

## **ORDINANCE NO. 2005-25**

### **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 repeals Article 416-12.4 of the County Ordinance Code in its entirety and replaces it with a new Article 416-12.4, to regulate the ownership or possession of potentially dangerous and dangerous animals.

**Section II.** Article 416-12.4 of the County Ordinance Code is repealed in its entirety and replaced by a new Article 416-12.4, added by this Section II, to read:

#### **"Article 416-12.4. Dangerous Animals"**

##### **416-12.402 Potentially dangerous animal.**

Any animal, except a dog assisting a peace officer engaged in law enforcement duties, that demonstrates any of the following behavior is a "potentially dangerous animal:"

(a) Any animal that, on two separate occasions within a 36-month period, engages in any unprovoked behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper of the animal.

(b) Any animal that, when unprovoked, bites a person causing a minor injury not resulting in muscle tears or disfiguring lacerations or requiring multiple sutures, or corrective or cosmetic surgery.

(c) Any animal that, when unprovoked, kills, seriously bites, inflicts injury, or otherwise causes injury to a domestic animal off the property of the owner or keeper of the attacking animal.

(d) Any animal that, when unprovoked, has engaged 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. (Ords. 2005-25 §2, 87-74 §2).

##### **416-12.404 Dangerous animal.**

(a) Any animal, except a dog assisting a peace officer engaged in law enforcement duties, that demonstrates any of the following behavior, is a "dangerous animal:"

(1) Any animal that, when unprovoked, inflicts severe injury on or kills a human being who is conducting himself or herself peacefully and lawfully. A "severe injury" within this chapter 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.

(2) Any animal designated as a potentially dangerous animal that, after its owner or keeper has been notified of this designation, exhibits any of the behaviors described in Section 416-12.402.

(3) Any animal that is associated with conduct that results in the animal's owner or keeper being convicted under Penal Code Section 597.5 (a) or any animal used during or in the commission of a crime that constitutes a misdemeanor or a felony.

(4) Any animal that attacks livestock off the property of the owner of the attacking animal.

(b) For the purposes of this section, 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 the laws of this state or any city or county, or by the laws or postal regulations of the United States, or when he or she is on the property upon express or implied invitation. (Ords. 2005-25 §2, 87-74 §3).

#### **416-12.406 Hearing Procedures.**

(a) If an animal services officer determines there is probable cause to believe that an animal is potentially dangerous or dangerous, or that the owner or keeper of an animal previously determined to be potentially dangerous or dangerous has violated any animal permit conditions, the animal services director shall hold a public hearing to determine whether grounds exist to designate the animal potentially dangerous or dangerous, or to determine whether permit conditions have been violated, and if so, what orders and penalties should apply. If the owner or keeper of the animal does not dispute the charges alleged, he or she may waive the right to a hearing and, if eligible, immediately apply for an animal permit under this article.

(b) At least five business days prior to the hearing, the animal services director shall serve the owner or keeper of the animal with a notice containing a statement of the charges, and the date, time and place of hearing. Service shall be by first-class mail or personal service.

(c) Evidence received at the hearing must be relevant and of such nature as responsible persons are accustomed to rely on in the conduct of serious affairs. Written statements by a county officer or employee, an officer or employee of the state, or an officer or employee of any law enforcement or fire protection agency acting in the course and scope of their official duties or employment, written records of the animal services department, and statements under penalty of perjury may be accepted as evidence that the fact(s) or condition(s) expressed therein do or do not exist.

(d) The animal services director will consider the following factors in determining whether an animal is potentially dangerous or dangerous:

(1) Whether any injury or damage 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 or damaged 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 any injury or damage 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 or damaged 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 any injury or damage 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. (Ords. 2005-25 §2, 83-10 §4, 80-97 §2).

#### **Section 416-12.408 Findings After Hearing**

(a) After notice and hearing upon charges following the procedure described in Section 416-12.406, the owner or keeper of the animal will be provided with written notice, served by first-class mail, of the determination and order issued by the animal services director. If a determination is made after hearing that an animal is potentially dangerous or dangerous, the animal will be designated potentially dangerous or dangerous and may only be owned, kept or maintained by the current or any subsequent owner or keeper upon issuance of a potentially dangerous or dangerous animal permit as provided in Section 416-12.412. The animal services director retains discretion as to which animals are eligible for a potentially dangerous or dangerous animal permit. If an animal is eligible for the permit, notice of its eligibility will be provided with the notice of determination after hearing. If a determination is made after hearing that the owner or keeper of the animal has violated the conditions of a previously issued potentially dangerous dog or dangerous dog permit, the permit is immediately revoked and the animal is subject to humane destruction by injection at the discretion of the animal services director ten calendar days after mailing written notice of the determination.

