

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified Copy of Portion of Proceedings, Meeting of Tuesday, April 10, 2007

SUBJECT: Spay/Neuter Ordinance

ACTION: Deferred to May 1, 2007 due to lack of Supervisors present.

Adopted on motion by Supervisor Smith and the following vote:

AYES: Supervisors Smith, Geist, Rodoni
NAYS: None
ABSENT: None
ABSTAIN: None

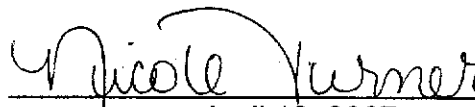
STATE OF CALIFORNIA)
County of Humboldt) s.s.

I, Nikki Turner, Deputy Clerk of the Board of Supervisors, County of Humboldt, State of California, do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-entitled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my Office.

IN WITNESS WHEREOF, I have hereunto
set my hand and affixed the Seal of said
Board of Supervisors.

NIKKI TURNER

Deputy Clerk of the Board of Supervisors of the
County of Humboldt, State of California



April 10, 2007

Many of the dogs that are brought to our shelter as strays or as "potentially vicious" animals are unspayed or non-neutered. Many of these animals are often strays due to the fact that their owners abandoned them. Simply put, many dogs are abandoned and become strays because their owners were unable or unwilling to care for them, and since they have not been spayed or neutered they run free and breed with other strays birthing more dogs for which there are not enough responsible owners available to care for them. Unfortunately, by nature, a large number of the stray dogs in need of homes are dogs of mixed breed, which makes them harder to find homes for, and it is just as difficult to find rescue groups that have the capacity to take them into their programs.

Many of the cats taken in by the shelter are feral cats with kittens. The feral cat colonies are easily begun. All it takes is for someone to dump un-neutered and/or unspayed cats which start the cycle of breeding which rapidly increases the numbers of cats in the colony. When these feral cat colonies grow to the point that a concerned citizen traps and brings these cats to the shelter, often times, these cats arrive in a diseased condition. Because of lack of human contact in their lives, they have significant behavioral issues that do not allow these cats to be adopted. Beyond the implications to the shelter, these feral cat colonies also have an impact on the environment in which they are located.

If all owners behaved responsibly, a spay/neuter ordinance would not be necessary. But unfortunately, a significant portion of the population of the "repeat offenders" entering the shelter are the unaltered dogs, mostly males, and it is common to find that females, of all ages, are pregnant when they arrive at the shelter.

A common objection to mandatory spay/neuter ordinances is based upon the property right of the owners being able to decide whether or not to alter their animals. The sad fact of the championing of these property rights is that because of the irresponsibility of some owners, scores of animals are sentenced to abandonment, abuse and neglect because of the sheer numbers of animals that are the result of indiscriminate breeding. The number of these animals that enter the shelter system does not reflect the actual numbers of animals who suffer because of the owners letting their animal breed indiscriminately.

Another way that spay and neuter will help to protect the animals and the community, as well as lessening the shelter population, is that altered animals are less aggressive and less likely to become stray animals.

These ordinances also recognize that there are circumstances involving responsible dog and cat owners that warrant exemption from the mandatory requirement to spay/neuter those animals. These exemptions are specifically outlined in section 541-4 of this proposed ordinance revision.

I would also like to mention that prior to submission of these revised ordinances our office has distributed a draft of this ordinance to various animal welfare, breeding and service dog groups, who have indicated their support.

FINANCIAL IMPACT:

Staff time for members of the Humboldt County Animal Services Shelter and Sheriff's Office in issuing citations as needed. Should actually lower costs to taxpayers due to less animals requiring housing or destruction at the shelter.

