

ORDINANCE NO. 2020-04

(DANGEROUS ANIMALS)

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

SECTION I. SUMMARY. This ordinance amends the County Ordinance Code to revise procedures for designating animals as potentially dangerous or dangerous.

SECTION II. Chapter 416-18 is added to the County Ordinance Code, to read:

Chapter 416-18
DANGEROUS ANIMALS

Article 416-18.2. General.

416-18.202 Definitions. For purposes of this chapter, the following words and phrases have the following meanings:

- (a) A “dangerous” animal means an animal that demonstrates any of the following behavior:
 - (1) An animal that, when unprovoked, inflicts severe injury on or kills a human being who is conducting himself or herself peacefully and lawfully. For this definition, a person is peaceably and lawfully upon the private property of an owner or possessor of the animal when he or she is on the property in the performance of any duty imposed upon him or her by law, or when he or she is on the property upon express or implied invitation.
 - (2) An animal designated as a potentially dangerous animal that, after its owner has been notified of this designation, exhibits any of the behaviors described in the definition of “potentially dangerous” animal set forth in this article.
 - (3) An animal that attacks livestock off the property of the attacking animal’s owner.
- (b) A “potentially dangerous” animal means an animal that demonstrates any of the following behavior:
 - (1) An animal that, on two separate occasions within a 36-month period, engages in any unprovoked behavior that requires a defensive action by a person to prevent bodily injury when the person and the animal are off the property of the animal’s owner.
 - (2) An animal that, when unprovoked, bites a person causing an injury that is not a “severe injury” as defined in this chapter.

- (3) An animal that, on two separate occasions within a 36-month period, when unprovoked, seriously bites, inflicts injury, or otherwise causes injury to a domestic animal off the property of the attacking animal's owner.
- (4) An animal that, when unprovoked and off the property of the animal's owner, engages in behavior that causes the death of a domestic animal or causes injury to a domestic animal that is so severe that a veterinarian recommends euthanasia due to the severity of the injuries caused by the attack.
- (c) A "severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.204 Obligations of Animal Owner.

- (a) An owner or possessor of a dog shall at all times prevent the dog from (1) biting or physically harassing a person engaged in a lawful act, and (2) interfering with the lawful use of public or private property.
- (b) An owner or possessor of a dog shall at all times prevent the dog from causing injury to another domestic animal while the domestic animal is lawfully upon public or private property.
- (c) A person with knowledge that an animal has bitten or attacked a human being must promptly report that fact to the animal services department. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.206 Law Enforcement Animals. This chapter does not apply to a trained animal assisting a peace officer engaged in law enforcement duties. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

Article 416-18.4. Procedures.

416-18.402 Potentially Dangerous and Dangerous Animal Designations.

- (a) The animal services director may determine that an animal is potentially dangerous or dangerous. Within 15 days after determining that an animal is potentially dangerous or dangerous, the animal services director will issue an order designating the animal potentially dangerous or dangerous. The order will specify the reasons for the designation. If applicable, the order will also inform the owner that he or she may apply for a permit to keep the animal, the deadline for applying, the permit conditions that may be imposed, and the owner's right to appeal the designation.
- (b) The animal services director will consider all of the following factors in determining whether an animal is potentially dangerous or dangerous:

- (1) Whether an injury to a person by the animal was caused or contributed to by the actions of that person, including acts of physical abuse, tormenting, teasing, or assaulting the animal.
- (2) Whether a person injured by the animal was committing a trespass or other tort upon premises occupied by the owner or keeper of the animal, or was committing or attempting to commit a crime.
- (3) Whether an injury to a domestic animal was caused or contributed to by the actions of the domestic animal, including acts of teasing, tormenting, abusing, or attacking the animal.
- (4) Whether a person injured by the animal had gained uninvited and unauthorized entry onto fenced or indoor property of the animal's owner or keeper. As used in this section, "unauthorized entry" does not include entry into a fenced residential front yard unless the yard is locked or posted to prohibit entry.
- (5) Whether an injury to a person by the animal was caused while the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.404 Permits to Keep Potentially Dangerous or Dangerous Animals.

