

RESOURCE MANAGEMENT AGENCY

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December 20, 2005

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

PROPOSED ORDINANCE CREATING THE KERN COUNTY ANIMAL CONTROL COMMISSION AND DESIGNATING THE COMMISSION TO HEAR APPEALS OF ANIMAL CONTROL DECISIONS (ALL S.D.s) FISCAL IMPACT: None

On September 27, 2005, your Board referred to the County Administrative Office, County Counsel, and the Resource Management Agency the matter of developing a permanent Animal Control Commission and subsequent report back to your Board.

The Partnership has discussed this matter at several meetings and concurred with a recommendation by Supervisor Maben to structure the membership of the proposed Commission after that of the Kern County Parks and Recreation Commission. This format would consist of one member being nominated by each Board member and appointed by the full Board. Also included would be a nonvoting member and one alternate nonvoting member that were members of your Board.

It is intended that should your Board create this Commission, then staff would disband the currently inactive ACCESS Committee and the Partnership would likewise be disbanded. The advisory function performed by ACCESS would be delegated to the Commission. It is further anticipated that the helpful role of the Partnership and its members would carry over in support of Commission activities and would also augment activities of the Friends. Although the Commission membership would be limited to six persons (with one alternate as noted above), the opportunity for broad public participation would exist because the proposed Rules for the Commission as proposed would allow for the appointment of non-Commission members to Commission committees and task forces. The only membership requirement for those bodies is that at least one member of each of these groups be a Commission member. Copies of the proposed ordinance in both markup and clean forms are attached as Attachments "A" and "B", respectively.

BOARD OF SUPERVISORS

DECEMBER 20, 2005

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Based on a limited search, staff found a number of other animal control commissions in large cities across the country as well as other California counties. The number of members range from three in Stanislaus to seven in Lake, San Francisco, Santa Clara, and Solano counties. While their structures and tasks vary, they all perform an important advisory role for their respective city councils or boards of supervisors. Those commissions also typically serve as a hearing body to hear appeals related to the animal control program and staff is recommending that role for the Kern Commission, as well. Because of this decision making role, commissioners will be required to file the Fair Political Practices Commission financial disclosure Form 700 – Statement of Economic Interests that is required of similarly tasked County boards and commissions.

In support of this concept and as referenced earlier, staff has drafted a set of Rules to govern the operation of the Commission and a copy is attached for your review as Attachment “C”. The Rules were patterned after those approved by your Board for the Kern County Planning Commission, which is currently being well served by its Rules. Staff will recommend adoption of the Rules as a part of the January Monthly Report if your Board enacts the ordinance creating the Commission prior to the filing of the January report.

Therefore, IT IS RECOMMENDED that your Board waive the reading and introduce the attached proposed ordinance adding Chapter 2.150 of the Kern County Ordinance Code creating the Animal Control Commission and amending sections 7.04.020 and 7.08.280 regarding the Administrative Review Board for appeals of animal control decisions.

Sincerely,

David Price III
Director

Attachments

cc: County Administrative Officer
RMA Department Heads
Denise Haynes, ACD

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF KERN, STATE OF CALIFORNIA ADDING
CHAPTER 2.150 TO THE KERN COUNTY ORDINANCE
CODE CREATING THE ANIMAL CONTROL COMMISSION
AND AMENDING SECTIONS 7.04.020 AND 7.08.280
REGARDING THE ADMINISTRATIVE REVIEW BOARD FOR
APPEALS OF ANIMAL CONTROL DECISIONS**

The following ordinance, consisting of five (5) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Kern, State of California, at a regular meeting of the Board of Supervisors held on the _____ day of _____, 2005, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Chairman of the Board of Supervisors of
the County of Kern, State of California

(SEAL)

ATTEST:

DENISE PENNELL
Clerk of the Board of Supervisors
By _____, Deputy Clerk

THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN ORDAINS AS FOLLOWS:

Section 1. This ordinance shall take effect and be in full force on and after the _____ day of _____, 2006, and shall be published once in _____, a newspaper of general circulation, published in the County of Kern, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

Book No. _____
Ord. No. _____

Section 2. Chapter 2.150 is hereby added to Title 2 of the Kern County Ordinance Code to read as follows:

CHAPTER 2.150

ANIMAL CONTROL COMMISSION

Sections:

- 2.150.010 Members.**
- 2.150.020 Responsibilities.**
- 2.150.030 Administration.**
- 2.150.040 Personnel.**
- 2.150.050 Reimbursement of travel expenses.**

