



Jackie Rose
Director

Donna Gillesby
Deputy Director

September 14, 2021

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, California 93009

Subject: Public Hearing Regarding the Adoption of an Ordinance to Repeal and/or Amend Various Provisions of the Ventura County Ordinance Code Contained in Division 4, Chapter 4 and Division 2, Chapter 4, Article 6 concerning Animal Services. Subject Areas Include Upgrading Terminology, Hearing Processes for Breeding Permits, Procedures for Biting Animals, Notice Options for Impounded Animals, Kennel Permitting, Spay/Neuter Violation Penalties, Adoption Confidentiality, Barking Complaints, Lost/Dangerous/Wild Animals, Hearings for Dangerous Dogs, Use of Tranquilizers by Animal Control Officers, etc.

Recommendations:

It is recommended that your Board conduct a public hearing on, and introduce, the attached proposed ordinance to repeal and/or amend various provisions of the Ventura County Ordinance Code ("Code"), contained in Division 4, Chapter 4, and Division 2, Chapter 4, Article 6, read in title only and waive further reading, and schedule the adoption of the ordinance for October 19, 2021.

Fiscal Mandates/ Impacts:

Approval of this Board item will result in nominal costs for the administration of these changes and will be absorbed within the current VCAS budget.

Discussion:

In an effort to ensure that Division 4, Chapter 4, and Division 2, Chapter 4, Article 6 of the Code effectively meet the current needs and practices of municipal animal services functions, VCAS completed a thorough review of the Code and identified numerous areas that warrant consideration for revision. The recommended revisions include non-substantive technical corrections and substantive changes and are presented below:

Non-Substantive Technical Corrections Recommended

1. Throughout the Code: Amend Terminology for Pound and Poundmaster
The existing Code utilizes the terms Pound and Poundmaster throughout the Code to refer to the more commonly accepted terms of Shelter and Director. The terms Shelter and Director are widely accepted terms within the animal welfare industry and have been fully adopted through all State of California laws and regulations. As such, it is recommended that these terms be updated to reflect current practices and norms.
2. Throughout the Code: Expand Terminology from Sheriff to Peace Officer
The existing Code utilizes the term Sheriff within the context of law enforcement authority. However, because many of the cities contracting for animal control services with the County incorporate by reference various provisions of the Code into the cities' own municipal ordinances, all jurisdictions are better served by use of the broader term of Peace Officer. This change will more accurately reflect the various law enforcement departments/personnel that respond to and serve animal control activities within the affected jurisdictions in the County. As such, it is recommended that use of the more general term of Peace Officer be adopted.
3. Throughout the Code: Formatting and Consolidation of Sections
Based on the proposed revisions, there are several areas that will be consolidated and/or reformatted to enhance organization and structure of the code sections. As such, it is recommended that these adjustments be approved.
4. Throughout the Code: Reference to Issuance of Administrative Citations for Non-Compliance
The proposed Code amendments throughout the Code reference the issuance of administrative citations for non-compliance with the Code.
5. Section 4427: Clarify Hearing Process for Revocation of Breeding Permit
Section 4427 of the current Code provides for the revocation of breeding permit after a hearing is held and it is determined that a violation had occurred. However, the current Code cross-references animal nuisance hearing procedures that are proposed for repeal. The current Code does not describe the hearing process in the Code provisions specifically pertaining to revocation of breeding permits. The proposed revisions provide hearing procedural information directly in the Code provisions pertaining to revocation of breeding permits. It is recommended that these revisions be approved.

6. Sections 4456 & 4457--Revise Age Requirement for Person to Request Isolation of Biting Animal
Sections 4456 and 4457 of the Code relate to the process of isolating/quarantining an animal that has bitten a person as a precaution due to potential rabies exposure. Under this section, a person may request to have the isolation/quarantine completed in the community instead of the shelter. The Code currently requires that the requesting person be 21 years of age. It is recommended that this age requirement be modified to reflect the age of majority (18 years old).

7. Section 4464: Expand Notice Options for Impounded Animals
Section 4464 of the Code currently requires personal service of notice to be provided to an owner for an animal impounded due to being at non-compliance with leash requirements, being at large, or not having adequate care. This requirement is excessively burdensome, requiring an Animal Control Officer to know the exact location of an owner to personally serve notice and thus can delay the opportunity for the owner to reclaim their animal. As such, it is recommended that the notice options be expanded to allow for personal service, telephonic notice/communication and/or written notice delivered via the United States Postal Service.