(b) If there are no additional instances of the behavior described in Section 416-12.402 within a 36-month period from the date of designation as a potentially dangerous animal, the animal's potentially dangerous designation shall be removed by the animal services director. (Ords. 2005-25 §2, 80-97 § 2).

#### **Section 416-12.410 Destruction of dangerous animal.**

Upon a determination that an animal is dangerous after the notice and hearing provided for in Section 416-12.406, the animal services director may further find, in writing with supporting reasons, that an animal is so dangerous, or that other special circumstances exist, such that maintaining the animal poses a substantial threat to public health and safety. Ten calendar days after mailing notice of a finding under this section, the animal services director may dispose of any such dangerous animal by humanely destroying it by injection. (Ords. 2005-25 §2, 87-74 § 5).

#### **Section 416-12.412 Potentially dangerous or dangerous animal permit required.**

If a determination is made after hearing that an animal is potentially dangerous or dangerous and is eligible to be owned, kept or maintained under a potentially dangerous or dangerous animal permit, the owner or keeper of the animal must submit a completed application, including payment of all required fees, that certifies compliance with all applicable permit conditions within 15 calendar days after written notice of the determination is mailed, unless an extension of time is granted by the animal services director. An animal whose owner or keeper fails to comply with the permit conditions within this time frame may be impounded and humanely destroyed by injection at the discretion of the animal services director. (Ords. 2005-25 §2, 80-97 § 2).

#### **Section 416-12.414 Contents of animal permit application.**

An application for a potentially dangerous or dangerous animal permit shall include:

- (a) The true name and address of the applicant and of the owner or keeper of the animal, and the names and addresses of two persons who may be contacted in the case of emergency.
- (b) An accurate description of the animal for which the permit is requested.
- (c) The address or place where the animal will be located.
- (d) The purpose for which the animal will be possessed or kept.
- (e) An application fee for the animal.
- (f) Such other information as the animal services director may require. (Ords. 2005-25 §2, 80-97 § 2).

**Section 416-12.416 Investigation.**

(a) Upon receipt of a completed permit application, the animal services director may investigate the application and may grant a potentially dangerous or dangerous animal permit if the director finds the following conditions satisfied:

- (1) Facilities exist at the location to adequately secure, feed, house and maintain the animal.
- (2) Possession and maintenance of the animal at the 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 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 location has not resulted in, and is not likely to result in, the animal being subjected to neglect, suffering, cruelty, or abuse.
- (5) Neither the applicant, owner, nor the keeper of the animal has had a potentially dangerous or dangerous animal permit or any other license required under this division revoked, or been convicted of a violation of this division or any law regulating animals within three years.
- (6) Possession of the animal at the location specified will not violate any law, ordinance, or regulation.

(b) An inspection fee for evaluating the facilities where an animal is maintained will be charged to the applicant, owner or keeper of the animal for each inspection deemed necessary following the initial investigation. (Ords. 2005-25 §2, 80-97 § 2).

**Section 416-12.418 Review of permit denial.**

Within seven calendar days after the mailing of written notice that a potentially dangerous or dangerous animal permit has been denied, the owner or applicant may file with the animal services director a written request for review of the denial decision. Only one request for review may be made. The request shall state all grounds for review and present in writing the evidence relied upon to support granting the permit. The animal services director may further investigate the application and shall reconsider the application. The permit denial is stayed pending reconsideration. The applicant for a potentially dangerous or dangerous animal permit bears the burden of proof to justify issuance of a permit. If no appeal of the denial of the permit application is filed, or if the animal services director upholds a permit denial after reconsideration of a permit denial,

the animal services director may impound the animal and humanely destroy it by injection 10 calendar days after mailing written notice of the denial. (Ords. 2005-25 §2, 83-10 §§ 5, 7).

**Section 416-12.420 Permit renewal and expiration.**

A potentially dangerous or dangerous animal permit issued to the owner or keeper of the animal is valid for not more than one year from the date of its issuance. A permit may be renewed for subsequent years following the same procedures as are applicable to an original permit. No person holding a potentially dangerous or dangerous animal permit has the right to an automatic renewal of that permit. Failure to renew a permit prior to its expiration will result in a late fee and the animal may be impounded and humanely destroyed by injection. (Ords. 2005-25 §2, 80-97 § 2).

