

ORDINANCE AMENDING
COUNTY CODE CHAPTER 7 – ANIMALS AND FOWL, ARTICLE VIII
VICIOUS AND RESTRICTED DOGS
ORDINANCE NO. 17-_____

Strikethrough Version

An ordinance of the County of Santa Barbara amending the existing Chapter 7, Animals and Fowl, to revise laws and regulations for animals and fowl in Santa Barbara County.

WHEREAS, pursuant to Health and Safety Code Section §121690 and California Code of Regulations §§2606 and 2606.4 the local county health department is responsible for rabies control activities within the County; and

WHEREAS, pursuant to Food and Agriculture Code §31105 state law requires that the County provide for the impounding of dogs found running at large; and

WHEREAS, pursuant to Food and Agriculture Code §30801 state law authorizes the County to license dogs; and

WHEREAS, pursuant to Food and Agriculture Code §31683 state law authorizes the County to establish its own ordinance to control potentially dangerous or vicious dogs; and

WHEREAS, Animal Services, as the Administrative Authority, is proposing changes to update Chapter 7, Article VIII, Vicious and Restricted Dogs; and

WHEREAS, the Board of Supervisors finds that the amendments set forth in this Ordinance are exempt from the California Environmental Quality Act (CEQA) review pursuant to 14 CCR 15061(b)(3).

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA BARBARA ORDAINS AS FOLLOWS:

Article VIII. -Vicious and Restricted Dogs

Sec. 7-53. - Purpose.

Public Menace. Within the County of Santa Barbara there are ~~vicious~~ dogs that the presence of which has become a serious and widespread threat to the safety and welfare of the residents and/or domestic animals of the county that should be abated. The provisions of this article set forth the procedures by which a dog is determined to be a vicious dog or determined to be a restricted dog, thereby becoming subject to appropriate controls and other actions.

(Ord. No. 3856, § 1; Ord. No. 4059 § 1)

Sec. 7-54. - Definitions.

1. "Restricted dog" means:

- (a) Any dog which when unprovoked, engages in any behavior that requires a defensive action by a person to prevent bodily injury to any person, domestic animal or livestock, off the property of the owner or custodian of the dog; or
- (b) Any dog which, when unprovoked, bites a person or otherwise engages in aggressive behavior when off the property of the owner or custodian of the dog, causing a less severe injury than as defined as "Severe injury to a human" in Section 7-54; or
- (c) Any dog which, when unprovoked, has ~~killed, seriously bitten,~~ inflicted an injury less severe than a "Severe injury to an animal", as defined in Section 7-54, or otherwise caused injury to a domestic animal or livestock when off the property of the owner or custodian of the dog; and
- (d) Any dog for which an administrative hearing has been held and the dog has been determined to need to be closely controlled by the owner or custodian and restrictions have been designated by a hearing officer with jurisdiction in the County of Santa Barbara.

2. "Vicious dog" means:

- ~~(a) Any dog that engages in or has been found to have been trained to engage in exhibitions of illegal fighting; or~~
- (ab) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury to a person, as defined in Section 7-54, or kills a person; or
- (be) Any dog that kills or inflicts on another domestic animal or livestock a severe injury to an animal as defined in Section 7-54, when the killed or injured animal is properly contained on the property of its owner or custodian or is being lawfully walked on leash by its owner or custodian or is physically under the control of the owner or custodian (such as being held in the arms of the owner or custodian); or
- (ce) Any dog that has exhibited the behaviors defined under "Restricted Dog" (a), (b), or (c) and that has a documented prior history of such behaviors in Animal Services database or the records of another jurisdiction, which may include, but is not limited to, a prior warning following investigation of an incident, a documented bite to a human, or a determination that the dog is vicious or potentially dangerous pursuant to Chapter 9 of Division 14 of the California Food and Agricultural Code, or
- (de) Any dog previously determined to be and currently designated as a restricted dog in Santa Barbara County, which, after its owner or custodian has been notified of this determination, continues the behavior that resulted in designating it a restricted dog, engages in other behavior described in the "Restricted Dog" definition in Section 7-54, or is maintained in violation of Section 7-60, an administrative decision, a court order or restrictions placed on it; ~~or~~

~~(d) Any dog designated to be dangerous or vicious in another jurisdiction which exhibits any of the behavior defined in (a) or (b) above. (Ord. No. 3856, § 1; Ord. No. 4059 § 1)~~

3. "Severe injury to a human" means any physical harm to a human being that results in a serious illness or injury, including but not limited to a fracture, muscle tears or disfiguring lacerations requiring sutures or corrective or cosmetic surgery.