8. Section 4472: Updating of Various Other Code Definitions
Section 4472 proposes updates of various Code Definitions pertaining to the definition of "shelter", when a dog "runs at large," when a person "harbors" an animal, the "owner" of an animal, and the definition of "livestock".

9. Section 2594— Temporary Permit for Inspection and Approval of Kennel Permit
Section 2594 of the current Code does not provide an allowance to issue a temporary permit to persons seeking a kennel permit. Currently, an applicant must present a certificate from the Ventura County Planning Division or current Business License to fulfill the application requirement, but the Division recognizes that the issuance of such documents can take a significant period of time to obtain. As such, it is recommended that, if all conditions are otherwise met, with the exception of having required certificate from VC Planning Division or current Business License, the Division approve issuance of a temporary permit for a period not to exceed one (1) year.

Substantive Revision Recommendations

1. Section 4424: Revise Penalty Amount Regarding Violation of Spay/Neuter Requirements
Section 4424 of the current Code provides a specific penalty amount that is different from all other penalty amounts for other types of violations of the Code provisions dealing with animal control issues. It is recommended that the penalty

for violation of spay/neuter requirements match the other standard penalty amounts adopted in the schedule of rates and fees approved by resolution of the Board of Supervisors.

2. Section—4425: Expand Requirements for Breeding Permit to Include Breeding Registry

The American Society for the Prevention of Cruelty to Animals reports that approximately 1.5 million shelter animals are euthanized per year (670,000 dogs and 860,000 cats) due to pet overpopulation. Further, it is widely accepted the most effective way to combat this issue is to promote and encourage the spaying/neutering of companion animals. Recognizing the importance of such, in 2014, the Code was amended to require the spay/neuter of dogs and cats, unless they met a stated exemption which include an option for obtaining a breeding permit from the Division by completing an application and paying a fee for this permit.

In an effort to continue to support and advance the importance of spaying/neutering dogs and cats in the County of Ventura while equally recognizing the value and benefits of responsible breeding of purebred animals, the proposed revisions would require a person applying for a breeding permit to be registered with and be in good standing with a domestic or foreign breeding registry recognized by the Division (i.e. American Kennel Club). This additional requirement will allow persons, who choose to breed an animal in conformance with commonly accepted industry practices, to continue such while limiting the breeding of animals who do not meet these standards.

3. Section 4440: Confidentiality of Adopting Party Identity and Contact Information

Section 4440 is a new Code section protecting confidential identity and contact information for persons adopting an animal from the shelter. On occasion, VCAS receives a Public Records Act Request for general information regarding a specific animal and, if this animal had been adopted, for the adopting party's name and contact information contained in VCAS records. The situation can arise when an animal's original owner fails to timely reclaim their lost animal within the statutory redemption period for animal reclaims, and the unclaimed animal is adopted out to a new owner. When this event occurs, VCAS consults with County Counsel regarding the response to the Public Records Act request, and based on the advice of counsel, if the new owner does not consent to the disclosure of their identity and private contact information, VCAS objects to such disclosure in order not to discourage persons from being willing to undertake animal adoptions. This Code provision helps reassure adopting parties that they may forge a permanent bond with their new pet and that their private identity and contact information will not be disclosed to third parties, such as former animal owners.

4. Section 4452: Failure to Produce Valid Rabies Vaccine Certificate Is Prima Facie Evidence of Non-Compliance

The proposed Code revision in section 4452 provides that failure to produce a rabies vaccination certificate upon demand is prima-facie evidence of non-compliance.

5. Amend Section 4467(c) to Restrict Definition of Barking Nuisance and to Require Documentation of Barking Noise; Add New Section 4467-12 to Address Barking Nuisances Via Citation; Add New Section 4467-13 to Provide for Barking Nuisance Declaration Upon a Dog Receiving 3 or More Citations and Provisional Rescission of Barking Nuisance Declaration Based on Absence of Further Citations and Complaints; Add New Section 4467-14 to Reflect the Director's Discretion to Choose Specific Enforcement Responses Consistent with the Revised Ordinance Code Provisions; Add New Section 4467-15 to Repeal Various Code Provisions After the Contracting Cities Are Provided an Opportunity to Coordinate Their City Ordinances with the County's Revised Ordinance Provisions.

