinance that remain valid if any

provisions of this ordinance are declared invalid.

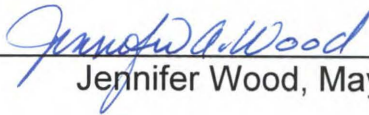
SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

Approved for introduction at a regular meeting on the 2nd day of December, 2014, by the following vote:

AYES: Gray, Smith, McGuire, Wood
NOES: None
ABSENT: None

PASSED, APPROVED, AND ADOPTED this 16th day of December, 2014, by the following vote:

AYES: Gray, Smith, McGuire, Wood
NOES: None
ABSENT: None



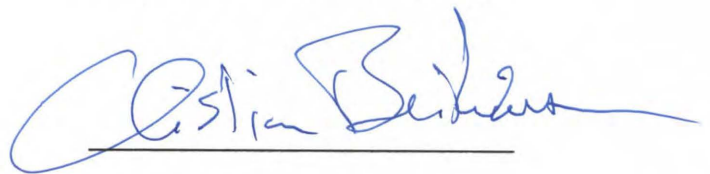
Jennifer Wood, Mayor

ATTEST:



Denise Hilliker, City Clerk

APPROVED AS TO FORM:




Christian Bettenhausen
City Attorney



STATE OF CALIFORNIA)
COUNTY OF KERN) ss.
CITY OF CALIFORNIA CITY)

I, DENISE HILLIKER, City Clerk of California City, do hereby certify that the foregoing ordinance was introduced on the 2nd day of December, 2014, was regularly adopted at a meeting thereof on the 16th day of December, 2014 and was published/posted pursuant to law.



Denise Hilliker, City Clerk

