

ARTICLE IV. DANGEROUS ANIMALS

Sec. 4-50 Definitions

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

- (a) Abused animal means any animal which is:
 - (1) Mistreated, beaten, tormented, or teased; or
 - (2) Deprived of water, food, or shelter; or
 - (3) Kept under unsanitary conditions; or
 - (4) Abandoned; or
 - (5) Trained for fighting other animals.
- (b) Animal control means the county animal control department.
- (c) Animal control officer or officer means any person currently employed as an animal control officer for the county animal control department.
- (d) Dangerous animal;
 - (1) Dangerous animal means any animal that:
 - (A) Has been designated a potentially dangerous animal and thereafter exhibits any of the behaviors listed in the definition of potentially dangerous animals; or
 - (B) inflicts serious injury on or kills a human being. An injury shall be considered a severe injury if it results in any muscle tear or disfiguring laceration or requires multiple sutures or corrective or cosmetic surgery; or
 - (C) Engages in, or is found to have been trained to engage in, exhibitions of fighting or is associated with conduct that results in the animal's owner or keep being convicted of Penal Code Section 597.5; or
 - (D) Attacks or kills livestock off the property of the owner of the attacking animal.
 - (2) An animal shall not be considered a dangerous animal if the person or domestic animal that it attacked, threatened, or menaced:
 - (A) Provoked, tormented, teased, or abused the animal into the alleged behavior; or
 - (B) Committed a willful trespass or other tort upon the private property of the owner

or keeper in control of the animal; or

(C) Threatened or committed an unprovoked assault or battery against the owner or keeper in control of the animal.

(e) Enclosure means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to humanely confine an animal with adequate exercise area, and posted with an appropriate warning sign, in conjunction with other measures which may be taken by the owner or keeper.

(f) Hearing Officer means any designated representative of the director of the general services department who conducts a hearing under section 4-54.

(g) Impounded means taken into the custody of the county animal shelter.

(h) Person means a natural person or any legal entity, including, but not limited to, a corporation, firm, partnership or trust.

(i) Potentially dangerous animal

(1) Potentially dangerous animal means any animal that:

(A) On two (2) separate occasions within a thirty-six (36) month period engages in any unprovoked behavior that requires a defensive action by any person to prevent bodily injury; or

(B) Bites a person causing a minor injury not resulting in muscle tears or disfiguring lacerations or requiring multiple sutures or corrective or cosmetic surgery; or

(C) Kills, seriously bites, inflicts injury upon, or otherwise causes injury to any domestic animal; or

(D) Engages in any behavior that constitutes a physical threat of bodily harm to a person or domestic animal or poses an immediate threat to public safety.

(2) An animal shall not be considered a potentially dangerous animal if the person or domestic animal that it attacked, threatened, or menaced:

(A) Provoked, tormented, teased, or abused the animal into the alleged behavior; or

(B) Committed a willful trespass or other tort upon the private property of the owner or keeper in control of the animal; or

(C) Threatened or committed an unprovoked assault or battery against the owner or keeper in control of the animal.

(j) Sheriff's deputy or deputy shall mean any person currently employed as a sheriff's deputy for the county sheriff's office.

(Ord. No. 826, §7; Ord. No. 1444, §1; Ord. No. 1556, §2; Ord. No. 1682, §1)

Sec. 4-51. Inspection

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this Article, or whenever any sheriff's deputy or animal control officer (theAofficer@) has probable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Article or other applicable law, the officer is authorized to enter such property at any reasonable time and to inspect it and perform any duty imposed upon the officer by this code or other applicable law; provided that:

(1) If the property is occupied, the officers shall first present proper credentials to the occupant and request entry and provide an explanation. If entry is refused, the officer shall have recourse to every legal remedy, including an inspection warrant, to secure lawful entry and inspect the property.

(2) If the property is unoccupied, the officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, with an explanation. If entry cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the officer shall have recourse to every legal remedy, including an inspection warrant, to secure lawful entry and inspect the property.

(3) Notwithstanding the foregoing, if the officer has probable cause to believe that the keeping or maintaining of any animal is so dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right immediately to enter and inspect the property, and may use any reasonable means required to enter and inspect, whether or not the property is occupied and whether or not permission to inspect has been obtained. If the property is occupied, the officer shall first present proper credentials to the occupant and demand entry, explaining the reasons and purpose of the inspection.