- (a) Application. If an owner wishes to keep an animal that has been designated potentially dangerous or dangerous, the owner must apply for and obtain a permit to keep the animal. The owner must apply for the permit within the time specified in the final order designating the animal potentially dangerous or dangerous. The permit application must include:
 - (1) The name and address of the animal's owner, and the names and addresses of two persons who may be contacted in the case of emergency;
 - (2) An accurate description of the animal for which the permit is requested, including the number of the County-issued license for that animal;
 - (3) The address where the animal will be located;
 - (4) The purpose for which the animal will be kept;
 - (5) An application fee;
 - (6) An agreement to comply with all permit conditions; and
 - (7) Such other information as the animal services director may require.

- (b) Order on Application. Within 30 days after receiving a completed application for a permit to keep an animal designated potentially dangerous or dangerous, the animal services director will issue an order granting or denying the permit. If the order denies the permit, the order will specify the reasons for denying the permit and state that the owner has a right to appeal the permit denial.
- (c) Permit Denial. The animal services director may deny an application for a permit if the director determines (1) the animal poses an undue risk to public safety, or (2) the animal's owner lacks sufficient resources or ability to keep the animal in a manner that does not pose a threat to public safety, or (3) the animal's owner does not agree to comply with all permit conditions.
- (d) Permit Issuance. The animal services director may issue a potentially dangerous or dangerous animal permit if the director finds all of the following conditions are satisfied:
 - (1) The animal's owner has facilities to adequately secure, feed, house, and maintain the animal.
 - (2) Possession and maintenance of the animal at the owner's location is not likely to endanger the peace, quiet, health, safety, or comfort of persons in the vicinity of the location.
 - (3) Possession and maintenance of the animal at the owner's location is not likely to be detrimental to agriculture, native wildlife, or the public peace, health, or safety.
 - (4) Possession and maintenance of the animal at the owner's location has not resulted in, and is not likely to result in, the animal being subjected to neglect, suffering, cruelty, or abuse.
 - (5) The animal's owner has not had a potentially dangerous or dangerous animal permit revoked, and has not been found to have violated this division or any law regulating animals within the previous three years.
 - (6) Possession of the animal at the owner's location will not violate any law, ordinance, or regulation.
 - (7) The animal's owner agrees to comply with all of the permit conditions.
- (e) Permit Conditions. The animal services director will impose conditions on a permit to keep a dangerous or potentially dangerous animal as provided in this section.
 - (1) A potentially dangerous animal permit and a dangerous animal permit shall include all of the following conditions:
 - (A) The animal's owner must comply with all relevant state laws and ordinances.
 - (B) The animal must be properly licensed and vaccinated at all times.

- (C) The permit is nontransferable.
- (D) The owner or keeper of the animal may not be a minor.
- (E) The animal may not be possessed or maintained at any location other than that specified in the permit.
- (F) The animal's owner must display on the property where the animal is kept a sign containing a warning that there is a potentially dangerous or dangerous animal on the premises. The dimensions, colors, lettering, and graphics of the sign must comply with standards established by the animal services director. The sign must be located where it will be visible to the general public.
- (G) The animal may never be at large, as defined in Section 416-4.402, and must be securely maintained at all times.
- (H) The animal's owner shall immediately notify the animal services department if the animal is at large, has attacked another animal, has bitten a human being, or has died.
- (I) If the animal is not securely confined indoors, it must be confined as follows, unless the animal services director modifies the conditions of confinement where warranted:
 - (i) The animal shall be confined in an enclosure consisting of a fence or structure suitable to prevent the entry of young children, and suitable to confine a potentially dangerous or dangerous animal as determined by the animal services department. The enclosure shall be securely locked, have secure sides and bottom sufficient to prevent the animal from escaping, and shall be of sufficient size to provide the animal with adequate exercise area.
 - (ii) When off the property of the animal's owner or keeper, the animal shall be muzzled and leashed with a substantial leash not to exceed six feet in length and under the control of a responsible adult who is familiar with and in control of the animal.
 - (iii) When being transported, the animal shall be humanely confined in a vehicle so that it can neither escape nor inflict injury on passersby.
- (J) The animal shall not be allowed to endanger the peace, health, or safety of people, domestic animals or native wildlife.
- (K) The animal shall not be subject to neglect, suffering, cruelty, or abuse.

