



Agenda Date: 11/6/2007
Agenda Placement: 6S

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Patricia Tyrrell for Westmeyer, Robert - County Counsel
County Counsel
REPORT BY: Susan Ingalls, Paralegal, 259-8152
SUBJECT: Potentially Dangerous and Vicious Animals Ordinance (2nd Reading & Adoption)

RECOMMENDATION

County Counsel requests a second reading and adoption of an ordinance amending Chapter 6.16 of the Napa County Code relating to potentially dangerous and vicious animals.

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

EXECUTIVE SUMMARY

The proposed ordinance would amend Chapter 6.16 to: 1) establish definitions for "potentially dangerous" animal and "vicious" animal; 2) provide authority to the Chief Animal Control Officer to determine whether an animal is dangerous or vicious and the conditions for safe release without the need for hearing; 3) amend procedures for hearings regarding time frames and evidence and to provide for a hearing at the owner's request or for an automatic hearing if the animal cannot be safely released or humane destruction is directed; 4) allow the Hearing Panel to make its determination and order within 30 days of the hearing and an appeal filed by the owner with the Superior Court within 5 days of service of the decision in writing to conform with the provisions of Food and Agriculture Code section 31622(a); and 5) impose monetary penalties (fines) set by resolution.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On October 23, 2007, the Board opened the public hearing and introduced the ordinance, read the title, waived reading the balance of the ordinance and declared its intention to adopt the ordinance on November 6, 2007. The ordinance is now before the Board for formal adoption. Staff recommends adoption of the Ordinance.

The background relating to the ordinance presented on October 23, 2007 was as follows:

In 2006, the Napa County Board of Supervisors and Napa City Council created a Joint Task Force to review how the County and City handled problems with dangerous dogs and to suggest how the public and dog owners may be better served.

After receiving input from the Joint Task Force, attorneys from the Napa City Attorney's Office and Napa County Counsel's Office collaborated in researching changes to the County's and City's dangerous animal ordinances suggested by the Task Force. The ordinance proposed for the County to adopt is attached. After adoption by the County, a compatible ordinance will be proposed for adoption by the City so that the City may continue to contract with the County Sheriff to provide enforcement services.

In summary, the ordinance proposes the following principal changes:

1. **Subcategorize the definition of "dangerous" animal to establish definitions for "potentially dangerous" animal and "vicious" animal.**

This allows the distinction between animals that have caused damage and/or injury (vicious) from those who have posed a serious threat (potentially dangerous).

2. **Provide authority to the Chief Animal Control Officer to determine whether an animal is dangerous or vicious and the conditions for safe release to the owner and/or keeper (hereafter "owner") without the need for hearing.**

Currently, the Chief Animal Control Officer, within 10 days following completion of an investigation, may issue a certification that there is probable cause to believe that an animal is dangerous. The matter is then scheduled for a hearing before either the City or County Dangerous Animal Hearing Panel. The hearing is scheduled within 10 working days from the date of service of the certification.

The proposed ordinance will allow a safe release without first requiring a hearing. This will reduce animal shelter costs that the owner must bear. The criteria for the Chief Animal Control Officer to consider whether an animal is potentially dangerous or vicious and the conditions for safe release set forth in the proposed ordinance establish standards for the Officer to follow.

3. **If the Chief Animal Control Officer determines that the animal may not be safely released or if the owner violates a condition of release leading to a directive by the Chief Animal Control Officer that the animal should be humanely destroyed, a hearing is automatically scheduled if consent to the humane destruction of the animal is not obtained from the owner within 5 days.**

This keeps in place the automatic hearing provision so that the Dangerous Animal Hearing Panel, and not the Chief Animal Control Officer, makes the ultimate determination of whether an animal should be humanely destroyed.

4. The owner has the right to a hearing challenging the decisions of the Chief Animal Control Officer to the Dangerous Animal Hearing Panel.

Currently, a hearing on the issue of whether an animal is dangerous automatically goes to hearing within 10 working days of service of the certification (which, as stated above, could be issued within 10 days of conclusion of the investigation). Early during the course of investigation, the Animal Control Officer typically notifies the Clerk of the Board of the possibility of a hearing in order to provide sufficient time (approximately 30 days) for the Clerk to schedule a hearing in the event a certification is ultimately issued.

As proposed, the grant of authority to the Chief Animal Control Officer to determine that an animal is potentially dangerous or vicious and the conditions for safe release eliminates the need for an automatic hearing before the Dangerous Animal Hearing Panel. If an owner, however, wishes to challenge the decisions of the Chief Animal Control Officer, the owner may do so by requesting such a hearing. The hearing will be scheduled within 30 days of the request. At least 5 days notice of the hearing will be provided to the owner, other persons involved with the incident(s) in question, and any other person who has requested special notice of such hearings.

5. Sufficient copies of documentary evidence shall be presented to the Clerk of the Board no later than noon of the working day before the date set for hearing.

This is a new provision to facilitate a more expeditious hearing.

6. The determination and order of the Hearing Panel shall be made within 30 days after the conclusion of the hearing and shall be final unless an appeal is filed by the owner with the Superior Court within 5 days of service of the decision in writing. Time periods for owner's actions are extended by 5 days if service is by first class mail.

Currently, under the County's ordinance, the Hearing Panel decision is to be made within 10 working days after the conclusion of the hearing and provides the owner 30 days to appeal to the Superior Court. The proposed changes conform to the provisions of Food and Agriculture Code section 31622(a).

7. Violations of a decision of the Animal Control Officer or order of the Hearing Panel will result in a directive issued by the Animal Control Officer that the animal be humanely destroyed. Such a directive shall be automatically scheduled for hearing before the Hearing Panel if consent from the owner for humane destruction of the animal cannot be obtained within 5 days.

This is a new provision.

8. Monetary penalties (fines) shall be imposed as set forth by resolution of the Board of Supervisors. The Animal Control Officer may dispose of the animal if the penalty is not paid within 30 days of personal service of the Hearing Panel's Order (35 days if mailed by first class mail).

This is a new provision. Food and Agriculture Code section 31662 permits fines for potentially dangerous dogs up to \$500 per violation and up to \$1000 per violation for vicious dogs. The resolution accompanying

this ordinance provides for fines in accordance with section 31662. The fines can be imposed for the initial violation and for violations of a decision of the Animal Control Officer or order of the Hearing Panel.

SUPPORTING DOCUMENTS

A . Ordinance

CEO Recommendation: Approve

Reviewed By: Maiko Klieman