

Chapter 6.16 - POTENTIALLY DANGEROUS AND VICIOUS ANIMALS* **

6.16.010 - Purpose of provisions—Scope.

A. The maintenance of animals which are potentially dangerous or vicious and involve a threat to property and the health and safety of those on streets, sidewalks and private property where the animals are not maintained constitutes a serious hazard within the county. The increasing tendency to maintain animals, especially dogs, which by virtue of breeding or training have a propensity to attack others, compounds the hazard. Specific injuries to persons and animals resulting from attacks by such animals illustrates the need for regulation.

B. Every owner of an animal is held strictly accountable for the exercise of such control over the animal as necessary to insure that the animal does not destroy the property of other persons or injure human beings or other animals who are not on the premises where the animal is maintained. Such strict accountability is imposed whether or not the damage or injury results from the negligence or other fault of the owner, and regardless of the degree of precaution or control exercised by the owner.

C. Further, within the county there are potentially dangerous and vicious animals which constitute a public nuisance which should be abated. The provisions of this chapter provide an expedited, alternative administrative procedure by which animals found to be potentially dangerous or vicious may be abated and their owners or keepers appropriately penalized and otherwise held responsible for injury or damage caused by their animals. This chapter is intended to supplement rather than supplant any other remedy available either under state law or county ordinance, including but not limited to Section [6.04.250](#) of this code, as specifically allowed by California Civil Code Section 3342.5(e), and Food and Agriculture Sections 31601 et seq.

D. This chapter does not apply to commercial kennels, veterinarians, or to dogs utilized by the sheriff, police department, or any law enforcement officer in the performance of police work.

6.16.020 - Definitions.

As used in this chapter:

"Certification" means the animal control officer's written certification, following investigation, that an animal is potentially dangerous or vicious.

"Decision" means the animal control officer's written decision, rendered together with the certification, regarding whether the animal may be safely released and, if so, sets the terms and requirements for release to the owner or keeper.

"Directive" means the animal control officer's written directive that an animal certified to be potentially dangerous or vicious be humanely destroyed.

"Final decision" means any decision of the officer which becomes final pursuant to the terms of this chapter.

"Final order" means an order of the dangerous animal hearing panel which becomes final pursuant to the terms of this chapter.

"Keeper" means any person who keeps regular care of and resides with an animal, whether or not he or she actually owns the animal.

"Officer" means the chief animal control officer for the county of Napa or, in the absence of the chief animal control officer, a duly deputized animal control officer.

"Owner" means any person who owns or shares ownership of an animal (whether or not documented or registered).

"Potentially dangerous animal" means any animal which, when unprovoked, engages in aggressive conduct prompting or resulting in defensive action by any person to avoid bodily injury.

"Unprovoked" means conduct which is not:

1. In response to physical attack, taunting, or harassment upon the animal, its owner and/or keeper or other temporary attendant, or
2. In response to unlawful trespass onto private property, whether or not the private property owner actually owns the animal.

"Vicious animal" means:

1. Any animal seized under Section 599a of the California Penal Code and upon the sustaining of a conviction of the owner under subdivision (a) of Section 597.5 of the California Penal Code; or
2. Any animal which, when unprovoked, inflicts or causes injury to or kills a human being or domestic animal.

6.16.030 - Interim confinement of animal—Bond.

If the officer determines that there is reason to undertake an investigation as to whether an animal is a potentially dangerous or vicious animal, the officer may take such interim actions, including requiring a bond, as he or she deems appropriate, such that the animal shall be confined on an interim basis at an appropriate animal shelter or other location deemed suitable by the officer. As soon as reasonably practicable, the officer shall undertake to notify the owner and/or keeper of the animal of the interim confinement of the animal pending the officer's determination set forth in Section [6.16.040](#). All costs of such confinement shall be borne solely by the animal's owner and/or keeper.

6.16.040 - Investigation, certification and decision.