2.150.010 Members.

There is an animal control commission in the county. The commission shall be composed of five (5) members who shall be appointed by the board of supervisors of the county. Each member appointed shall serve in office for a term of four (4) years to run concurrent with the term of the supervisor who makes his nomination, except that the first appointment nominated by the supervisors from the second and the third supervisorial districts shall each serve for a one (1) year term, and the first appointment nominated by the supervisors from the first, fourth and fifth Supervisorial districts shall each serve for a three (3) year term, and thereafter nominees from all districts shall serve for four (4) year terms. Appointees filling vacancies shall serve the unexpired portion of the term of their predecessors. These members shall be the voting members of the commission. A member of the board of supervisors, as designated by the board, shall be a nonvoting member of the commission and his term shall correspond to his official tenure. The board shall also designate from the board of supervisors an alternate nonvoting member to act as a member in the absence of the first nonvoting member named. The board of supervisors may remove any member of the commission from office at any time upon majority vote of the board.

2.150.020 Responsibilities.

- A. It shall be the responsibility of the commission:
 - 1. To engage in a long-term planning process through which it identifies major issues and establishes recommendations for the Board of Supervisors for policies and procedures on animal control program operations;
 - 2. To promote public awareness of the goals and operations of the animal shelters and to enhance public confidence and improve community relations with respect to animal control program operations;
 - 3. To investigate and provide advisory recommendations to the Board of Supervisors on all proposed amendments to Chapter 7.04 – Definitions and Chapter 7.08 – Animal Regulations of the Kern County Ordinance Code;
 - 4. To review and investigate citizen complaints regarding animal control program operations and, if appropriate, provide advisory recommendations

to the Board of Supervisors concerning matters brought to its attention by members of the public;

5. To serve as the administrative review board for the consideration of appeals to orders regarding the designation of dangerous animal and the impoundment of a dangerous animal for euthanasia under Section 7.08.280 of the ordinance code; and

6. To serve as the administrative review board for consideration of appeals to the revocation of permits under section 7.08.400 of the ordinance code.

B. The commission shall hold at least one public meeting for the purpose of receiving evidence and public comments on the matters assigned to it.

C. The commission shall act on any matters referred by the board of supervisors or the director in accordance with the instructions provided with said referrals.

2.150.030 Administration.

At the first meeting of the commission each year one (1) of its voting members shall be elected chairman and one (1) of its voting members shall be elected vice chairman. The commission may hold as many meetings as determined necessary for the performance of the duties prescribed in this chapter. Three (3) voting members shall constitute a quorum for the transaction of business at commission meetings. A voting member's absence from three consecutive meetings shall constitute a resignation from the commission unless the chairman has excused the member from attendance for a good and sufficient reason. The members of the animal control commission shall also adopt such rules as they deem necessary and proper to conduct the business of the animal control commission, subject to approval by the board of supervisors.

2.150.040 Personnel.

The director of the animal control division shall furnish the animal control commission with such clerical, administrative and other personnel deemed necessary in order to perform the duties of the animal control commission. The animal control director or his designated representative shall attend the meetings of the animal control commission in the capacity of administrative advisor and secretary of the commission.

2.150.050 Reimbursement of travel expenses.

Members of the animal control commission shall be reimbursed for expenses actually and necessarily incurred while traveling on the business of the commission. Such travel expenses shall include the cost of transportation, meals, lodging, and other incidental items, and transportation by private automobile pursuant to the rates and per diem expenses allowed county offices and employees on similar business.

Section 3. Section 7.04.020 is hereby added to Chapter 7.04 of Title 7 of the Kern County Ordinance Code to read as follows:

7.04.020 Administrative review board.

“Administrative review board” means the animal control commission created pursuant to Chapter 2.150 of the Code.

Section 4. Subsection (D) of Section 7.08.280 of Chapter 7.08, Title 7 of the Kern County Ordinance Code is hereby amended to read as follows:

D. The appeal shall be made in writing to the director and filed within five (5) working days of the impoundment. The appeal shall list the name, address and phone number of the legal owner(s) of the animal(s) and shall state the reason(s) for opposition to the euthanasia. The appeal shall be heard within two (2) weeks of its filing by the administrative review board. The disposition of the appeal shall be as described by a majority of the review board.

Section 5. If any clause, provision, sentence, or paragraph of this ordinance, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not effect the other provisions of this ordinance which still remain in effect, and to its end, it is hereby declared that the provisions of this ordinance are severable.