VCAS almost never receives complaints regarding animal nuisance conduct consisting of damaging of real or personal property or dumping of trash cans and proposes to repeal unnecessary and obsolete Code provisions in Sections 4467(e) and 4467(f).

Section 4467 of the current Code also includes public nuisance concerns involving barking dogs as well as dog aggressive behaviors, including chasing conduct. While both types of issues may be a "nuisance", the proposed changes help to more clearly define those behaviors that are annoyances (i.e., barking) from those that are of a public safety concern and provide clarity regarding the process to effectively address both types of issues.

As discussed separately below, in new Code sections 4470-1 through 4470-18, the Code replaces animal nuisance hearings for dog aggression incidents with new Code provisions pertaining to Potentially Dangerous or Vicious Dogs.

The following will address the proposed specific changes for barking nuisance concerns:

- Section 4467(c): Two Resident requirements for Complaint

As the Code is currently drafted, for a complaint to be filed against a dog owner for their dog barking, two or more residences must complain and attest to this disturbance. However, on occasion, members of the public who live in an area for which there are no other residences close enough to hear the barking, they have been precluded from filing a complaint. In an effort to ensure that this loophole is addressed, the revised proposal will

allow for an exception to the “two residents” requirement, if the complainant's location meets the topography stipulations and an investigating officer has confirmed that such topography conditions are met.

- Section 4467(c): Duration/Evidence of Nuisance

The current Code does not define the duration of dog barking to reach the threshold of nuisance nor does it require the complainant to provide any evidence of such. As such, many barking dog hearings are often ineffective. The proposed changes will require that the dog barks, cries or vocalizations have occurred either as an episode of continuous noise lasting for a minimum period of ten (10) minutes or repeated episodes of intermittent noise lasting for a minimum period of thirty minutes. This evidence may be provided by the complainant in an audio or video format.

- Section 4467-12: Citation for Barking Instead of Immediate Administrative Hearing

It is proposed that this newly drafted Code section repeal and replace Section 4467 1 thru 11. This revision will allow for barking dog complaints to be addressed through a citation process instead of automatically requiring an administrative hearing to be held for all complaints. *(See item #10 below for additional information regarding citation enforcement model.)*

- Section 4467-13: Public Nuisance Declaration and Removal of Designation for Sustained Improvements

This Code section has been newly crafted, and it is proposed that if an owner receives three (3) or more dog barking citations, the dog will be deemed an animal nuisance and the owner will be required to pay an additional annual license fee indicating this designation. However, if there are no additional citations for a minimum of two (2) years following the last citation, the dog owner may submit a written request to have the animal nuisance designation removed. Upon the granting of this request, if two (2) or more complaints are filed in the future, the animal nuisance designation may be reinstated.

- Sections 4467-14: The Director has Sole Discretion to Choose a Response Consistent with Ventura County Ordinance Code Provisions and Section 4467-15: Repeal of Specified Provisions of 4467

While the County Ordinance Code specifically governs the unincorporated areas of Ventura County which are served by the VCAS Field Services team, VCAS also provides contracted field services to six cities within in the County of Ventura (Camarillo, Fillmore, Ojai, Port Hueneme, Simi Valley, and Ventura). These cities either model their city ordinances after the County Ordinance Code provisions or incorporate by reference the County's

Ordinance Code provisions into their city ordinances. As such, in order to provide these jurisdictions with the time and opportunity to amend their city ordinances and implement related amendments to the County's contracts with the cities, it is proposed that both new and old Ordinance sections be in effect in tandem for a limited period and that Section 4467-14 be added to allow the Director flexibility to choose from available enforcement options during the transition period until the County and all the cities have adopted coordinated code provisions. The transition period will be the date the revised Code becomes effective if the revisions are approved by your Board and run until the end of the fiscal year (approximately November 19, 2021 thru June 30, 2022). Further, it is proposed that Section 4467-15 be added to allow for repeal of the affected sections: section 4467, subsections (a),(b),(d),(e),(f) and (g), and sections 4467-1, 4467-2, 4467-3, 4467-4, 4467-5, 4467-6, 4467-7, 4467-8, 4467-9, 4467-10, and 4467-14 will be repealed at the end of the fiscal year on June 30, 2022, and section 4467-11 will be repealed on October 31, 2022.

