ORDINANCE NO. 2011-08

AN ORDINANCE OF THE CITY OF SANTA CRUZ AMENDING SECTIONS 8.04.010, 8.12.105, 8.14.560, 8.16.020, 8.14.320, 9.10.040, 5.42.065 AND 5.43.025 OF, AND ADDING SECTIONS 8.04.020, 8.14.205 AND 8.14.045 TO, THE SANTA CRUZ MUNICIPAL CODE PERTAINING TO DOGS IN THE DOWNTOWN NEIGHBORHOOD AND ALSO PERTAINING TO ANIMALS IN THE CITY OF SANTA CRUZ

BE IT ORDAINED by the City Council of the City of Santa Cruz as follows:

Section 1. Section 8.04.010 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"8.04.010 DEFINITION OF TERMS.
For the purposes of this title, unless it is apparent from the context that a different meaning is intended, certain terms used herein are as follows:

(a) "Animal" shall mean any mammal, bird, reptile, fish or other vertebrate creature, domestic or wild.

(b) "Animal at large" shall mean:

(1) While on the owner's premises, or while on the premises of a third party with the permission of that party, any animal which is not confined to the premises by a leash, tether, adequate fence or other physical control or constraint or which is not under the immediate custody and control of its owner. The phrases "immediate custody and control" shall be construed narrowly. Any dog which is not within both sight and range of verbal command of its owner while on the owner's premises shall be presumed to be outside of the immediate custody and control of its owner and shall be presumed to be "at large."

(2) While off the owner's premises, any animal: (i) not restrained by a leash, tether or other physical control not exceeding six feet in length; and (ii) not under the physical control of a person shall be presumed to be "at large."

(c) "Animal control officer" shall mean the poundmaster, deputy poundmaster, State Humane Officer and such deputies as they may appoint to carry out their duties.

(d) "Animal exhibitions" shall mean to present any animal for public view for the purpose of entertainment, sale or competition and includes but is not limited to rodeos, circuses, zoos and animal auctions.

(e) "Bucking strap" or "flank strap" shall mean any device, strap or object generally made of leather and sometimes padded with a woolen lining which is placed around the flank regions of a

horse or bull, behind the rib cage and just forward of the hind legs, and which is tightened immediately before the animal is scheduled to perform.

(f) "Cat" shall mean any member of Felis domesticus and shall be considered personal property.

(g) "Director" shall mean the executive director of the Santa Cruz County Animal Services Authority ("ASA") or such other officer as the city council shall appoint to administer this chapter.

(h) "Dog" shall mean any member of the Canis familiaris and other Canis species including but not limited to wolf-dog or coyote-dog crosses.

(i) "Impounded" shall mean having been received into the custody of the animal shelter, any authorized agent or representative thereof or any duly sworn law enforcement officer in the course of his/her duty.

(j) "Leash" shall mean a device specifically manufactured, sold, designed and intended to lead or restrain animals that takes the form of a line or cord composed of leather, rope or similar strong and durable material with a clip that attaches to the animal's collar.

(k) "Livestock" shall mean animals kept for husbandry including but not limited to horses, mules, burros, asses, cattle, sheep, swine and poultry.

(l) "Owner" shall mean any person, firm or corporation owning, having an interest in or having control, custody or possession of any animal.

(m) "Person" shall mean any natural person, association, partnership or corporation.

(n) "Pet shop" shall mean any store, department of any store or any place of business where dogs, cats, monkeys, birds, reptiles or any other animals are kept for hire or sale.

(o) "Poundmaster" shall mean an independent contractor, including the Santa Cruz County Animal Services Authority, or employee of the city having custody of the animal shelter and animals therein.

(p) "Sexually unreproductive" shall mean being incapable of reproduction by reason of age or physical condition or incapable by reason of being subjected to a medical procedure to be rendered unproductive and certified by a licensed veterinarian as such.

(q) Society of the Prevention of Cruelty to Animals ("SPCA"). All referrences in this title to the "Society for the Prevention of Cruelty to Animals" or "SPCA" shall be superseded and replaced by "Santa Cruz County Animal Services Authority" or "ASA".

(r) "Unlicensed dog" shall mean any dog for which a current license fee has not been paid or to which the tag provided for in this chapter is not attached.

(s) "Vicious animal" shall mean any animal, except a dog assisting a peace officer engaged in law enforcement duties, which bites any human being or any domestic animal or which demonstrates menacing behavior toward human beings or domestic animals but does not include an animal which bites, attacks or menaces a trespasser on the property of its owner or harms or menaces anyone who has tormented, tortured, or exhibited cruelty to such animal as such terms are defined in Section 599(b) of the California Penal Code."