OTHER AGENCY INVOLVEMENT: None

ATTACHMENTS:

1. New Ordinance
2. County Code Sections
3. Summary for Publication
4. Summary for Publication after adoption

GP:kmw
Agnspay

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF HUMBOLDT ADDING SECTIONS 541-3, 541-4, 541-5 AND
547-20.1 OF TITLE V OF THE HUMBOLDT COUNTY
CODE RELATING TO SPAY/NEUTER REGULATIONS**

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Sections 541-3, 541-4 and 541-5 of Chapter 1 of Division 4 of Title V of the Humboldt County Code are hereby added as shown on the attached pages 397.1 and 398.

SECTION 2. Section 547-20.1 of Chapter 7 of Division 4 of Title V of the Humboldt County Code is hereby added as shown on the attached page 411.11.

SECTION 3. This ordinance shall take effect and be in force thirty (30) days from the date of its passage. A summary shall be published at least five (5) days before the date set for adoption and again not more than 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 Humboldt, State of California.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2007.

AYES: Supervisors--
NOES: Supervisors--
ABSENT: Supervisors--

Chair of the Board of Supervisors of the
County of Humboldt, State of California

(SEAL)

ATTEST:

Kathy Hayes, Clerk of the Board of Supervisors
County of Humboldt

By _____

TITLE V - HEALTH AND SAFETY

DIVISION 4

PLANTS AND ANIMALS

CHAPTER 1

REGULATING AND LICENSING DOGS

541-1. PURPOSES.

This chapter is adopted for the following purposes:

- (a) To prevent dogs running at large at any time.
- (b) To require the registration and licensing of dogs for identification purposes.
- (c) To provide for the establishment of an Animal Control Officer and such assistants as may be necessary to enforce this chapter.
- (d) To authorize the seizure, impounding or killing of dogs found running at large contrary to the provisions hereof.
- (e) To provide for an animal control center for dogs and the maintenance thereof.
- (f) To define violations hereof as infractions, except as otherwise specified.
- (g) To declare that the owner of any dog is responsible to confine his dog to his premises to prevent the dog from damaging the person or property of others.
- (h) Such other purposes as may be authorized by law. (Ord. 886, § 3, 10/24/72)

541-2. DEFINITIONS.

- (a) Dog License. "Dog license" as used herein shall refer to a license required to be issued for each individual dog.
- (b) Kennel License. "Kennel license" as used in this chapter shall be understood and construed to mean an annual license to be issued to the owner or proprietor of such kennel wherein is maintained more than five (5) dogs for breeding, training or sale or other commercial purposes.
- (c) Owner. "Owner" as used herein shall be construed to include any person who owns, controls, harbors or keeps in his possession any dog over the age of four (4) months.
- (d) Hunting Pack. "Hunting pack" as used herein shall be construed to mean five (5) or more hound dogs used exclusively for running and hunting predatory animals commonly referred to as varmints, including members of the larger cat species.
- (e) Working Pack. "Working pack" as used herein shall be construed to mean five (5) or more dogs used exclusively for control of livestock. (Ord. 886, § 2, 10/24/72)

541-3. SPAY/NEUTER REGULATIONS.

No person shall own, harbor, or keep within the unincorporated area of the County a dog or cat over the age of four months which has not been spayed or neutered, unless the dog or cat is exempt from the provisions of this section pursuant to Section 541-4. (Ord. _____, § __, __/__/2007)

541-4. SPAY/NEUTER EXEMPTIONS.

The following animals are exempt from the provisions of Section 541-3.