SDS:wl
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RULES OF THE KERN COUNTY ANIMAL CONTROL COMMISSION

I. NAME and AUTHORITY

1.01. Name. The name of the committee is the Kern County Animal Control Commission, hereinafter referred to as the Commission.

1.02. Authority. The Commission was appointed by the Kern County Board of Supervisors (Board of Supervisors) as provided in Section 2.150.010 of the Kern County Ordinance Code.

II. DUTIES

2.01. Duties. As required by the Kern County Ordinance Code, the Commission shall do the following:

- (A) Engage in long-term planning process through which it identifies major issues and establishes recommendations for the Board of Supervisors for policies and procedures on animal control program operations;
- (B) Promote public awareness of the goals and operations of the animal shelters and to enhance public confidence and improve community relations with respect to animal control program operations;
- (C) Investigate and provide advisory recommendations to the Board of Supervisors on all proposed amendments to Chapter 7.04 – Definitions and Chapter 7.08 – Animal Regulations of the Kern County Ordinance Code;
- (D) Review and investigate citizen complaints regarding animal control program operations and, if appropriate, provide advisory recommendations to the Board of Supervisors concerning matters brought to its attention by members of the public;
- (E) Serve as the Administrative Review Board for the consideration of appeals to orders regarding the designation of dangerous animal and the impoundment of a dangerous animal for euthanasia under Section 7.08.400 of the ordinance code;

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2.02. Public Meeting on Assigned Matters. The Commission shall hold at least one public meeting for the purpose of receiving public comments on the matters assigned to it.

2.03. Commission Action on Referrals. The Commission shall act on any matters referred by the Board of Supervisors or the Animal Control Director in accordance with the instructions provided with said referrals.

III. MEMBERSHIP and TERM OF OFFICE

3.01. Regular Members. There shall be five (5) regular members of the Commission, who shall have full voting rights on the Commission.

3.02. Nonvoting Member and nonvoting Alternate Member. One member of the Board of Supervisors shall be a nonvoting member of the Commission and one alternate nonvoting member shall also be a member of the Board of Supervisors.

3.03. Residency Requirement. All members of the Commission shall be residents of Kern County.

3.04. Board of Supervisors Appointments. The Board of Supervisors shall appoint all five regular members to serve on the Commission who shall be broadly constituted to reflect the makeup of the community. One member of the Board of Supervisors shall be appointed by the Board of Supervisors as a non-voting member of the Commission. The Board of Supervisors shall also appoint one of its members as an alternate nonvoting member of the Commission.

(A) Each Supervisor shall nominate one person, who may reside within the supervisor's district, to serve on the Commission.

3.05. Terms of Office. Each of the five regular members of the Commission nominated by members of the Board of Supervisors shall serve a term of four (4) years. The nonvoting member and nonvoting alternate members shall be appointed by the Board of Supervisors. Terms of Commission regular members shall be staggered. Initial terms of appointment shall be as follows:

(A) Commission members nominated by the Supervisors of the Second (2nd) and Third (3rd) supervisorial districts shall serve an initial term of one (1) year;

(B) Commission members nominated by the Supervisors of the First (1st), Fourth (4th) and Fifth (5th) supervisorial districts shall serve

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an initial term of three (3) years.

The nonvoting member and the alternate nonvoting member shall serve until his or her successor has been appointed by the Board of Supervisors.

3.06. Vacancies. A vacancy shall exist in any of the following circumstances:

- (A) When a voting member submits a written resignation to the Commission Chairman and to the appointing authority (the Chairman of the Board of Supervisors);
- (B) When a voting member fails to attend three consecutive meetings, without first notifying the Commission Chairman or Secretary in advance of the meeting and providing a reasonable excuse for his or her absence;
- (C) When death, disability, or any other such circumstance prevents the voting member from completing a term;
- (D) When a voting member no longer resides in the County;
- (E) When the voting member is removed from the Commission according to law.

3.07. Notice to Appointing Authority. As soon as a vacancy is imminent or, if prior notice is not possible, as soon as practicable after a vacancy occurs, the Secretary shall promptly notify the Chairman of the Board of Supervisors in writing and shall seek posting of the vacancy by the Clerk of the Board of Supervisors.

3.08. Public Notice of Vacancies. Whenever a vacancy on the Commission is imminent or occurs, a vacancy notice shall be posted in accordance with the instructions of the Board of Supervisors.