**Section 416-12.422 Permit conditions.**

All potentially dangerous and dangerous animal permits are subject to the following conditions:

- (a) Permittees must comply with all relevant state laws and ordinances.
- (b) The potentially dangerous animal must be properly licensed and vaccinated.
- (c) The permit is nontransferable.
- (d) The owner or keeper of the animal may not be a minor.
- (e) The animal shall not be possessed or maintained at any location other than that specified in the permit.
- (f) Permittees shall display on the property where the animal is kept a sign containing a warning that there is a potentially dangerous or dangerous dog 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 must be securely maintained at all times. Permittees shall immediately notify the animal services department if the animal is at large as defined in section 416-4.402, or if the animal has attacked another animal, bitten a human being, or has died. If the animal is not securely confined indoors, it must be confined as provided below unless the animal services director modifies the conditions of confinement where warranted:
  - (1) 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; or
  - (2) 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 when off the property of its owner or keeper; or
  - (3) Humanely confined in a vehicle so that it can neither escape nor inflict injury on passers by.

(h) The animal shall not be loose or allowed to endanger the peace, health, or safety of people, domestic animals or native wildlife.

(i) The animal shall not be subject to neglect, suffering, cruelty, or abuse.

(j) 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.

(k) The animal services director must be allowed at any reasonable time to inspect the animal and the place where the animal is located.

(l) Payment of all required fees in accordance with a fee schedule adopted by resolution of the board of supervisors, under section 416-12.426.

(m) The animal's owner or keeper must allow and pay for the animal to be sterilized and have a microchip implanted by the animal services department for identification purposes.

(n) For potentially dangerous animals only, the following additional conditions apply:

(1) The potentially dangerous animal must complete an obedience course approved by the animal services director, at the owner's expense, within 60 days after release of the animal to its owner or keeper, or within a reasonable time as agreed upon by the animal services director.

(2) Permittees shall notify the animal services department within 48 hours of the potentially dangerous animal being sold, transferred or permanently removed from the location designated on the permit, and provide the name, address, and phone number of the new owner or keeper of the animal and the new location of the animal.

(o) For dangerous animals only, the following additional conditions apply:

(1) A dangerous animal securely confined in an enclosure shall not be tethered.

(2) Unless a dangerous animal is securely confined indoors or in an outdoor enclosure on the property where the animal is maintained as described in Section 416-12.422(f)(1) above, the animal may only be removed for the purposes of obtaining veterinary care, being sold or given away, or to comply with any provision of law or with a directive of the animal services director.

(3) Within 30 days after the animal is designated dangerous, the owner or keeper of the animal 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, and the local branch of the U.S. Post Office and all utility companies that provide services to the premises where the animal is kept.

(4) The owner or keeper of the dangerous animal must present to the animal services director proof that the owner or keeper has procured liability insurance from an insurer licensed to practice 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 any person or persons, or loss or damage to any property caused by or resulting from any act of such animal. Liability insurance shall not be canceled unless the owner or keeper ceases to own or keep the animal prior to expiration of that insurance. Coverage shall be evidenced by a certificate issued by the insurer. 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.

(5) Permittees 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 new owner or keeper of the animal and the new location of the animal. (Ords. 2005-25 §2, 87-74 §6, 80-97 §2).

**Section 416-12.424 Animals from other jurisdictions.**

No animal that has previously been determined to be potentially dangerous, dangerous or vicious after an administrative hearing by another jurisdiction shall be kept, owned or harbored in Contra Costa County unless the animal's owner or keeper complies with the county potentially dangerous or dangerous animal permit requirements under this article. Potentially dangerous or dangerous animal permits must be obtained prior to bringing the animal into the county. Animals in violation of this section are subject to impoundment and humane destruction by injection after notice and a hearing under section 416-12.406, except that the only issues for hearing are whether the animal ever received a potentially dangerous, dangerous or vicious animal designation in another jurisdiction, and whether the animal's owner or keeper complied with the permit requirements under this article. (Ord. 2005-25 §2).

**Section 416-12.426 Fees.**

Animal permit application fees, permit fees, late fees, impound fees, inspection fees, microchip fees and sterilization fees shall be established by resolution of the board of supervisors. (Ords. 2005-25 §2, 80-97 §2).

**Section 416-12.428 Impoundment.**

(a) Any animal subject to potentially dangerous or dangerous animal proceedings may be impounded at the discretion of the animal services director pending hearings and determinations made under this article and until any required permit is obtained. The animal's owner shall be charged for all impoundment costs and fees unless a determination is made that the animal is not potentially dangerous or dangerous.

(b) No impounded animal designated as potentially dangerous or dangerous shall be released to the custody of its owner or keeper unless all fees assessed pursuant to this division have been paid and all permit conditions under Section 416-12.422 have been satisfied.

(c) At the discretion of the animal services director, any animal impounded pursuant to this section may be returned to the custody of its owner or keeper pending hearing and decision if the director determines the return poses no threat to public health and safety. The owner, if authorized by the animal services director, may gain custody of the animal by posting a cash bond or other security in an amount to be determined by the animal services director as necessary to assure the return of the animal to the animal services department. The bond or security will be forfeited if the animal is not delivered into the custody of the animal services department upon a finding that the animal is potentially dangerous or dangerous. (Ords. 2005-25 § 2, 80-97 § 2).