- (a) Dog(s) documented as having been appropriately trained and actually being used by public law enforcement agencies for law enforcement activities. (Ord. _____, § __, __/__/2007)
- (b) Dog(s) documented as having been appropriately trained and actually being used by search and rescue agencies for search and rescue activities. (Ord. _____, § __, __/__/2007)
- (c) Dog(s) or cat(s) having been appropriately trained and actually being used as a service animal, such as a guide dog, hearing dog, or other dog or cat which qualifies and is registered as a service animal. (Ord. _____, § __, __/__/2007)
- (d) Dog(s) and cat(s) that have been certified by a licensed veterinarian as having a health reason for not being spayed or neutered. Documented proof shall be on file with the local animal control agency. (Ord. _____, § __, __/__/2007)
- (e) Dog(s) which are appropriately trained and actually being used for herding of livestock, as livestock guardian dogs or hunting dogs. The animal's owner shall provide proof that the animal is trained and actually being used for herding of livestock or as a livestock guardian dog or a hunting dog. Evidence of proof shall include, but is not limited to, demonstration of the animal's herding or hunting abilities, photographs or videos of the animal hunting, herding livestock or guarding livestock, and/or a current or past hunting license. Proof shall be provided upon demand by an animal control officer or deputy sheriff. (Ord. _____, § __, __/__/2007)
- (f) A licensed kennel, which boards dogs or cats for professional training or resale. (Ord. _____, § __, __/__/2007)
- (g) Dog(s) or cat(s) which are registered with the American Kennel Club, United Kennel Club, American Dog Breeders Association, the Cat Fancier Association or other recognized registry. (Ord. _____, § __, __/__/2007)

541-5. PENALTY FOR VIOLATION OF SPAY/NEUTER REGULATIONS.

(a) Except as provided in subsection (b) below, any violation of Section 541-3 or Section 541-4 is hereby declared to be an infraction punishable by (1) a fine not exceeding One Hundred Dollars (\$100) for a first violation; (2) a fine not exceeding Two Hundred Dollars (\$200) for a second violation within one year; (3) a fine not exceeding Five Hundred Dollars (\$500) for a third violation within one year. (Ord. _____, § __, __/__/2007)

(b) A fourth and any subsequent violation of these provisions within one year is hereby declared to be a misdemeanor punishable by a fine not exceeding One Thousand Dollars (\$1,000) and/or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. (Ord. ____, \$ __, __/__/2007)

(c) Every day any violation of these sections shall continue shall constitute a separate offense. (Ord. ____, \$ __, __/__/2007)

541-11. ANIMAL CONTROL OFFICER.

In order to carry out the purposes of this chapter, it is hereby determined that public necessity demands, and there is hereby established, the office of Animal Control Officer for the County of Humboldt. Deputy Animal Control Officers are public officers and not peace officers. (Ord. 886, § 23, 10/24/72; Ord. 1135, § 1, 3/13/79; Ord. 2317, § 1, 05/25/2004)

541-12. APPOINTMENT.

The Sheriff of the County of Humboldt shall be, ex officio, the Animal Control Officer. (Ord. 886, § 21, 10/24/72; Ord. 2317, § 1, 05/25/2004)

541-13. ASSISTANTS.

The Board of Supervisors may by resolution or order from time to time employ deputies or assistants to the Animal Control Officer, at such compensation as may be determined by said Board. (Ord. 886, § 22, 10/24/72)

541-14. QUALIFICATIONS.

No person is eligible nor can he/she be appointed Animal Control Officer, assistant or deputy unless he is a citizen of the United States, over the age of eighteen (18) years, and has resided in the County of Humboldt for thirty (30) days continually next before his/her appointment. (Ord. 886, § 23, 10/24/72)

541-15. [REPEALED BY ORD. 2317, § 2, 05/25/2004]

541-16. DUTIES.

It shall be the duty of the Animal Control Officer to enforce all the provisions of the laws of California and the provisions of this chapter concerning the licensing, seizure, impounding and killing of dogs, and such other duties as may be required by law. The Animal Control Officer and his/her assistants and deputies shall have the power to make such arrests as is conferred by Section 836.5 of the Penal Code of the State of California. (Ord. 886, § 25, 10/24/72; Ord. 1315, § 2, 3/13/79)

CHAPTER 7

VICIOUS, POTENTIALLY DANGEROUS AND PUBLIC NUISANCE DOGS

547-1. FINDINGS AND DECLARATIONS.