3.09. Temporary and Final Appointments. Final appointment of any member to fill a vacancy shall not occur until at least 10 days after public notice of the vacancy has occurred. If, however, an emergency exists, the Board of Supervisor may fill the unscheduled vacancy immediately, on a temporary basis. Persons appointed on a temporary basis shall serve only until the final appointment is made, and may be removed at that time by virtue of the appointment of another member to replace the temporary appointment.

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IV. OFFICERS

4.01. Chairman and Vice Chairman. The Commission shall have a Chairman and a Vice Chairman. The Chairman and the Vice Chairman shall be elected by a majority of all the members of the Commission, at the first meeting of the Commission following establishment of the Commission. The term of office of the Chairman and Vice Chairman shall be one year. Any person elected as an officer may be reelected for any number of successive terms, so long as such person remains a member of the Commission. The Chairman, or Vice Chairman in the absence of the Chairman, shall preside at meetings of the Commission.

4.02. Secretary. The Director of the Kern County Animal Control Division, or an employee of the Division designated by the Director, shall serve as Secretary to the Commission.

4.03. Staff. The Director of the Kern County Animal Control Department, or an employee of the Department designated by the Director, shall serve as staff to the Commission.

V. PUBLIC MEETINGS

5.01. Brown Act. All meetings of the Commission, when a simple majority of all members are present, whether in open session or closed session, shall be subject to the terms of the Ralph M. Brown Act, Government Code Sections 54950 et seq.

5.02. Setting Hearings. In order to expedite the hearing on any matter, the time of such hearing shall be set by the Secretary at such time as he or she determines that all information required is in proper form, and the Secretary shall then cause such notice thereof to be given as required by law or ordinance.

5.03. Open Sessions. Except for properly authorized closed sessions, each Commission meeting shall be properly noticed and open to the public. Unless recognized by the Commission Chairman, any member of the public shall not participate in Commission business or deliberations.

5.04. Closed Sessions. No closed sessions of any meeting excluding the public shall be conducted by the Commission without the Secretary advising the County Counsel of the specific purpose or purposes of such meeting, and receiving advice from the County Counsel that it is legal to hold such session or meeting. The County Counsel will use his or her discretion as to whether he or she will be represented at any closed session held by the Commission.

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5.05. Regular Meetings. The Commission will normally hold its regular meetings the third Wednesday of each month as provided for in Section 5.14 of these Rules, at 6:00 p.m. If, at any time, any regular meeting falls on a holiday, such meeting shall not be held. The Commission may continue a meeting from time to time, in which case notice of the time and place to which the meeting is continued shall be publicly announced prior to adjournment of the meeting, and no further notice is required. The Commission may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the Secretary may declare the meeting adjourned to a stated time and place and shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 of the Government Code for a special meeting unless such notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held, within twenty-four (24) hours after the time of adjournment.

5.06. Order of Business for Regular and Adjourned Regular Meetings. The order of business for regular and adjourned regular meetings shall be as follows:

- (a) Roll Call
- (b) Approval of any minutes or summary of proceedings of the previous regular meeting, and any previous special meetings or hearings.
- (c) Consent Agenda
- (d) Public Presentations
- (e) Commissioner Announcements or Reports
- (f) Unfinished Business
- (j) New Business
- (k) Adjournment

5.07. Order of Business for any Special Meeting. The order of business for any special meeting or any hearing shall be as follows:

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- (a) Roll Call
- (b) Consent Agenda
- (c) Public Presentations
- (d) Commissioner Announcements or Reports
- (e) Discussion and decision relative to special business or hearing.
- (f) Adjournment

5.08. Change in Order of Business. The order of business may be changed only on a regular motion properly seconded and passed.

5.09. Hearings. It is hereby established that the procedure for public hearings shall conform as nearly as possible to the following outline:

- (a) The Chairman will announce the item as it appears on the agenda.
- (b) The Chairman will ask staff to present a report and recommendation on the agenda item.
- (d) The Chairman will ask if the Commission members have any preliminary questions of staff concerning the agenda item. If the agenda item involves an applicant or petitioner, the Chairman will ask the applicant or petitioner if he or she has an opening statement to make. The Chairman will then invite testimony of those opposed to the request and indicate that anyone providing testimony is to identify themselves for the record since the meeting is being recorded. The Chairman may for cause limit testimony to a specified time period, such as five minutes. After hearing those opposed to the request, the Chairman will then invite testimony of those in support of the request. After hearing those in support of the request, the Chairman will ask the applicant if he/she has a closing statement to make. The Chairman shall indicate to the applicant whether or not any previously imposed time limits will apply to the applicant's closing statement.
- (e) The Chairman may, under unusual circumstances, allow rebuttals as deemed appropriate for the matter.