Section 2. Section 8.12.105 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"8.12.105 SPAYING OR NEUTERING OF ADOPTED ANIMALS.
Unless a licensed veterinarian states in writing that the date specified in the adoption agreement is inappropriate for the animal in question, any person residing in the city of Santa Cruz adopting an unspayed or unneutered dog or cat from any animal shelter, pound, humane society or ASA shelter shall have the animal spayed or neutered on or before the date specified in the adoption agreement. On submission of a written statement from a licensed veterinarian to the officer at the shelter or pound responsible for insuring compliance with this section, the adoption agreement will be modified accordingly."

Section 3. Section 8.14.560 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"8.14.560 ANIMAL SHELTER.
All animals which are subject to being impounded, as provided herein, shall be kept, safely held, and as authorized herein, disposed of, in a suitable building or enclosure which shall be known and designated as the "Santa Cruz County ASA."

(a) Every person except the poundmaster or a deputy poundmaster taking up any stray animal found at large contrary to the provisions of this chapter shall within eight business hours thereafter, give notice of possession to the Santa Cruz County ASA along with the following information:

(1) The name and address of the person possessing the animal;

(2) A complete description of such animal, including tattoos or other distinguishing marks, if any;

(3) The license number of such animal, if any, and by what county or municipal corporation issued. If such animal has no license, such person shall so state; and

(4) The place where such animal is confined.

(b) The poundmaster shall pick up and shall thereupon hold and dispose of such animal in the same manner as though such animal had been found at large and impounded.

Section 4. Section 8.16.020 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"8.16.020 DEFINITIONS.
As used in this chapter:

"Unaltered animal certification" means a written authorization, issued annually by the director of animal control, giving permission to maintain an unaltered dog or cat. Fees for the certification shall be established by resolution of the city council.

"Feral cat" means a feline which is by its nature wild, or is no longer domesticated.

"Feral cat colony" means a group of two or more feral cats.

"Director of animal control" means the person employed by the Santa Cruz County Animal Services Agency in this position."

Section 5. Section 8.04.020 is hereby added to the Santa Cruz Municipal Code to read as follows:

"8.04.020 CHARGES, FEES AND PENALTIES.
Any reference in this title to charges, fees or penalties incurred or imposed pursuant to any provision of this title shall now refer to charges, fees and penalties promulgated by the Santa Cruz County Animal Services Agency ("ASA") as documented in a schedule of such charges, fees and penalties duly adopted by the ASA Board of Directors."

Section 6. Section 8.14.320 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"8.14.320 LEASH REQUIRED FOR DOGS OFF PREMISES.
It shall be unlawful for the owner of any dog, whether licensed or unlicensed, to permit or allow such dog to be away from the premises of its owner at any time if not securely restrained by a leash as defined in Section 8.10.010(j) of this title."

Section 7. Section 8.14.205 is hereby added to the Santa Cruz Municipal Code to read as follows:

"8.14.205 DOGS DOWNTOWN.
(1) Notwithstanding any provision to the contrary set forth in Section 8.14.200 and subject to the restrictions set forth in this subsection and all other applicable regulations set forth in this title, any person who owns or has custody, control or possession of a dog may bring that dog to the City's downtown neighborhood as defined in subsection (2).

(a) The dog shall at all times be on a leash, as defined in Section 8.04.010(j) of this title. No more than one dog shall be clipped to any such leash. The dog shall at all times be no further than three feet away from the person holding the dog's leash

(b) The dog shall be in the company of no more than one other dog. Groups or packs of dogs comprised of three or more dogs are prohibited.

(c) The dog shall at all times be accompanied by its owner or the person who has custody, control or possession of the dog and shall at no time be left unattended by the owner or the person who has custody, control or possession of the dog. Any unattended dog may immediately be taken into custody by the Police Department, Animal Services Authority or any other person or entity appointed by the City Manager to perform this function.

(d) The dog shall at no time be tied or tethered to any pole, bench, planter or other structure or object on the street or sidewalk or to any structure in the public right of way affixed to any building. The dog shall at all times be physically connected by leash to the dog's owner or other person who has custody, control or possession of the dog.

(e) Dogs shall not be permitted in the downtown neighborhood as defined in subsection (2) between sunset and sunrise.

(f) The dog must visibly display collar tags evidencing the fact that the dog is currently vaccinated and currently licensed by the City of Santa Cruz or another valid licensing jurisdiction.

(2) As used in this section the term "downtown" or "downtown neighborhood" shall refer to that area of the City of Santa Cruz within the following boundaries and to the following parks:

(a) North boundary – Water Street; South boundary – Laurel Street; West boundary – Cedar Street; East boundary – Front Street

(b) Scope Park

(c) Town Clock

(3) A violation of this section shall constitute an infraction. Any violation of this section committed within forty-eight (48) hours of a prior violation of this section shall constitute a misdemeanor."