4. "Severe injury to an animal" means physical harm to a domestic animal that results in a serious illness or injury, requiring veterinary treatment for such injuries, including but not limited to fracture repairs, suturing of lacerations, internal injuries requiring surgery, and injuries ultimately resulting in the death or euthanasia of the animal.

5. "Impounded" means under the control and in the possession of the county.

6. "Director" means the Animal Services Director, or designee.

7. "Owner" means the owner of the dog subject to the provisions of this article.

8. "Custodian" means the person responsible for caring for and looking after the dog on behalf of the owner of the dog subject to the provisions of this article.

9. "Business day" means Monday through Friday, not including a County holiday

~~The provisions of this section shall not apply to any dog assisting a peace officer engaged in law enforcement duties~~

Sec. 7-55. - Dog bites by dogs at large—Penalty.

- (a) An owner or custodian of a dog who permits, allows or causes the dog to run, stray or be uncontrolled or at large upon a public street, sidewalk, park or other public property, or in or upon private property of another person without the consent of the property owner or person in lawful occupation or possession, is guilty of a public offense punishable as an infraction under section 7-64.
- (b) If said dog or other animal bites, attacks or causes injury to any human being or other domestic animal while stray or uncontrolled or at large upon a public street, sidewalk, park or other public property, or in or upon private property of another person or person in lawful occupation or possession, the owner or custodian is guilty of a public offense punishable as a misdemeanor.
- (c) When a violation of this section is punishable as a misdemeanor, the misdemeanor is punishable by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-56. - Authority to seize and impound animal posing an immediate threat to public safety.

- (a) If upon investigation it is determined by the animal control officer or law enforcement officer that probable cause exists that a dog poses an immediate threat to public safety, then the animal control officer or law enforcement officer may seize and impound the dog pending the hearing to be held pursuant to Section 7-57. ~~The hearing will be held within 10 business days from the date the dog is seized or impounded or within 10 days of notification to the owner or custodian.~~ The owner or custodian of the dog shall be liable for the costs and expenses of keeping the dog impounded if the dog is later adjudicated restricted or vicious. Such costs and expenses shall be paid prior to release of the dog. If the dog is not determined to be restricted or vicious, the owner or custodian is not liable for the costs and expenses of keeping the impounded dog.
- (b) Surrender of Dog. Any owner of a dog subject to the provisions of this section shall immediately surrender custody and control of such dog at the request of the animal control officer or law enforcement officer. A violation of the provisions of this subsection is a misdemeanor punishable by a fine not exceeding one thousand (\$1,000) dollars, or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

- (c) When a dog has been impounded pursuant to subsection (a) and it is not contrary to public safety, the director may permit the dog to be confined at the owner's expense in a department-approved animal or veterinary facility or at the owner's residence if conditions of confinement can be met.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-57. – Vicious or Restricted Dog Hearing.

- (a) Hearing. If an animal control officer or a law enforcement officer has investigated and determined that there is probable cause that a dog is potentially vicious or restricted, the director shall set an administrative hearing, to determine whether or not the dog in question should be declared restricted or vicious.
- (b) Notice of Hearing and Petition.
- (1) Subsequent to the investigation showing probable cause that a dog is potentially vicious or restricted, the animal control supervisor, animal control officer or law enforcement officer shall prepare a petition, which is a document that lays out the allegation that the dog is potentially vicious or restricted and the supporting evidence.
 - (2) Whenever possible, a complaint received from a member of the public which serves as the evidentiary basis for the animal control officer or law enforcement officer to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.
 - (3) A notice of the hearing shall be personally served on the owner or custodian or deposited in the mail to the owner or custodian within 15 calendar days of the seizure of the dog. The director shall notify the owner or custodian of the dog that an administrative hearing will be held, at which time he or she may present evidence as to why the dog should not be declared restricted or vicious.
 - (4) The owner or custodian shall be served the notice of the hearing, the time, date and location of the hearing, a copy of Article VIII Vicious and Restricted Dogs, and a copy of the petition, either personally, and/or by first class mail and certified mail return receipt requested. The hearing shall be held promptly within no less than five (5) working-business days nor more than ten (10) working-business days after the service upon the owner or custodian of the dog. For the purposes of this article, service is complete either (i) when the documents are personally served or (ii) five (5) business days after the documents are deposited in the mail or when the return receipt is received back from the recipient, whichever is earlier.
- (c) Conduct of Hearing. The hearing shall be conducted as an administrative hearing ~~or a limited civil case pursuant to Code of Civil Procedure Section 85, et seq.,~~ open to the public. The administrative hearing officer may admit into evidence all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The administrative hearing officer may find, upon a preponderance of the evidence, that the dog is restricted or vicious and shall make other orders or findings required or authorized by this article. The administrative hearing officer may decide all issues for or against the owner or custodian of the dog, even if the owner or custodian fails to appear at the hearing. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall 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 which might make improper the admissions of such evidence over objection in civil actions. The rules of privilege shall be effective in to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant or unduly repetitious evidence shall be excluded.
- (d) Administrative Hearing Officer. ~~If the dog owner or custodian is notified that an administrative hearing will be held,~~ The hearing shall be conducted by a neutral hearing officer. The department may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who signed the petition or directed the seizure or impoundment of the dog, and is not junior in rank to that person(s). In the alternative, the department may utilize the services of a hearing officer from outside the department who is employed either by the County or by a city or other county with which the County has an agreement for such services.

- (e) Administration of Oaths. The administrative hearing officer shall have the power to administer oaths or affirmations when necessary in conjunction with the hearing.
- (f) Record. The administrative hearing officer shall record the hearing on a recording device and shall make such recording available to the parties upon request. Animal Services shall provide a copy of the recording or a transcript prepared therefrom to any party who requests it and pays the cost of making such copy or preparing such transcript.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-58. - Notice of decision

- (a) Following an administrative hearing conducted pursuant to Section 7-57, a written notice of the decision shall be served on the department and the owner or custodian of the dog either personally and/or by first class mail and certified mail return receipt requested within fourteen (14) calendar days after the date of the hearing.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-59. - Consequences of vicious dog determination

- (a) A dog determined to be a vicious dog shall be euthanized by the department when it is found, after proceedings conducted under Section 7-5, that the release of the dog would create a significant threat to the public health, safety and welfare. If the dog determined to be vicious is not in the County's possession, the owner or custodian shall surrender the dog to the County.
- (b) If it is determined that a dog found to be vicious shall not be destroyed, the administrative hearing officer shall impose conditions necessary to protect the public health, safety and welfare. These conditions are limited to release to an approved animal rescue sanctuary for the remainder of the animal's life and no possibility of adoption. The owner or custodian is responsible for ensuring payment of all fees, charges and associated costs related to this release. The owner or custodian will provide proof to Animal Services within fourteen (14) calendar days of the fully executed contract with the County approved animal sanctuary. If the owner or custodian fails to pay all finer and charges for services performed by Animal Services pursuant to Section 7-56 through 7-59 fees and/or fails to provide proof of a contract with a County approved animal sanctuary within fourteen (14) days of the owner's or custodian's receipt of the notice of the decision, the dog will be deemed abandoned and may be transferred, adopted or euthanized by the department at its discretion.
- (c) The owner or custodian of a dog determined to be a vicious dog may be prohibited from owning, keeping, possessing or having custody of any dog for a period of up to three (3) years, if it is found at the hearing conducted pursuant to the petition to declare the dog vicious, that ownership or possession of a dog by that person would create a significant threat to the public health, safety and welfare.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-60. - Consequences of restricted dog determination.

~~A dog determined to be a restricted dog may be released to the owner or other custodian with restrictions that must be met prior to release of the dog to the owner or other custodian if the dog was impounded.~~

- (a) ~~A dog determined to be a restricted dog~~ The dog shall be properly licensed, microchipped, spayed or neutered, and vaccinated at the owner or custodian's expenses, prior to release to the owner or custodian if the dog was impounded.
- (b) If ~~the a dog determined to be a restricted~~ dog was not impounded, the dog owner or custodian shall provide proof that the dog is licensed, microchipped, spayed or neutered, and vaccinated within fourteen (14) calendar days after the decision ~~or court order~~ declaring the dog to be a restricted dog is served on the dog owner or custodian.

(c) Animal Services ~~may will~~ include the designation “restricted” in the license registration records of the dog.

(ed) The administrative hearing officer may impose other restrictions as are determined by the hearing officer to be necessary to protect the public health, safety and welfare. ~~appropriate~~ This determination shall take into consideration factors presented at the hearing, including but not limited to the nature of the attack, the size and strength of the dog, and the circumstances of the aggressive behavior. If the dog has been impounded, the administrative hearing officer may order that the dog not be released back to the owner until the owner has demonstrated compliance to Animal Services. The restrictions that the administrative hearing officer may impose pursuant to this subsection ~~which~~ may include, but will not be limited to, the following:

- (1) Fence or enclosure requirements;
- (2) Yard inspections;
- (3) Muzzling when in public;
- (4) Notification to Animal Services of incidents involving the restricted dog;
- (5) Training;
- (6) Maintenance of general liability insurance;

~~(7) An administrative hearing officer may impose such other reasonable restrictions as are determined by the hearing officer to be necessary to protect the public health, safety and welfare~~

(de) All charges for services performed by Animal Services pursuant to Section 7-56 through 7-60 and all fines shall be paid prior to the release of the dog to its owner or custodian within fourteen (14) calendar days after the services are performed or the charges and fines are ordered to be paid. If the charges and fines are not paid within fourteen (14) days after the services are performed or the fines are ordered to be paid, the dog shall be deemed to be abandoned and may be transferred, adopted or euthanized by the department at its discretion.

(f) The owner will advise Animal Services of his/her new address whenever the owner moves his/her residence or prior to re-homing the dog with the information of the name, address and phone number of the new owner.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-61. - Compliance with conditions and consequences of violation of conditions

(a) The hearing officer who heard the petition to determine if a dog is potentially vicious or restricted or other administrative hearing officer may schedule follow-up hearing dates to ensure compliance with all conditions imposed.

(b) Consequences that may result from the failure of an owner or custodian of a dog ~~released after a hearing pursuant to Section 7-57 or Section 7-59~~ to comply with any of the conditions imposed under Section 7-59 or 7-60 include, but are not limited to the following:

(1) The failure to comply with any condition shall be a violation of this Article that is punishable as a misdemeanor punishable by a fine not exceeding one thousand (\$1,000) dollars or by imprisonment in the County Jail for a period not exceeding six (6) months, or by both such fine and imprisonment;

(2) A violation of any part of an administrative decision or court order may be the subject of a civil action for injunctive relief to enjoin the person who violated the decision or order. The filing and prosecution of an action for injunctive relief shall not limit the authority or ability of the County to take any other action permitted by law;

(3) A violation of an administrative decision ~~or court order~~ following a determination that a dog is a restricted dog, may result in the filing of a new action conducted pursuant to Section 7-57 to determine if the dog is vicious as defined under the "Vicious dog" definition at Section 7-54 (2)(de)7-(e)-.

~~(3)~~(4) The hearing officer may order seizure of the dog to ensure compliance with the conditions placed on the owner following the hearing that have not been met.

(Ord. No. 3856, § 1; Ord. No. 4059, § 1)

Sec. 7-62. - Exceptions.

- (a) No dog may be declared restricted or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or custodian of the dog, or was teasing, tormenting, abusing, or assaulting the dog, or was committing or attempting to commit a crime. No dog may be declared restricted or vicious if the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault. No dog may be declared restricted or vicious if an injury or damage was sustained by a domestic animal or livestock which at the time of the injury or damage was sustained was teasing, tormenting, abusing or assaulting the dog.
- (b) No dog may be declared restricted or vicious if the injury or damage to a domestic animal or livestock was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or custodian, and the damage or injury was to a species or type of domestic animal or livestock appropriate to the work of the dog.
- (c) No dog may be declared restricted or vicious if the injury or damage to a person or domestic animal was sustained while the dog was a law enforcement dog performing law enforcement duties.
- (d) This article does not apply to humane society shelters, municipal animal control facilities, or to veterinarians or veterinary clinics.

Sec. 7-63. - Violation—Penalty for infraction.

Unless otherwise designated as a misdemeanor, any violation of this Article shall constitute an infraction punishable by:

- (a) A fine not exceeding one hundred (\$100) dollars for a first violation;
- (b) A fine not exceeding two hundred (\$200) dollars for a second violation of this article within one year;
- (c) A fine not exceeding five hundred (\$500) dollars for each additional violation of this article within one year.

(Ord. No. 3856, § 1; Ord. No. 4059 § 1)

Sec. 7-64. - Severability.

The provisions of this article are severable; and if any provision, clause, sentence, section, word, or part herein is found to be invalid, unconstitutional or inapplicable to any person or circumstances, such invalidity or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts of the article or its applicability to other persons or circumstances.

(Ord. No. 3856, § 1; Ord. No. 4059 § 1)

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____ 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

COUNTY OF SANTA BARBARA

By: _____
SUPERVISOR JOAN HARTMANN
CHAIR, BOARD OF SUPERVISORS

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

APPROVED AS TO FORM:
THEODORE FALLATI, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED:
VAN DO-REYNOSO. PhD
DIRECTOR
PUBLIC HEALTH DEPARTMENT

By: _____
Director