The Board of Supervisors finds and declares all of the following:

(a) Potentially dangerous and vicious dogs have become a serious threat to the safety and welfare of the citizens of this county and nuisance dogs present a threat to the peace and quiet of unincorporated areas. (Ord. 1937, § 1, 07/30/1991)

(b) The number and severity of unprovoked attacks by potentially dangerous and vicious dogs have increased and have resulted in the death of a child and serious injuries to numerous individuals, including injury and death to other domestic pets. (Ord. 1937, § 1, 07/30/1991)

(c) The failure of owners of such potentially dangerous and vicious dogs to properly confine or control their animals is the primary cause of the increased incidence of attacks upon persons and other animals and the disturbance of the peace and quiet of unincorporated areas. (Ord. 1937, § 1, 07/30/1991)

(d) The necessity for the regulation and control of vicious, potentially dangerous and public nuisance dogs is a county problem, requiring county regulation, and existing county ordinances are inadequate to deal with this threat to the public health and safety posed by vicious, potentially dangerous and public nuisance dogs. (Ord. 1937, § 1, 07/30/1991)

547-2. VICIOUS DOG DEFINED.

"Vicious Dog" means any of the following: (Ord. 1937, § 1, 07/30/1991)

(a) Any dog owned or harbored for the purpose of dog fighting; or (Ord. 1937, § 1, 07/30/1991)

(b) Any dog seized under Section 599aa of the Penal Code and upon sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code. (Ord. 1937, § 1, 07/30/1991)

(c) Any dog which, when unprovoked, in an aggressive manner inflicts severe injury or kills a human being. (Ord. 1937, § 1, 07/30/1991)

(d) Any dog previously determined to be a potentially dangerous dog which, after its owner or keeper has been notified of this determination continues the behavior described in Section 547-3 or is maintained in violation of this chapter. (Ord. 1937, § 1, 07/30/1991)

547-3. POTENTIALLY DANGEROUS DOG DEFINED.

"Potentially dangerous dog" means any of the following:

(a) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog. (Ord. 1937, § 1, 07/30/1991)

(b) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 547-5. (Ord. 1937, § 1, 07/30/1991)

(c) Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog. (Ord. 1937, § 1, 07/30/1991)

547-4. PUBLIC NUISANCE DOGS DEFINED.

"Public nuisance dog" shall mean any dog which gives offense to human senses or substantially interferes with the rights of persons, other than its owner or keeper, to the enjoyment of life or property. The term shall include, but not be limited to, any dog which: (Ord. 1937, § 1, 07/30/1991)

(a) On three (3) separate occasions within a thirty-six (36) month period has been cited, or impounded for being off its owner's or keeper's property in violation of any state or local law prohibiting the running at large of dogs. (Ord. 1937, § 1, 07/30/1991)

(b) Causes damage to the property of anyone other than its owner or keeper. (Ord. 1937, § 1, 07/30/1991)

(c) Harasses or intimidates persons on public property or private property other than that owned or under the control of its owner or keeper. (Ord. 1937, § 1, 07/30/1991)

(d) Repeatedly chases vehicles that are not on its owners property. (Ord. 1937, § 1, 07/30/1991)

(e) Makes disturbing noises such as barking, howling, whining, or other utterances to the annoyance, disturbance, or discomfort of neighbors or others in the vicinity of the property where the dog is maintained. (Ord. 1937, § 1, 07/30/1991)

(f) Has been allowed by its owner or keeper to produce odors which annoy, disturb or cause discomfort to persons in the vicinity of the property where the dog is maintained. (Ord. 1937, § 1, 07/30/1991)

(g) Is one of a number of dogs or other animals maintained on the property owned or controlled by its owner or keeper so as to be offensive to persons or dangerous to the public health, safety or welfare. (Ord. 1937, § 1, 07/30/1991)

(h) Has, when unprovoked, bitten any person who is lawfully on the owner's or keeper's property causing minor injury. (Ord. 1937, § 1, 07/30/1991)

547-5. SEVERE INJURY DEFINED.