**Section 416-12.430 Exception.**

Nothing in this chapter shall limit the right of any person or officer to take any proceedings against a potentially dangerous or dangerous animal or its owner or keeper that are otherwise permitted or provided by law. (Ords. 2005-25 § 2, 80-97 § 2).

**416-12.432 Restriction on future ownership.**

(a) Any person who owns, possesses, keeps or harbors an animal determined to be potentially dangerous or dangerous pursuant to Section 416-12.408 without a dangerous animal permit may, after opportunity for hearing and a finding of good cause, be subject to restrictions on his ownership of other animals of the same species for a period of five years after the original determination of danger.

(b) At least 15 calendar days prior to imposition of restrictions, the animal services director shall mail or otherwise deliver to the person on whom restrictions are proposed a notice containing a statement of the reasons supporting the imposition of restrictions and specifying the proposed restrictions and notice of the person\*s right to request, in writing within five calendar days of receipt of the notice, a hearing before the director as to the existence of good cause for imposition of restrictions. If a hearing is requested, the director shall mail to the requesting party notice of the date, time and place of the hearing. If, after hearing, the director determines that good cause for imposition of restrictions exists, the director shall impose the specified restrictions 10 calendar days after mailing notice of the decision. If no hearing is requested, the director shall impose restrictions 15 calendar days after mailing of the original notice. (Ords. 2005-25 § 2, 87-74 § 4).

**Section 416-12.434 Penalties for violation of dangerous animal permit.** It shall be a misdemeanor for any owner or keeper of an animal previously designated as dangerous to violate any of the conditions of the dangerous animal permit under Section 416-12.422, punishable as provided by law. If an owner or keeper is convicted of violating this section, the court may, upon good cause, order the dangerous animal seized, declared a nuisance and destroyed. Any person convicted in violation of this section shall be prohibited from owning, harboring or keeping any animal within Contra Costa County for a minimum of five years. (Ord. 2005-25 § 2).

**Section 416-12.436 Prohibited dog ownership by convicted felons.**

(a) Any 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 a dog that poses a danger to the public’s health, safety or welfare if misused by a convicted felon is guilty of a misdemeanor, unless the person possesses a current, valid prohibited dog permit for that dog as provided in section 416-12.438. A convicted felon under this article shall not include felons whose convictions were set aside pursuant to Penal Code section 1203.4. “Misuse” by a convicted felon means use of a dog in a threatening or aggressive manner, or in the commission of a crime.

(b) Any dog whose owner or keeper is in violation of this section shall be impounded, or impounded subject to destruction, at the owner’s expense.



(c) A dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon under this section means any of the following:

(1) A dog weighing more than 20 pounds.

(2) A dog who has been designated a potentially dangerous or dangerous animal under Sections 416-12.402 and 416-12.404 of this code.

(3) A dog designated by the animal services director as posing a danger to the public's health, safety or welfare if misused by a convicted felon based upon the following factors:

(i) The nature of any complaints regarding the dog.

(ii) The strength of the dog, including jaw strength.

(iii) The dog's tolerance for pain.

(iv) The dog's tendency to refuse to terminate an attack.

(v) The dog's potential propensity to bite humans or other domestic animals.

(vi) The dog's potential for unpredictable behavior.

(vii) The dog's aggressiveness.

(viii) The likelihood that a bite by the dog will result in serious injury. (Ord. 2005-25).

#### **Section 416-12.438 Prohibited dog permit.**

Any 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 under section 416-12.436(c)(1), or a dog that the animal services director designates as posing a danger to the public's health, safety or welfare if misused by a convicted felon under section 416-12.436(c)(3), may apply for a prohibited dog permit to own, keep or maintain that dog. If there is probable cause to believe that a dog poses a danger to the public's health, safety or welfare if misused by a convicted felon, the dog may be impounded pending a determination made under this article and until any required permit is obtained. If the animal services director designates a dog as posing a danger to the public's health, safety or welfare if misused by a convicted felon, written notice of this designation shall be mailed to the owner or keeper of the dog. The owner or keeper must pay an application fee and apply for the prohibited dog permit within fifteen calendar days after the mailing of the written notice of designation. The animal services director may deny a prohibited dog permit if he or she determines that the dog poses a danger to the public's 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, those found under section 416-12.422. A prohibited dog permit may subsequently be revoked by the animal services director if there is probable cause to believe that the convicted felon's continued ownership of the dog poses a danger to the public's health, safety or welfare. (Ord. 2005-25).

**Section III. Effective Date.** This ordinance becomes effective 30 days after passage, and within fifteen days after passage shall be published once with the names of the

Supervisors voting for and against it in the Contra Costa Times, a newspaper published in this County.