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- (f) Following all testimony allowed, the Chairman will close the hearing to public testimony.
- (g) The Chairman will call for questions or comments from Commission members on the matter. At this point Commission members may ask questions of staff, the applicant and/or agent, or anyone present. The Chairman may ask staff for any additional closing comments.
- (h) The Chairman will call for a motion on the request and announce to the recording secretary the name of the Commission member making the motion. The motion should include, or be prefaced by, the facts and reasoning that support that motion, especially when the motion is in support of an action different than staff's recommendation (including suggested findings).
- (i) The Chairman will call for a second to the motion. Following the second, the Chairman will announce to the recording secretary the name of the Commissioner making the second.
- (j) The Chairman will ask the recording secretary to take a roll call vote on the motion.
- (k) The procedures outlined in these rules are directory and are not mandatory.

5.10. Cancellation of Regular Meetings. If any regular meeting is canceled, notice of this fact shall be given by an oral announcement by the Chairman at the previous regular meeting, and by posting a notice at or near the door of the meeting place at the time the regular meeting was to be conducted if the canceled meeting has already been properly noticed.

5.11. Commission Quorum and Commission Actions. A majority of the members of the Commission shall constitute a quorum for the transaction of business. No official act of the Commission shall be valid unless at least three members concur therein. The presiding officer may make motions, participate in discussion, and vote on any matter pertinent to the business of the Commission. A member of such a Commission who disqualifies himself or abstains from voting, or who is disqualified by order of the Commission, shall not count for the purposes of constituting a quorum. If a member of the Commission fails to vote, the member's non-action shall not be counted as either an affirmative or a negative vote.

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5.12. Roberts Rules of Order. Except as otherwise provided in the rules or by statute, ordinance, or resolution, all meeting shall generally be conducted in accordance with the parliamentary procedures set forth in the most recent edition of Roberts Rules of Order.

5.13. Roll Call Vote. Ordinarily the Chairman shall determine the manner in which votes shall be taken, however, a roll call vote shall be taken whenever requested by any member in attendance. Such a request may be made before or promptly after a vote is taken in any other manner.

5.14. Place of Meetings. All meetings, whether held as open sessions or closed sessions, shall be conducted at the Public Services Building, 2700 M Street, Bakersfield, California. From time to time, the Commission may hold special meetings at other public locations provided such meetings are properly noticed. All meetings shall be conducted in places that are freely accessible to physically handicapped persons.

VI. RECORDS

6.01. Minutes. The Secretary shall prepare official minutes of each regular meeting, indicating attendance and whether absences were previously cleared with the Chairman of the Commission, and recording actions taken at each meeting. The minutes for each meeting shall be filed with the Clerk of the Board of Supervisors once approved by the Commission and duly signed by the Secretary and attested to by the Chairman.

6.02. Progress Reports. The Commission may submit progress reports and recommendations to the Board of Supervisors at any time.

VII. COMMITTEES AND TASK FORCES

7.01. Appointment Authorized. The Commission may appoint committees and task forces to assist the Commission for any length of time, on any matter pertinent to the work of the Commission.

7.02. Membership of Subcommittees. Any person may serve on a committee or task force, regardless of whether such person would qualify as a member of the Commission by reason of residence or otherwise, provided that any committee or task force member shall have knowledge, experience, background, or expertise pertinent to the work of the Commission. At least one member of the committee or task force shall be a member of the Commission. If any committee or task force is established to assist the Commission for a period longer than six months,

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the committee or task force shall not include members of the Commission constituting a quorum of the Commission.

7.03. Authority of the Committee or Task Force. The actions and recommendations of a committee or task force shall not be deemed the action of the Commission and shall in no manner bind the Commission or its members.

7.04. Notice to the Board of Supervisors. The establishment and dissolution of all committees and task forces shall be reported to the Board of Supervisors in the minutes of the Commission.

VIII. AMENDMENTS

8.01. Procedure for Amendments. Any proposed amendments to these rules must be submitted to the Chairman of the Commission for inclusion on the agenda for a regular meeting not less than 30 days before such meeting. Any proposed amendment must be approved by a majority vote of the Commission; the amendment shall then be submitted to the Board of Supervisors for approval. No amendments to these rules shall take effect unless approved by a majority of the Board of Supervisors.

IX. GENERAL PROVISIONS

9.01. Expense. The members of the Commission shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties, subject to such limitations and procedures as are applicable to employees of the county under the provisions of this code and applicable provisions of law.