"Severe injury" means any physical injury to a human being that results in muscle tears, broken bones, or disfiguring lacerations or requires multiple sutures or corrective cosmetic surgery. (Ord. 1937, § 1, 07/30/1991)

547-6. ENCLOSED DEFINED.

"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, such as tethering the dog within the enclosure. The enclosure shall be securely locked and have secure sides, top, and bottom sufficient to prevent the animal from escaping. (Ord. 1937, § 1, 07/30/1991)

547-7. OWNER OR KEEPER'S PROPERTY DEFINED.

For purposes of defining potentially dangerous, vicious and public nuisance dogs, the owner or keeper's property includes that property over which the owner or keeper has the exclusive possession and use. (Ord. 1937, § 1, 07/30/1991)

547-7.5. HEARING ENTITY/OFFICER DEFINED.

For the purpose of this Chapter the hearing entity or officer shall be the Animal Control Director or his or her appointee. (Ord. 1937, § 1, 07/30/1991)

547-8. PROCEDURE FOR DECLARING A DOG POTENTIALLY DANGEROUS, VICIOUS OR A NUISANCE.

If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous, vicious or a nuisance, the animal control officer, or his or her designee, shall petition the Animal Control Director, or his or her appointee, for a hearing for the purpose of determining whether or not the dog in question should be declared potentially dangerous, vicious, or a nuisance. 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. The chief officer of the animal control department or head of the local law enforcement agency shall notify the owner or keeper of the dog that a hearing will be held by the hearing entity, at which time he or she may present evidence as to why the dog should not be declared potentially dangerous, vicious, or a nuisance. Said evidence may be offered either written or oral by the owner of the dog or any interested citizen, including animal control officers, humane officers or peace officers, and shall be sworn to and/or signed under declaration of penalty of perjury. (Ord. 1937, § 1, 07/30/1991)

547-9. NOTICE OF HEARING, DETERMINATION.

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 hearing shall be held promptly within no less than five (5) working days nor more than ten (10) working days after service of notice upon the owner or keeper of the dog. The hearing shall be open to the public. The hearing entity may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The hearing entity may find, upon a preponderance of the evidence, that the dog is potentially dangerous, vicious, or a nuisance, and make other orders authorized by this chapter. (Ord. 1937, § 1, 07/30/1991)

547-10. NOTICE OF DETERMINATION.

After the hearing conducted pursuant to Section 547-9, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first-class mail postage prepaid by the hearing entity. If a determination is made that the dog is potentially dangerous, vicious, or a nuisance, the owner or keeper shall comply with the provisions of this Chapter in accordance with a time schedule established by the chief officer of the animal control department or the head of the local law enforcement agency, but in no case more than thirty (30) days after the date of the determination or thirty-five (35) days if notice of the determination is mailed to the owner or keeper of the dog. (Ord. 1937, § 1, 07/30/1991)

547-11. APPEAL.

If the petitioner or the owner or keeper of the dog contests the determination of the hearing entity, he or she may, within five (5) days of receipt of the notice of determination, appeal the decision of the hearing entity to the Humboldt County Superior Court pursuant to Food and Agricultural Code §

31622). The party seeking the appeal shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party within two (2) days of the filing of the notice of appeal. (Ord. 1937, § 1, 07/30/1991; Ord. 1953, § 1, 01/07/1992; Ord. 2346, § 1, 06/07/2005)

547-12. EFFECT OF FAILURE TO APPEAR AT HEARING.

The hearing entity of original jurisdiction or the court hearing the appeal may decide all issues for or against the owner or keeper of the dog even if the owner or keeper fails to appear at the hearing. (Ord. 1937, § 1, 07/30/1991)

547-13. FINALITY OF APPEAL.

The determination of the court hearing the appeal shall be final and conclusive upon all parties. (Ord. 1937, § 1, 07/30/1991; Ord. 1953, § 2, 01/07/1992; Ord. 2346, § 1, 06/07/2005)

547-14. SEIZURE AND IMMEDIATE IMPOUNDMENT -- THREAT TO SAFETY.