- (L) The location where the animal is possessed or maintained must be kept clean and sanitary; and the animal must be provided with proper and adequate food, water, ventilation, shelter and care at all times.
 - (M) An employee of the animal services department must be allowed at any reasonable time to inspect the animal and the place where the animal is located.
 - (N) The animal's owner must pay all fees required in accordance with the animal services department's fee schedule adopted by resolution of the board of supervisors.
 - (O) The animal's owner must allow and pay for the animal to be sterilized and have a microchip implanted by the animal services department for identification purposes.
- (2) A potentially dangerous animal permit shall also include all of the following conditions:
- (A) The potentially dangerous animal must complete an obedience course approved by the animal services director, at the owner's expense, within 60 days after the animal is released to its owner, or within a reasonable time as authorized by the animal services director.
 - (B) The permittee shall notify the animal services department within 48 hours after the potentially dangerous animal is deceased, sold, transferred or permanently removed from the location designated on the permit, and provide the name, address, and phone number of the animal's new owner and the animal's new location.
- (3) A dangerous animal permit shall also include all of the following conditions:
- (A) A dangerous animal securely confined in an enclosure shall not be tethered.
 - (B) Unless a dangerous animal is securely confined indoors or in an outdoor enclosure on the property where the animal is maintained as described in subsection (e)(I)(i) of this section, the animal may only be removed for purposes of obtaining veterinary care, being sold or given away, or to comply with any provision of law or a directive of the animal services director.
 - (C) Within 30 days after the animal is designated dangerous, the animal's owner must give written notice, with a copy to the animal services director, of the animal's dangerous designation to the local police and fire departments, the local branch of the U.S. Post Office, and all utility companies that provide services to the premises where the animal is kept.

- (D) The animal's owner must have in force at all times liability insurance from an insurer licensed in the state of California, in a single incident amount of not less than \$100,000 for each animal, for injury to or death of a person, or loss or damage to property caused by or resulting from an act of the animal. Liability insurance shall not be canceled unless the owner ceases to own the animal. The owner shall provide to the animal services director a certificate of insurance issued by the insurer stating that the foregoing insurance is in place. The owner shall also provide documentation from the insurer warranting that the insurer will provide the county at least 30 days advance notice of cancellation of insurance.
- (E) The permittee shall give the animal services department at least 48 hours advance notice of the sale, transfer or permanent removal of the animal to a location not designated in the permit, and provide the name, address, and phone number of the animal's new owner and the animal's new location.
- (f) Term of Permit. A potentially dangerous or dangerous animal permit is valid for one year from the date of its issuance, unless the animal services director approves a longer term.
- (g) Removal of Potentially Dangerous Designation. The animal services director will remove the "potentially dangerous" designation from an animal if there are no additional instances of the behavior described in the definition of "potentially dangerous" animal within the 36-month period after the date of designation. The animal services director may, in his or her discretion, remove the "potentially dangerous" designation earlier than 36 months after the date of designation.
- (h) Permit Renewal. An application to renew a permit issued under this chapter must be filed at least 30 days before the permit expires. No person holding a potentially dangerous or dangerous animal permit has the right to an automatic renewal of the permit. Failure to renew a permit before its expiration will result in a late fee, may result in an administrative fine or infraction citation, or the animal may be impounded and humanely destroyed.
- (i) Fees. Animal permit application fees, permit fees, late fees, impound fees, inspection fees, microchip fees, and sterilization fees will be in amounts established by the board of supervisors in the animal services department's fee schedule. An inspection fee for evaluating the facilities where an animal designated potentially dangerous or dangerous is maintained will be charged to the animal's owner for each inspection deemed necessary following the initial investigation.
- (j) Permit Revocation. If the owner of an animal designated potentially dangerous or dangerous violates a permit condition, the animal services director may, in addition to administrative penalties under Article 416-4.8, issue an order revoking the permit and impounding the animal. If the animal services director determines the animal poses an undue threat to public safety, the animal may be euthanized. The order revoking the permit will specify whether the animal is to be euthanized.

(k) Prohibition of Future Ownership.

- (1) If the owner of an animal designated potentially dangerous or dangerous violates a permit condition, the animal services director may, in addition to other penalties provided in this chapter, issue an order prohibiting the owner from owning an animal of the same species for up to five years after the date of the original designation.
- (2) A person who owns, possesses, keeps, or harbors an animal designated potentially dangerous or dangerous without a permit may be subject to restrictions on ownership of other animals of the same species for a period of five years. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.406 Hearings.