(b) No person shall interfere with, hinder, fail or refuse, after proper demand has been made upon him or her, to permit the officer to make any inspection under subdivision (a) (3). Any person violating this section shall be guilty of a misdemeanor.

(c) The licensee of any license issued under this Chapter, by accepting the license, consents to the entry upon the premises described in the license by any officer for the purpose of conducting the inspections required by this Article or other applicable law.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-52. Dangerous animals at large

(a) A person who owns or keeps an animal and who allows, permits or causes the animal to be at large in or upon a public street, sidewalk, park, or other public property or in or upon the premises or private property of another person, shall be guilty of a misdemeanor if the animal bites, attacks or causes injury to any human being or other animal.

(b) Any person convicted under this section shall not own or keep the type of animal which caused the bite, attack or injury for a three (3) year period after the date of conviction. Neither animal control nor the county shall not issue or renew any license to the convicted person for that type of animal during that three (3) year period.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-53. Temporary impoundment or confinement

(a) If animal control officers or sheriff's deputies have probable cause to believe any animal has attacked, bitten, or injured any human being or other domestic animal, the officers or deputies shall have the power to summarily and immediately impound the animal pending:

(1) Any court proceeding or animal license revocation proceeding arising from the attack, bite or injury; or

(2) A hearing under this article.

(b) Failure to surrender on demand the animal to an animal control officer for impoundment shall be a misdemeanor.

(c) If an animal impounded under this section is declared to be potentially dangerous or dangerous, it may be returned to the owner or keeper upon satisfaction of any conditions the hearing office places on the animal's release unless the hearing officer orders the animal to be destroyed. If an animal impounded under this section is not declared to be potentially dangerous or dangerous, it shall be returned to the owner or keeper as soon as is practicable after receipt of the hearing officer's notice of determination.

(d) Within forty-eight (48) hours of any impoundment, animal control shall serve the owner or keeper with a notice of impoundment. The notice shall contain a description of the animal, a brief description of the facts and circumstances leading to the impoundment, and the charge or charges being filed. The notice shall be personally served or served by first-class or certified mail and shall be posted on the owner or keeper's property.

(e) In lieu of impounding, animal control may permit the animal to be confined at the owner's or keeper's expense in a kennel or veterinary facility approved by animal control or at the owner's or keeper's residence provided that:

(1) The animal is not removed from the kennel, veterinary facility or residence without the prior written approval of animal control; and

(2) The animal shall be available for observation and inspection by animal control or members of law enforcement or their authorized representatives. Animal control shall specify to the owner or keeper the exact way the animal is to be restrained while awaiting the hearing.

(3) The animal may be photographed for identification purposes.

(e) If there is no reasonable method available to determine ownership of the animal, the animal shall be considered a stray.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-54. Hearing procedures

(a) If a sheriff's deputy or animal control officer determines that there is probably cause to believe that an animal is potentially dangerous or dangerous or that the owner or keeper of an animal has violated any conditions previously imposed by a hearing officer in relation to a declaration that the animal is potentially dangerous or dangerous, the director of the general services department or designee, shall serve as a hearing officer to conduct a hearing to determine whether the animal is a potentially dangerous or dangerous animal or whether the owner or keeper has violated any conditions.

(b) If the owner or keeper does not contest the charges alleges, the owner or keeper may waive the right to a hearing.

(c) In the event an animal has been impounded or confined pending a hearing, the hearing shall be conducted within thirty (30) calendar days of the impoundment or confinement. Failure to hold the hearing within thirty (30) calendar days shall result in an automatic dismissal of the charges; provided, however, that evidence of the underlying acts of behavior of the animal may be used in a subsequent proceeding.

(d) At least seven (7) calendar days before the hearing, animal control shall serve the owner or keeper of the animal with a notice containing a description of the animal, a brief statement of the charges and the facts and circumstances supporting the charges, and the date, time, and place of the hearing. The notice shall be accompanied by a copy of this article. Service shall be by first-class mail, certified mail, or personal service.

(e) After a hearing, the hearing officer may declare any animal to be potentially dangerous or dangerous and determine the appropriate disposition of the animal.