A. Investigation. The officer shall determine whether an animal is potentially dangerous or vicious as defined in Section [6.16.020](#). In so determining, the officer shall solicit, obtain and consider written and/or verbal statements, photographs and documents from all reasonably available witnesses to the relevant conduct and to the relevant history of the animal and the owner and/or keeper. Whenever possible, any complaint received from a member of the public

which serves as the evidentiary basis for the officer to find probable cause shall be sworn to and verified by the complainant. The officer shall promptly inform the owner and/or keeper of the nature of the investigation and invite the owner and/or keeper to provide statements, photographs or other documents relevant to the investigation.

B. Considerations. In determining whether the animal is potentially dangerous or vicious, and what disposition is appropriate to protect the public, the officer shall consider, among other things:

1. Any previous history of the animal attacking, biting or causing injury to a human being or other animal;
2. The nature and extent of injuries inflicted, damages sustained, and the number of victims involved;
3. The place where the aggressive conduct, attack, or injury occurred;
4. The presence or absence of any provocation for the aggressive conduct, attack, or injury;
5. The extent to which property has been damaged or destroyed;
6. Whether the animal exhibits any characteristics of having been trained for fighting, attack or aggression or other evidence to show such training or history of fighting;
7. Whether the animal exhibits any characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or other domestic animals or livestock;
8. Whether the animal can be effectively trained or retrained to change its temperament, characteristics or behavior;
9. The manner in which the animal had been maintained, controlled and/or cared for by its owner and/or keeper;
10. Any other relevant evidence or factors regarding the ability of the owner and/or keeper to control, train, secure or maintain the animal in compliance with this chapter or otherwise protect the public safety in the future if the animal is returned to the owner and/or keeper.

C. Certification. If, following investigation, the officer concludes that any animal is potentially dangerous or vicious, the officer shall so certify in writing to the owner and/or keeper within five working days following completion of the investigation. This certification shall include a statement of the basis for the determination that the animal is potentially dangerous or vicious.

D. Decision. Together with the certification and as part of the same document, the officer shall issue a written decision to the owner and/or keeper of the animal regarding whether the animal may be safely released and the steps the owner and/or keeper are required to take to obtain the animal's release if the officer determines release is appropriate, payment of costs of impoundment and enforcement, and imposition of penalty.

E. Requirements for Release. The officer shall require that the following be accomplished as a precondition of the release of a potentially dangerous or vicious animal from the shelter and shall provide the information set forth below:

1. Registration of the animal with the officer as a potentially dangerous or vicious animal, including identifying the animal's owner and/or keeper and identifying the animal's place of residence, which shall be changed only with the written approval of the officer;
2. Registration of the animal for appropriate training with a professional trainer or agency, to be approved in writing by the officer with certification that such training has been completed and delivered to the officer within an identified period following the animal's release from the shelter;
3. Reimbursement by the owner and/or keeper of any documented medical expenses or property damage caused by the animal;
4. Installation of graphic and written signs warning of the presence of a potentially dangerous or vicious animal on all doors to the animal's place of residence, and on all gates to any fencing on the premises, the form and placement of which shall be pre-approved in writing by the officer;
5. Microchipping the animal;
6. Payment of a penalty as set forth in Section [6.16.100](#), together with costs of enforcement;
7. Notification that noncompliance with any term of the decision shall result in an additional penalty as set forth in Section [6.16.100](#);
8. The date, no earlier than thirty days following service of the certification and decision, by which the owner and/or keeper must satisfy all conditions for release, including payment of all fees, penalties, costs of impoundment and enforcement;
9. Notification that failure to meet all terms of the decision within the time allotted by the decision will result in a directive issued by the officer ordering the humane destruction of the animal at the owner and/or keeper's expense;
10. Notification that failure to comply with the terms of the decision after release of the animal will result in a directive issued by the officer for the confiscation and humane destruction of the animal at the owner and/or keeper's expense;
11. Notification that any certification, decision, or directive of the officer for which no hearing is requested by the owner and/or keeper shall be final at the conclusion of the time periods specified in subsections (A), (B) and (C) of Section [6.16.050](#).