If upon investigation it is determined by the animal control officer or law enforcement officer that probable cause exists to believe the dog in question poses an immediate threat to public safety the animal control officer or law enforcement officer may seize and impound the dog pending the hearing or determination provided for in sections 547-8 and 547-9. The owner or keeper of the dog shall be liable to the county for the costs and expenses of keeping the dog if the dog is later determined to be potentially dangerous or vicious. If public safety is adequately assured, the animal control officer of the county may permit the dog to be confined at the owner's expense in an approved kennel or veterinary facility or on the owner's premises. (Ord. 1937, § 1, 07/30/1991)

547-15. WHEN DOGS MAY NOT BE DECLARED POTENTIALLY DANGEROUS, VICIOUS OR PUBLIC NUISANCE.

(a) No dog may be declared potentially dangerous, vicious, or a nuisance if any injury or damage is sustained by a person who, at the time the injury or damage was sustained was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared potentially dangerous, vicious or a nuisance if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be declared potentially dangerous, vicious or a nuisance if an injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained was teasing, tormenting abusing or assaulting the dog. (Ord. 1937, § 1, 07/30/1991)

(b) No dog may be declared potentially dangerous, vicious or a nuisance if the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or 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. (Ord. 1937, § 1, 07/30/1991)

547-16. DISPOSITION OF POTENTIALLY DANGEROUS OR VICIOUS DOG(S).

(a) All dogs which have been determined by the hearing entity to be potentially dangerous dogs or vicious dogs shall be properly licensed and vaccinated. The status of the dog shall be included in the licensing records either after the owner or keeper has agreed to the designation or the hearing

entity has determined the designation applies to the dog. An additional fee of twice the applicable license fee shall be charged for maintaining this additional information in the records. (Ord. 1937, § 1, 07/30/1991)

(b) A potentially dangerous or vicious dog while on the owners' property, shall, at all times, be kept indoors, or in an enclosure as defined in Section 547-6. A potentially dangerous dog may be off the owner's property only if it is restrained by a substantial leash or within an enclosed vehicle. A vicious dog may be off the owner's property if the owner complies with section 547-17(h). (Ord. 1937, § 1, 07/30/1991)

(c) The owner of a potentially dangerous or vicious dog shall notify the animal control department, in writing, within two (2) working days if the dog in question dies, is sold, transferred, or permanently removed from the county. (Ord. 1937, § 1, 07/30/1991)

(d) Owners of potentially dangerous or vicious dogs shall notify in writing any person to whom the dog is sold that the dog is potentially dangerous or vicious. (Ord. 1937, § 1, 07/30/1991)

547-17. DISPOSITION OF VICIOUS DOGS.

In addition to the dispositions in section 547-16, upon a determination by the hearing entity that a dog is a vicious dog the following shall apply: (Ord. 1937, § 1, 07/30/1991)

(a) A dog which has been determined to be vicious pursuant to the provisions of sections 547-2, 547-8 and 547-9 shall not be licensed unless the owner or keeper of the vicious dog is 18 years of age or older and meets the following requirements: (Ord. 1937, § 1, 07/30/1991)

(b) Provide proof to the animal control officer the owner or keeper has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00) covering any damage or injury which may be caused by the vicious dog during the 12-month period for which the licensing is sought. (Ord. 1937, § 1, 07/30/1991)

(c) The owner or keeper, at his or her own expense, and within two (2) working days of receipt of notice of determination that dog is vicious shall provide the Animal Control Department with two current color photographs of the dog which shows the animal in a standing position. (Ord. 1937, § 1, 07/30/1991)

(d) The owner or keeper shall display a sign that visually depicts a menacing dog on his or her property warning that there is a vicious dog on the property. The sign shall be visible to the general public and approved by the animal control officer. (Ord. 1937, § 1, 07/30/1991)

(e) The owner or keeper of a vicious dog shall certify under penalty of perjury to all of the following: (Ord. 1937, § 1, 07/30/1991)