(f) In making a determination that an animal is or is not potentially dangerous or dangerous, evidence of the following shall be considered if available:

- (1) Any previous history of the animal attacking, biting or causing injury to a human being or other domestic animal or livestock;
 - (2) The nature and extent of injuries inflicted and the number of victims involved;
 - (3) The place where the bite, attack or injury occurred;
 - (4) The absence or presence of any provocation for the bite, attack or injury;
 - (5) The extent to which property has been damaged or destroyed;
 - (6) Whether the animal exhibits any characteristics of being trained for fighting or attacking or there exists other evidence of such training;
 - (7) Whether the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or domestic animals;
 - (8) Whether the animal can be effectively trained or retrained to change its temperament or behavior;
 - (9) The manner in which the animal has been maintained by its owner or keeper;
 - (10) Any other relevant evidence concerning the maintenance of the animal;
 - (11) Any other relevant evidence regarding the ability of the owner or keeper, or animal control, to protect the public safety in the future if the animal is permitted to remain in the county.
- (g) Within ten (10) calendar days after the hearing, the owner or keeper of the animal shall be notified in writing of the determination and orders issued by the hearing officer, either personally or by pre-paid, first class mail. The notice of determination shall include the following information:
- (1) A determination of whether or not the animal is potentially dangerous or dangerous;
 - (2) A brief summary of facts supporting the determination;
 - (3) An order to destroy the animal, release the animal with conditions, or release the animal without conditions;
 - (4) Advisement of appeal rights.
- (h) The decision of the hearing officer shall be final. If any party to the hearing contests the hearing officer's determination, he or she may, within five (5) calendar days

of the receipt of the notice of determination, appeal the decision by filing an action in the Superior Court of Solano County and serving the director of general services with a notice of appeal.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-55. Disposition of dangerous animals

(a) If the hearing officer finds that an animal is so dangerous that it would constitute an unreasonable danger to human beings, domestic animals, or livestock even with reasonable conditions upon release, the hearing officer may order the animal to be destroyed. This remedy is in addition to all other remedies and shall not limit or restrict the right of any person, including the county counsel, the general services director, or animal control shall to commence a proceeding under California Civil Code section 3342.5, or its successor, to have the animal destroyed.

(b) If the hearing officer finds that the animal is potentially dangerous or dangerous, the hearing officer may require the owner or keeper of the animal, as a condition of the release of the animal from confinement or impoundment, to comply with any or all of the following conditions:

(1) Immediately register the animal with animal control. The fee for a permit to keep one dangerous animal shall be fifty dollars (\$50.00) for a twelve (12) month term, and the fee for each additional dangerous animal shall be twenty-five dollars (\$25.00). The permit expires at the end of each term and is renewable.

(2) Keep the animal securely confined on its premises in a locked enclosure approved by animal control in its sole and absolute discretion. The structure must have secure sides and a secure top composed of nine-gauge galvanized steel affixed to a concrete foundation. It must be locked with a key or a combination lock when holding animals. The structure must be adequately lighted, ventilated, kept in a clean and sanitary condition and it must comply with all building and zoning regulations.

(3) Keep the animal securely muzzled, leashed and under the control of a person eighteen (18) years or older, and who is physically capable of restraining the animal when it is not confined in a secure pen.

(4) Spay or neuter the animal by a licensed veterinarian and present proof to the animal control officer.

(5) Provide and maintain financial responsibility for injuries to the public by obtaining and showing proof of liability insurance in a form and amount considered acceptable under the circumstances by the hearing officer. The insurance policy shall clearly state that the insurance cannot be canceled, suspended, reduced, or allowed to expire unless thirty (30) calendar days written notice is first given to animal control.

(6) Immediately inform any local postmaster or utility company meter readers, and

anyone else who lawfully and regularly comes onto the property, of the animal's status as a potentially dangerous or dangerousness animal and to inform animal control in writing prior to moving the animal to any new location within or outside the county or if the animal dies.

(7) Display in a prominent place on the property a sign easily readable by the public, using the words "Beware of Dangerous Animal in letters at least three (3) inches high.

(8) All dangerous dogs shall receive a micro-chip and permanently wear a "Dangerous Dog" tag. The owner or keeper of the dog shall pay for the micro-chip and tag. Animal control shall maintain on file the assigned micro-chip and tag numbers. The owner or keeper shall immediately notify the animal control if the tag is lost or stolen and shall pay for a replacement. Failure to report the lost or stolen tag or to replace it is a misdemeanor.

(9) Pay the reasonable costs for the hearing incurred by the county and its officials, not to exceed one thousand dollars (\$1,000.00).