- (a) Appeal. An animal owner may appeal an order that: designates the owner's animal potentially dangerous or dangerous; denies a permit to keep an animal designated potentially dangerous or dangerous; revokes a permit; imposes penalties for a violation of this chapter; or requires that an animal be euthanized.
- (b) Hearing Request. An appeal of an order must be filed with the animal services department within 15 days after the date of the issuance of the order. If no request for appeal is received within 15 days after the date of issuance of the order, then the order is final.
- (c) Notice of Hearing. Upon receipt of a timely request for a hearing, the animal services director will schedule a hearing before an impartial hearing officer and provide written notice to the owner of the date, time, and location of the hearing at least five days before the hearing date.
- (d) Hearing Procedures.
 - (1) Evidence. At the hearing, the animal's owner and animal services department employees will be given the opportunity to present oral and written testimony and other evidence, and to present oral and written argument. The hearing need not be conducted according to technical judicial rules relating to evidence, witnesses and discovery. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of the evidence over objection in civil actions.
 - (2) Transcript of Hearing. Oral testimony at the hearing will not be transcribed by a court reporter unless the animal owner arranges and pays for a court reporter to be present at the hearing.
 - (3) Decision. Within 15 days after the conclusion of the hearing, the hearing officer will issue a written proposed decision affirming, revising, or reversing the order.

The proposed decision will be based on the record and include a statement of the factual and legal basis of the decision.

(e) Procedures After Hearing.

- (1) The animal services director will issue a final order after considering the hearing officer's proposed decision. Within 15 days after receiving the hearing officer's proposed decision, the animal services director will send to the owner a notice of the final order and a copy of the hearing officer's proposed decision.
- (2) If the final order designates the animal as potentially dangerous or dangerous, then the owner may keep the animal only after applying for and obtaining a permit, as provided in this chapter. The animal services director retains discretion to accept or deny a permit to keep the animal.
- (3) If the final order revokes a permit, then within 10 days of the date of the notice of order the owner of the animal shall surrender the animal to the animal services department or place the animal outside of Contra Costa County with permission from the new jurisdiction.
- (4) If the final order after hearing overturns the animal services director's order, then any bond obtained by the animal owner shall be released and, if applicable, the animal shall be returned to the custody of the owner.

(f) Appeal of Final Order to the Superior Court. A final order issued under this chapter may be appealed to the Superior Court in accordance with Code of Civil Procedure section 1094.5.

(g) Written Notices. All notices, orders, and decisions issued under this chapter shall be sent by first class mail to the animal's owner at the address identified on the application for the permit to keep the potentially dangerous or dangerous animal, if any, or at the address identified on the animal's license with the County. The animal's owner shall promptly notify the animal services department of any change of address. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.408 Restrictions on Animal Ownership by Convicted Felons.

(a) A person who has been convicted of a felony under the laws of the United States, of the state of California, or any other state, government, or country, who owns, purchases, receives, or has in his or her possession or under his or her custody or control an animal that poses a danger to public health, safety, or welfare if misused by a convicted felon is guilty of a misdemeanor, unless the person possesses a current, valid permit for that animal as provided in this section. A convicted felon under this section does not include felons whose convictions were set aside pursuant to Penal Code Section 1203.4.

- (1) "Misuse" by a convicted felon means use of an animal in a threatening or aggressive manner, or in the commission of a crime.

- (2) An animal whose owner is in violation of this section shall be impounded, and may be euthanized, at the owner's expense.
 - (3) An animal that poses a danger to public health, safety, or welfare if misused by a convicted felon under this section means any of the following:
 - (A) A dog weighing more than 20 pounds;
 - (B) An animal that has been designated potentially dangerous or dangerous under this chapter;
 - (C) An animal designated by the animal services director as posing a danger to public health, safety, or welfare if misused by a convicted felon based upon the following factors:
 - (i) The nature of any complaints regarding the animal,
 - (ii) The strength of the animal, including jaw strength,
 - (iii) The animal's tolerance for pain,
 - (iv) The animal's tendency to refuse to terminate an attack,
 - (v) The animal's potential propensity to bite humans or other domestic animals,
 - (vi) The animal's potential for unpredictable behavior,
 - (vii) The animal's aggressiveness, and
 - (viii) The likelihood that a bite by the animal will result in severe injury.
- (b) Felon Prohibited Animal Permit.
- (1) A convicted felon who wishes to own, purchase, receive, or have in his or her possession or under his or her custody or control a dog weighing more than 20 pounds, or an animal that the animal services director designates as posing a danger to public health, safety, or welfare if misused by a convicted felon as provided in this section, may apply for a prohibited animal permit to own, keep, or maintain that animal.
 - (2) If there is probable cause to believe that an animal poses a danger to public health, safety, or welfare if misused by a convicted felon, the animal services director may order the animal impounded until any required permit is obtained.
 - (3) If the animal services director designates an animal as posing a danger to public health, safety, or welfare if misused by a convicted felon, written notice of this designation shall be mailed to the animal's owner.