F. Further Requirements for Release of a Vicious Animal. In addition to the requirements listed in subsection (E) of this section, the officer shall require that the following be accomplished as a precondition of the release of a vicious animal from the shelter and shall provide the information set forth below:

1. Expert behavior testing and written report by a professional agency approved in advance by the officer and paid for by the owner and/or keeper;

2. Construction of appropriate interior and/or exterior enclosures built to the officer's specifications, including special enclosures, security doors, locks, and other measures built on to existing structures;
 3. Confinement of the animal within specified structures or enclosures, except under specified conditions (such as approved leash, collar and muzzle and physical control by specified persons);
 4. Spaying/neutering the animal;
 5. Obtaining and providing proof of liability insurance in an amount determined by the officer to reasonably protect against injury or damage caused by the animal;
 6. That the animal shall not reside at a location where minor children reside;
 7. The conditions, if any, under which the owner may transfer ownership of the animal, or change the location where the animal resides;
 8. Whether the owner and/or keeper shall be prohibited from owning or keeping other animals deemed capable of engaging in potentially dangerous or vicious conduct, as defined herein.
- G. For good cause, the officer may permit extensions of the date by which the owner and/or keeper must satisfy all conditions for release.

6.16.050 - Request for hearing—Form of notice.

- A. An owner and/or keeper may request a hearing regarding any certification issued by the officer by filing a written request for hearing with the clerk of the board of supervisors within five working days of service of the certification.
- B. An owner and/or keeper may request a hearing regarding any decision issued by the officer by filing a written request for hearing with the clerk of the board of supervisors within five working days following the date by which the owner and/or keeper must satisfy all conditions for release.
- C. An owner and/or keeper may request a hearing regarding any directive issued by the officer by filing a written request for hearing with the clerk of the board of supervisors within five working days of service of the directive.
- D. The officer shall request a hearing if:
1. The officer issues a decision that the animal cannot be safely released to the owner and/or keeper or issues a directive ordering the humane destruction of an animal, and
 2. The officer is unable to obtain the owner and/or keeper's voluntarily consent to the humane destruction of the animal within five days of the officer's written request for such voluntary consent.
- E. The clerk of the board of supervisors shall schedule a hearing date to commence within thirty days of receipt of the request for hearing. The clerk of the board shall give at least five days notice of the hearing to the officer and the owner and/or keeper.
- F. The notice to the owner and/or keeper shall be substantially in the following form:

NOTICE OF HEARING REGARDING
A POTENTIALLY DANGEROUS AND/OR VICIOUS ANIMAL

TO: (Name of Owner and/or Keeper)

NOTICE IS HEREBY GIVEN that on _____, the _____ day of , 20_____ at the hour of _____ o'clock ____m., in _____ Napa County, California, the below-identified matter(s), as determined and issued by Napa County Animal Control will be considered by the Dangerous Animal Hearing Panel of the County of Napa, together with such other oral and documentary evidence bearing upon the question(s) so presented.

[] Certification by Napa County Animal Control that your animal is potentially dangerous or vicious, and a public nuisance.

[] Decision by Napa County Animal Control:

[] that your animal cannot be safely released to the owner and/or keeper.

[] as to the conditions for release.

[] Directive by Napa County Animal Control ordering that your animal be humanely destroyed. You may appear and may present evidence at the hearing, and cross-examine witnesses. You may be represented by counsel. No later than noon one working day before the hearing, you must provide to the Clerk of the Board of Supervisors sufficient copies of any photographs, written statements or other documentary evidence you plan to present at the hearing.

IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE APPOINTED FOR THE HEARING, THE HEARING SHALL BE CONDUCTED IN YOUR ABSENCE.

For good cause, the hearing may be continued upon your request or upon request of Napa County Animal Control.

The action of Napa County Animal Control which is being challenged shall either be upheld by the hearing panel, or the hearing panel shall make its own determination and issue its own order.