(10) Take any other reasonable steps to prevent injuries to the public, domestic animals, livestock, or property.

In addition, if the hearing officer orders the animal released with conditions, the owner or keeper of the animal shall have thirty (30) calendar days from the receipt of the written disposition to complete any conditions imposed by the hearing officer and to demonstrate such compliance to animal control. The hearing officer may grant a written extension of time for compliance not to exceed an additional thirty (30) calendar days. The owner or keeper of the animal must, within thirty (30) calendar days from the receipt of the written disposition, provide animal control with a minimum of two (2) color photographs of the animal that clearly show its color and size. No potentially dangerous or dangerous animal shall be kept on a porch, patio, or in any part of a house or structure that would allow the animal to escape. No dangerous animal may be kept in a house or structure when the windows are open or screen doors are the only obstacle preventing the animal from leaving the premises.

(c) If the hearing officer determines that the animal is neither potentially dangerous nor dangerous, the animal shall be returned to the owner as soon as is practicable after receipt of the hearing officer's notice of determination. If the animal is unlicensed, the owner or keeper shall be cited for failure to obtain a license.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1624, §5; Ord. No. 1682, §1)

Sec. 4-56. Sale or transfer restrictions

(a) No person shall sell or transfer a potentially dangerous or dangerous animal to any person within the county, unless the recipient permanently resides with the owner or keeper or the owner or keeper has received prior written approval of the director of general services or designee.

(b) The owner or keeper of a potentially dangerous or dangerous animal shall not sell, transfer the animal to any person outside the county or otherwise remove the animal from the county without the prior written approval of the director of general services or designee.

(c) No person shall bring into the County any animal designated or registered as a potentially dangerous or dangerous, or vicious animal in any other jurisdiction within the United States without the prior written approval of the director of general services or designee.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-57. Enforcement and penalties

(a) It shall be unlawful for an owner or keeper not to comply with the conditions imposed by the hearing officer or any other requirements imposed by this article. If a failure to comply occurs, the animal shall be subject to immediate seizure and impoundment by animal control. Animal control may additionally order the removal of the animal from the county or seek its destruction if necessary. No animal may be destroyed under this section until ten (10) calendar days after the owner or keeper has been served with written notice from the hearing officer that the animal will be destroyed. The destruction order shall be stayed if within the ten (10) calendar days the owner or keeper:

(1) Demonstrates to the satisfaction of the hearing officer compliance with the conditions imposed and this article; or

(2) Files a petition to stay destruction of the animal in Superior Court of Solano County and serves an endorsed file copy of the petition on the hearing officer and the director of general services.

If the owner or keeper of the animal does not take action described in subsection (1) or (2), the hearing officer may, without further notice, order the animal destroyed. The destruction order notice shall be served either personally or by pre-paid first class mail on the owner or keeper and a copy posted on the property.

(b) Any person who violates the provisions of this article shall, upon conviction in Superior Court of Solano County, be fined not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1000.00). The fine shall be paid to the animal control for the purpose of defraying the cost of implementing this article. The court may also impose a jail term not to exceed thirty (30) calendar days.

(c) Any person convicted of violating the provisions of this article shall be prohibited from owning or keeping within the county the same type of animal for three (3) years from the date of conviction.

(d) The provisions of this article may be enforced by animal control or by any law enforcement agency, fire department, or other authorized representative of the county.

(e) The costs of abating a potentially dangerous or dangerous animal declared to be a public nuisance may be recovered from the owner or keeper as provided by law.

(f) The penalties and remedies in this article are not exclusive but cumulative with all other remedies at law or equity.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-58. Exemptions

The provisions of this article shall not apply to:

- (1) Any dog engaged in law enforcement duties;
- (2) Any guide dog for the blind or physically disabled while performing its services;
- (3) Any animal shelter owned, operated or maintained by animal control.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)

Sec. 4-59. Removal of designation

The owner or keeper of a dangerous animal may petition the animal control director of general services or designee for a hearing to remove the potential dangerous or dangerous determination if, for a period of three (3) years following that determination, the animal has not been involved in any incidents of the type which led to the determination. A hearing shall be held within thirty (30) calendar days of receipt of the written petition. Within ten (10) calendar days after the hearing, the owner or keeper of the animal shall be notified in writing of the hearing officer's determination.

(Ord. No. 1444, §1; Ord. No. 1556, §1; Ord. No. 1682, §1)