Section 8. Section 8.14.045 of the Santa Cruz Municipal Code is hereby added to read as follows:

"8.14.045 CERTIFICATE OF ANTIRABIES VACCINATION.
Any veterinarian who vaccinates or causes or directs to be vaccinated in the City of Santa Cruz any dog with the antirabies vaccine shall:

(1) Use a certificate approved by the Santa Cruz County Animal Services Authority to certify that such animal has been vaccinated; and

(2) Send a copy of the completed certificate to the Santa Cruz County Animal Services Authority within thirty (30) days from the date the dog is vaccinated.

(3) If a dog is vaccinated for rabies by a veterinarian located outside the County of Santa Cruz, the owner/guardian or person with a right to control the dog must submit a copy of the vaccination certificate to the Santa Cruz County Animal Services Authority within thirty (30) days from the date that the dog is vaccinated or brought into the county, whichever date is later in time."

Section 9. Section 9.10.040 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"9.10.040 MANNER OF SOLICITATION.
Any person who solicits in any of the following manners is guilty of an infraction:

(a) By coming within three feet of the person solicited, until that person has indicated that he or she wishes to make a donation;

(b) By blocking the path of the person solicited, or other pedestrians, along a sidewalk or street;

(c) By following a person who walks away from the solicitor;

(d) By using abusive language as part of the solicitation or following a refusal that is directed at the specific individual or individuals being solicited;

(e) By soliciting in a group of two or more person;

(f) While under the influence of alcohol or any illegal narcotic or controlled substance; or

(g) By soliciting while in the immediate possession of a dog, by leash or otherwise."

Section 10. Section 5.42.065 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"5.42.065 DISPLAY OR SALE OF MERCHANDISE PROHIBITED.
Notwithstanding any other provision of this chapter or this code, it shall be unlawful for any person or organization to display, sell, offer for sale, rent, offer for rent, or offer in exchange for a donation, goods, wares, merchandise, foodstuffs, refreshments, or other kinds of property or services in the following areas or in the following manner:
(a) On West Cliff Drive between Columbia Street and Beach Street;

(b) On Beach Street between West Cliff Drive and Third Street;

(c) On the vehicle and pedestrian thoroughfares of the Santa Cruz Municipal Wharf or on the Municipal Wharf's South End, Commons, and Agora;

(d) On the parcel of property abutting the ocean side of Beach Street between Westbrook and Cliff Streets (Assessor's Parcel No. 05-341-03);

(e) On the Beach Street Promenade Deck.

(f) While accompanied by or in the custody or possession of a dog.

This section shall not be construed as prohibiting commercial events or noncommercial events in the foregoing designated areas which are conducted pursuant to, and in accordance with, Chapter 10.64 and 10.65 of this code."

Section 11. Section 5.43.025 of the Santa Cruz Municipal Code is hereby amended to read as follows:

"5.43.025 DISPLAY OR SALE OF MERCHANDISE PROHIBITED.
Notwithstanding any other provision of this chapter or this code, it shall be unlawful for any person or organization to display, sell, offer for sale, rent, offer for rent, or offer in exchange for a donation, goods, wares, merchandise, foodstuffs, refreshments, or other kinds of property or services in the following areas or in the following manner:

(a) On West Cliff Drive between Columbia Street and Beach Street;

(b) On Beach Street between West Cliff Drive and Third Street;

(c) On the vehicle and pedestrian thoroughfares of the Santa Cruz Municipal Wharf or on the Municipal Wharf's South End, Commons, and Agora;

(d) On the parcel of property abutting the ocean side of Beach Street between Westbrook and Cliff Streets (Assessor's Parcel No. 05-341-03);

(e) On the Beach Street Promenade Deck.

(f) While accompanied by or in the custody or possession of a dog.

This section shall not be construed as prohibiting commercial events or noncommercial events in the foregoing designated areas which are conducted pursuant to, and in accordance with, Chapter 10.64 and 10.65 of this code."

Section 12. Section 7 of this Ordinance shall remain in effect through November 30, 2011 and thereafter be of no force and effect. This Section 12 of this Ordinance shall only remain operative and effective as of December 31, 2011 if, prior to November 30, 2011 the City Council adopts a Resolution confirming its intent that this Section 12 shall remain operative.

Section 13. This Ordinance shall take effect and be in force thirty (30) days after final adoption.

PASSED FOR PUBLICATION this 12th day of July, 2011, by the following vote: AYES: Councilmembers Robinson, Madrigal, Bryant; Mayor Coonerty. NOES: Councilmembers Beiers, Vice Mayor Lane. ABSENT: Councilmember Terrazas. DISQUALIFIED: None. APPROVED: ss/Ryan Coonerty, Mayor. ATTEST: ss/Bren Lehr, City Clerk Administrator. This Ordinance is scheduled for further consideration at the Council meeting of July 26, 2011.