(i) The owner or keeper shall maintain and not voluntarily cancel the liability insurance required by this section during the period for which licensing is sought, unless the owner or keeper shall cease to own or keep the dog prior to the expiration of that license. (Ord. 1937, § 1, 07/30/1991)

(ii) The owner or keeper shall, on or before the effective date of the license for which application is being made, have an approved enclosure for the dog on all property where the vicious dog will be kept or maintained. (Ord. 1937, § 1, 07/30/1991)

(iii) The owner or keeper shall notify the animal control officer immediately upon discovery if the vicious dog is running at large, is unconfined, has attacked another domestic animal or has attacked a human

being, has died, has been sold, or transferred, or has been permanently removed from the county. Immediately upon discovery shall mean as soon as practicable taking into consideration the circumstances, but in no event later than twenty-four (24) hours after the occurrence or the next working day in which the animal control office is open. (Ord. 1937, § 1, 07/30/1991)

(iv) If the vicious dog is sold, the owner or keeper shall provide the animal control officer with the name, address, and telephone number of the new owner or keeper. It shall be unlawful to sell or give away a dog previously determined to be vicious unless the owner or keeper of the dog advises the new owner or keeper of the status of the dog in writing. (Ord. 1937, § 1, 07/30/1991)

(f) All dogs determined to be vicious shall be confined in an enclosure as defined in section 547-6. It is unlawful for any owner or keeper to maintain a vicious dog upon any property which does not have an enclosure as described in Section 547-6. (Ord. 1937, § 1, 07/30/1991)

(g) It is unlawful for any owner or keeper to allow any vicious dog to be outside of the enclosure unless it is inside the dwelling of the owner or keeper or it is necessary for the owner or keeper to obtain veterinary care for the dog, to sell or give away the dog, or to comply with any directive of the animal control officer with respect to the dog. (Ord. 1937, § 1, 07/30/1991)

(h) In any case where a vicious dog is lawfully outside the enclosure, except in cases where it is inside the dwelling of the owner or keeper, the dog shall be securely muzzled and restrained, with a leash sufficient to restrain the dog, having a minimum tensile strength of 300 pounds and not exceeding three feet in length, and the dog shall be under the direct control and supervision of its owner(s) or keeper(s). (Ord. 1937, § 1, 07/30/1991)

(i) The hearing entity may impose any additional conditions upon the ownership of the dog that protect the public health, safety and welfare. (Ord. 1937, § 1, 07/30/1991)

547-18. PROCEDURE FOR DESTRUCTION OF VICIOUS DOGS.

(a) A dog determined to be vicious may be destroyed by the animal control department when it is found, after proceedings conducted under Sections 547-8 and 547-9, that the release of the dog would create a significant threat to the public health, safety, and welfare or; (Ord. 1937, § 1, 07/30/1991)

(b) An owner of a dog which has previously been determined to be a vicious dog violates the provisions of this code relating to the keeping of vicious dogs or; (Ord. 1937, § 1, 07/30/1991)

(c) A dog which has previously been determined to be a vicious dog, when unprovoked, attacks, wounds, bites, or otherwise injures or kills any person.

(d) A dog shall not be destroyed pursuant to sections (b) or (c) above without a hearing pursuant Sections 547-8 and 547-9.

547-19. OWNERSHIP OF VICIOUS DOGS PROHIBITED.

The owner of a dog determined to be a vicious dog may be prohibited by the Animal Control Director from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted under Sections 547-8 and 547-9, that ownership or possession of a dog by that person would create a significant threat to the public health, safety, and welfare. (Ord. 1937, § 1, 07/30/1991)

547-20. DISPOSITION OF PUBLIC NUISANCE DOGS.