The determination and order of the hearing panel shall be made within thirty days after the conclusion of the hearing and shall be final unless you file an appeal of the hearing panel's findings and order with the Napa County Superior Court in accordance with California Food and Agriculture Section 31622(a) within five (5) days of the date the hearing panel's determination and order in writing is served upon you.

• Dated: _____

Clerk of the Board of Supervisors

G. The clerk of the board shall give at least five days notice of the hearing to any other person involved in the incident(s) at issue and to any person who has requested notice of same.

6.16.060 - Hearing—Procedures generally.

A. Any person planning to present any photographs, written statements, or other documentary evidence as evidence at the hearing shall provide sufficient copies of those items to the clerk of the board of supervisors no later than noon one working day before the time set for hearing. The clerk of the board shall make copies of the items available to anyone who requests copies of the items.

B. The hearing provided for by this chapter shall be conducted by a hearing panel as specified in Section [6.16.070](#). The officer shall have the burden of proof by a preponderance of the evidence. The owner and/or keeper may appear, present evidence, examine and cross-examine witnesses, and be represented by counsel. In the event the owner and/or keeper fails to appear at the time, date and place appointed for the hearing, the hearing shall be conducted in the absence of the owner, and the hearing panel shall render a determination and order based upon evidence presented during the hearing. For good cause, the hearing may be continued upon request of either the officer or the owner. Strict rules of evidence shall not apply; any relevant evidence shall be admissible.

6.16.070 - Hearing—Dangerous animal hearing panel.

The hearing prescribed by Sections [6.16.050](#) and [6.16.060](#) shall be conducted by a dangerous animal hearing panel, comprised of a group of individuals designated by the board of supervisors. The individuals may be employees of the county who are not assigned to the animal control division of the sheriff's department, the animal shelter division of the environmental management department, or otherwise subordinate to the chief animal control officer, the director of the environmental management department, or individuals who are not employees retained pursuant to a contract to provide such services.

6.16.080 - Hearing—Findings and orders.

If, based upon the hearing, the hearing panel finds that the dog is potentially dangerous or vicious, it shall be so specified in writing together with the reasons therefor. A copy of the hearing panel's determination and order shall be sent by registered mail or otherwise delivered to the owner and/or keeper. Any dog found to be potentially dangerous or vicious is deemed a public nuisance, and shall be, pursuant to the order of the hearing panel, humanely destroyed or removed from the county, or the nuisance otherwise abated by appropriate order, including but not limited to confinement, fencing, muzzling or leashing. The determination and order of the hearing panel shall be made within thirty days after the conclusion of the hearing and shall be final, unless an appeal is filed with the Napa County Superior Court in accordance with Food and Agriculture Code Section 31622(a) within five days of the date the decision in writing is served upon the owner and/or keeper.

6.16.085 - Service on owner and/or keeper.

Service of a certification and decision, or a directive, issued by the officer, or of a notice of hearing issued by the clerk of the board, or of a determination or order issued by the hearing panel, shall either be by personal service or by first class mail, but if by first class mail, any time(s) specified for action(s) required to be taken by owner and/or keeper shall be extended by five days. The failure of any owner and/or keeper to receive service required to be given under

this chapter shall not invalidate the validity of any determination, action, or proceedings taken pursuant thereto.

6.16.090 - Assessment and penalty.

A. If the hearing panel finds the animal is potentially dangerous or vicious, the county-incurred costs of impoundment, including any abatement, and penalty shall be paid by the owner and/or keeper. If the order includes the release of the animal to the owner and/or keeper, the animal shall not be released until such amounts have been paid in full.

B. If such amounts have not been paid within thirty days after the date of service of the order if personally served, or within thirty-five days if served by first class mail, the officer may dispose of the animal in any manner provided by law.

C. If the assessment and penalty imposed by the officer or by the hearing panel are not paid, an action may be brought in the name of the county to recover the assessment and penalty in small claims or other appropriate court, in which case all the remedies provided by law may be pursued by the county, including, but not limited to attachment of the personal property of the person owning or controlling the animal.