- (4) The owner of an animal designated as posing a danger to public health, safety, or welfare if misused by a convicted felon, must apply for a prohibited animal permit and pay an application fee within 15 calendar days after the mailing of the written notice of designation.
- (5) The animal services director may deny a prohibited animal permit if he or she determines that the animal poses a danger to public health, safety, or welfare, or may condition the issuance of the permit upon the permittee's written agreement to comply with conditions of ownership to be determined by the animal services director. These conditions of ownership may include, but are not limited to, the permit conditions imposed for animals designated potentially dangerous or dangerous under this chapter.
- (6) The animal services director may revoke a prohibited animal permit if there is probable cause to believe that the convicted felon's continued ownership of the animal poses a danger to public health, safety, or welfare.
- (c) This section does not apply to any assistance dog, including guide dogs, signal dogs, and service dogs, trained or in training to assist a qualified individual with a disability. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.410 Animals Designated by Other Jurisdictions. Any person who wishes to bring into the County an animal that has been designated potentially dangerous or dangerous, or an equivalent designation, by another jurisdiction shall report the designation to the animal services department before entering the County and shall apply for a permit to keep the animal in the County. An animal that has previously been determined to be potentially dangerous or dangerous, or the equivalent, by another jurisdiction may not be present in the County unless the animal's owner complies with the potentially dangerous or dangerous animal permit requirements under this chapter. Animals in violation of this section are subject to impoundment and humane destruction by injection after notice to the animal's owner and, if requested, a hearing under this chapter, except that the only issues for hearing are whether the animal ever received a potentially dangerous, dangerous, or equivalent designation in another jurisdiction, and whether the animal's owner complied with the permit requirements under this chapter. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

Article 416-18.6 Enforcement

416-18.602 Enter and Inspect Private Property. To the extent allowed by law, whenever necessary to enforce any provision of this chapter, an authorized employee of the animal services department may enter and inspect private property. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.604 Seize and Impound Animal. An authorized employee of the animal services department may seize and impound, at the discretion of the animal services director, any animal designated potentially dangerous or dangerous until a permit is obtained or pending the outcome of any hearing.

- (a) The owner of an animal impounded pursuant to this chapter shall be charged for all impoundment costs and fees unless a final determination is made that the animal is not potentially dangerous or dangerous.
- (b) No impounded animal designated potentially dangerous or dangerous shall be released to the custody of its owner unless all costs and fees assessed pursuant to this division have been paid and all permit conditions have been satisfied. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.606 Require Bond. If an investigation is conducted regarding whether an animal should be designated potentially dangerous or dangerous, or regarding whether an animal already so designated has violated permit conditions, then during the investigation the animal services director may require the animal's owner to post a bond to secure the release of the animal to the owner's possession during the investigation. The animal services director may order the release of an animal under investigation only if the director first determines the animal does not pose an undue risk to public safety and the owner has the ability to prevent the animal from being at large and from posing a threat to public safety. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.608 Other Remedies. The County may seek compliance by any remedy allowed under this Code, including but not limited to revocation, administrative fines, infraction citations, and any other remedy allowed by law. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

416-18.610 Other Actions. Nothing in this chapter limits the right of any person or law enforcement officer to take any other action against a potentially dangerous or dangerous animal or its owner that is otherwise permitted or provided by law. (Ord. 2020-04 § 2, 2017-12 § 2, 2005-24 § 2, 87-74 § 5, 80-97 § 2.)

SECTION III. Article 416-12.4 is deleted from the County Ordinance Code.

SECTION IV. EFFECTIVE DATE. This ordinance becomes effective 30 days after passage, and within 15 days after passage must be published once with the names of supervisors voting for or against it in the Contra Costa Times, a newspaper published in this County.

PASSED ON __March 20 2020__ by the following vote:

AYES: Gioia, Andersen, Burgis, Mitchoff, Glover

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: DAVID J. TWA,
Clerk of the Board of Supervisors
and County Administrator

__Candace Andersen__
Board Chair

By: __June McHuen__

[SEAL]

Deputy

KSK:

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