(a) No person shall keep or maintain any dog in such a manner as to cause or permit the dog to be a public nuisance dog. (Ord. 1937, § 1, 07/30/1991)

(b) No owner or keeper of a dog shall fail to abate a nuisance created by the keeping of such dog when ordered to do so by the animal control officer or other peace officer employed by the county or a humane officer employed by the county humane society. (Ord. 1937, § 1, 07/30/1991)

(c) The hearing entity may impose any reasonable conditions upon the ownership of the dog which shall correct the circumstances which created the nuisance. (Ord. 1937, § 1, 07/30/1991)

(d) Any dog having been declared to be a public nuisance dog pursuant to the provisions of sections 547-4, 547-8 and 547-9 shall be delivered to the animal control officer for impoundment until such time as the owner or keeper shall have satisfied the animal control officer that they have taken steps to abate the nuisance created by the keeping of the dog. Failure to take such steps to the satisfaction of the animal control officer within five (5) working days following impoundment of the dog and notice of the conditions for release imposed by the animal control officer, shall result in forfeiture of ownership of said dog. (Ord. 1937, § 1, 07/30/1991)

(e) No dog may be euthanized or otherwise disposed of if the owner or keeper of the dog has sought judicial review of the determination that the dog was a public nuisance dog until that review has been completed. The owner or keeper of the dog shall be liable for the cost of the care and feeding of the dog pending the outcome of the judicial review and shall deposit monthly in advance the cost of such care and feeding as determined by the animal control officer. Failure to make such a deposit shall result in forfeiture of ownership of said dog after giving the owner or keeper of the dog five (5) days written notice of their failing to make the required deposit in advance. In the event the judicial review is favorable to the owner or keeper of the dog, the amounts paid for the care and feeding of the dog pending the judicial review shall be refunded. (Ord. 1937, § 1, 07/30/1991)

547-20.1. SPAY OR NEUTER ORDER.

Any dog which has been deemed to be a public nuisance, potentially dangerous or vicious may be ordered by an administrative judge or superior court judge to be spayed or neutered regardless of the exemptions specified in Section 541-4. (Ord. __, § __, __/__/2007)

547-21. REMOVAL FROM LIST.

If there are no additional instances of the behavior described in Sections 547-3 and 547-4, within a 36-month period from the date of designation as a potentially dangerous or public nuisance dog, the dog shall be removed from the list of potentially dangerous or public nuisance dog. The dog may, but is not required to be, removed from the list of potentially dangerous or public nuisance dogs prior to the expiration of the 36-month period if the owner or keeper of the dog demonstrates to the animal control department 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. (Ord. 1937, § 1, 07/30/1991)

547-22. PENALTIES.

(a) Any violations of this code relating to vicious or potentially dangerous dogs shall be a misdemeanor. (Ord. 1937, § 1, 07/30/1991)

(b) Any violation of this code relating to public nuisance dogs shall be an infraction. (Ord. 1937, § 1, 07/30/1991)

SUMMARY FOR PUBLICATION PRIOR TO ADOPTION OF ORDINANCE

(The summary shall be published and a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors at least five (5) days prior to the Board of Supervisors meeting at which the proposed ordinance is to be adopted.)

SUMMARY

On, _____, 2007, at its regularly scheduled Board meeting, the Humboldt County Board of Supervisors will consider for adoption a proposed ordinance adding Sections 541-3, 541-4, 541-5 and 547-20.1 of the Humboldt County Code relating to Spay/Neuter Regulations.

The text of the proposed ordinance is available from the Clerk of the Board, Room 111, 825 Fifth Street, Eureka, CA.

SUMMARY FOR PUBLICATION AFTER ADOPTION OF ORDINANCE

(The summary shall be published within fifteen (15) days after the adoption of the ordinance.)

SUMMARY

On _____, 2007, the Humboldt County Board of Supervisors adopted Ordinance No. _____, adding Sections 541-3, 541-4, 541-5 and 547-20.1 of the Humboldt County Code relating to Spay/Neuter Regulations.

A copy of the ordinance is posted in the office of the Clerk of the Board of Supervisors.

The votes were:

AYES:

NOES:

ABSENT: