



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Counsel
Department No.: 013
For Agenda Of: March 6, 2007
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Name & Phone Stephen Shane Stark, County Counsel
Director(s) (805) 568-2950
Contact Info: Name & Phone Woody Lavayen, Chief Deputy County Counsel
(805) 568-2950

SUBJECT: Animal Cruelty Civil Injunction Ordinance – Referral to Staff

County Counsel Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions: That the Board of Supervisors:

1. Refer to staff a draft of a civil Animal Cruelty Injunction Ordinance for consideration.
2. Direct staff to report to the Board of Supervisors within 60 to 90 days regarding the feasibility of the adoption and implementation of a similar ordinance by the Board of Supervisors.

Summary Text:

Supervisor Carbajal requested staff to study and consider an ordinance allowing any individual to seek a court order civilly enforcing state animal cruelty laws (Penal Code section 597 *et seq.*), and to report back to the Board of Supervisors with a draft ordinance and report within 60-90 days.

Background: California law currently authorizes peace officers, humane society officers or animal control officers to impound abused and neglected animals. The proposed ordinance would authorize individuals to seek civil court orders enforcing animal cruelty laws. Such order may include authorization to take custody of abused and neglected animals.

Fiscal and Facilities Impacts:

Budgeted: Yes

Attachments: Sample draft ordinance.

Authored by: Woody Lavayen, Chief Deputy County Counsel

(805) 568-2950

Animal Cruelty Civil Injunction Ordinance

Section 1

- (a) This Ordinance shall be known as the "Animal Cruelty Civil Injunction Ordinance."
- (b) The purpose of this Ordinance shall be to provide a civil right of action to any interested party seeking to enjoin an act or acts of animal cruelty including, but not limited to, acts of animal hoarding.
- (c) For purposes of this Ordinance, "animal cruelty" shall be defined as it is in the California Penal Code sections 597 *et seq.* ("anti-cruelty laws").
- (d) For purposes of this Ordinance, "animal hoarding" shall mean the acts described in this subsection (d), by a person identified as an "animal hoarder" An "animal hoarder" is defined, for purposes of this Ordinance, as one who (1) possesses a large number of animals; (2) causes any act prohibited by the anti-cruelty laws; (3) keeps the animals in an overcrowded environment; and (4) displays an inability to recognize or understand the nature of, or has a reckless disregard for, the impact the environmental and housing conditions have on the animals' health and well-being.
- (e) The remedies available under this Ordinance are in addition to any criminal remedies that are available.

Section 2

Any interested party may be a plaintiff. An "interested party" is defined as any individual, organization, association of individuals or organizations, body politic or corporate, agency, municipality, county, town or other governmental entity. Any interested party has standing to bring an action under this statute based on the public policy against animal cruelty as embodied in the anti-cruelty laws, and the individual and public injury caused by animal cruelty. A defendant can be any individual, organization, association of individuals or organizations, body politic or corporate, agency, municipality, county, town or other governmental entity who has allegedly engaged or is engaging in animal cruelty.

Section 3

It shall be a violation of this Act to engage in any conduct prohibited by the anti-cruelty laws. Any interested party may bring a claim or cause of action to enjoin an act or acts of animal cruelty by filing a civil action in Superior Court. Such a claim or cause of action may be joined with other claims, or may be brought as the sole claim in an action.

Section 4

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- (a) Upon the filing of a verified complaint in the county in which a violation of the anti-cruelty laws has occurred, a temporary restraining order or preliminary injunction may be granted. When supported by the allegations in the verified complaint, the temporary restraining order or preliminary injunction may include an order providing, *inter alia*:
- i. Plaintiff or plaintiff's agents may take custody of some or all animals who are the subject of the animal cruelty alleged in the complaint; and
 - ii. If custody of all animals is not granted, plaintiff's agents, including veterinarians, will have continuing, full and complete access to all areas of defendant's premises to evaluate, monitor and treat the animal or animals allegedly being cruelly treated.
 - iii. If custody of all animals is not granted, the veterinarians or their agents and assistants shall also have the authority to remove animals in need of veterinary treatment that cannot reasonably be completed on the premises;
- (b) When a verified complaint supports a custody order, a court may require the defendant to post a bond equivalent to the costs of necessary veterinary care and daily maintenance of the animal or animals at issue. Such bond may include sufficient funds to pay for the costs of necessary veterinary care and daily maintenance of the animal or animals at issue through the resolution of the action. Where such a bond has been posted, a plaintiff in custody of an animal or animals pursuant to the Act may apply to the Court for use of these funds to pay for necessary veterinary care and daily maintenance of the animal or animals at issue.
- (c) When a verified complaint supports a custody order, plaintiff may authorize any veterinary treatment deemed necessary or urgent by a veterinarian licensed in the state.
- (d) When a verified complaint supports a custody order, plaintiff may authorize any veterinarian to euthanize any animal where that euthanasia is, in the opinion of two independent veterinarians, deemed necessary to prevent extreme pain or suffering.
- (e) A court may, in its discretion, require a plaintiff taking custody to post a bond not to exceed \$2000, to be deposited with the court until the resolution of the action.

Section 5

A permanent injunction may be granted based on written findings of fact, after presentation of evidence, in a court in the county in which a violation of the anti-cruelty laws has occurred. If the court determines that there would be a substantial risk of further animal cruelty if the animal or animals in question were returned to defendant, or if the

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court determines that additional animal hoarding may occur, the court may, as part of the permanent injunction,

(a) terminate the defendant's rights of possession and ownership and transfer the rights of ownership and possession to plaintiff or plaintiff's appropriate designee,

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(b) enjoin defendant from acquiring, owning or possessing animals for a specific period of time,

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(c) limit or otherwise restrict defendant's ability to acquire, own or possess animals, and

(d) enter any other such order as the court deems is necessary to prevent further animal cruelty or animal hoarding.

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