6. Section 4468-1—Clarified Abandonment Period for Lost Animals

The intention of this section is to allow for the finder of a stray animal to retain possession of the animal instead of bringing them into the shelter while providing an opportunity for the lost owner to be notified of their pet having been found. It is also intended to establish a thirty (30) day holding period before the finder can claim ownership of the found animal. In an effort to ensure the greatest opportunity for the owner of a lost animal to find their pet, the Division has created a process that allows for a finder to file a "found report" electronically on the Division's website that is immediately available for public view, thus allowing an owner who has lost their pet, to know if their pet has been found and the current location of the animal. The proposed Code amendments incorporate this program enhancement and clarifies the responsibilities of the finder if they choose to claim ownership upon expiration of the thirty (30) day holding period.

7. Sections 4470 – 4470-18— Adding of Potentially Dangerous and Vicious Dogs Designations and Hearings

As stated above in item #5, it is recommended that Sections 4470-1 through 4470-18 be added to the Code to specifically address aggressive dog behaviors that may pose a risk to public safety. The purpose of these newly added Sections is to clearly define two categories of dogs (Potentially Dangerous Dogs and Vicious Dogs) that may result in conditions being imposed to control behaviors that pose a risk to people or other animals within the community. The new Code provisions provide that hearings may be conducted administratively or in court and VCAS can select the forum. The Code definitions for Potentially Dangerous and Vicious dogs and the other proposed Code amendments comply with California Food and Agriculture section 31683 which enables a county to

adopt its own program for control of potentially dangerous and vicious dogs, notwithstanding the State's statutory scheme in California, Food and Agricultural Code sections 31602 thru 31662. The following is a brief outline of the Code's proposed requirements:

- a. Definition of Potentially Dangerous Dog (PDD)
 - i. Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and dog are off the property of the owner or keeper of the dog.
 - ii. Any dog which, when unprovoked, bites a person causing a less severe injury than the injury defined in Section 4470-3, subdivision (c).
 - iii. Any dog which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

- b. Definition of Vicious Dog
 - i. Any dog that, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
 - ii. Any dog previously determined to be and currently listed as a potentially dangerous dog that, after its owner or keeper has been notified of this determination continues the behavior described in Section 4470 (a) or is maintained in violation of Section 4470-9.

- c. Allows for seizure of dogs with demonstrated probable cause that the dog may pose an immediate threat to public safety.

- d. Requires a hearing (administrative or court hearing, at VCAS's election) to be held to declare a dog as PDD or vicious.

- e. The complainant and owner have the right to appeal the decision of an administrative order to the superior court and may appeal a court order to the appellate division of the superior court

- f. If a dog is deemed to be Potentially Dangerous, the following conditions may be issued to owner who wants to retain dog:
 - i. Secure area inspected by VCAS
 - ii. Off property with non-retractable leash no longer than 4 feet and under control of an adult
 - iii. Must be spayed/neutered
 - iv. Must post signs on property of PDD
 - v. Other conditions may be imposed
 - vi. Must notify VCAS of any change in ownership or location
 - vii. Must notify VCAS immediately if dog becomes loose

- viii. If there are no additional incidents within 36 months, owner may submit written request to have designation removed.
 - ix. Pay Annual PDD Licensing Fee
- g. If a dog is deemed a Vicious Dog, the following conditions may be issued to owner:
- i. May be ordered to be euthanized if hearing officer determines that dog poses significant threat to public health, safety and welfare.
 - ii. If not order to be euthanized, same conditions as above for a Potentially Dangerous dog plus the owner must give written notice of determination to US Post Office and all utility companies/businesses providing service to the premises. Must notify VCAS of any change in ownership or location
 - iii. Must notify VCAS immediately if dog becomes loose
 - iv. Owner may be prohibited from owning, possessing, controlling, or having custody of any dog for up to three (3) years if such would create significant threat to public safety.
 - v. Pay Annual Vicious Dog Licensing Fee
- h. Violation of stated conditions may result in a misdemeanor fine not to exceed \$1,000 or imprisonment in county jail not to exceed six (6) months or both.
- i. Violations may give rise to a civil action for injunctive relief.

8. Section 4475, Clarification Regarding Animal Control Officer Use of Tranquilizers or Weapons

The proposed Code revision clarifies that only VCAS's Director and Animal Control Officers designated by VCAS's Director may carry and use weapons and tranquilizer equipment issued by VCAS while engaged in the performance of their duties.

9. Section 4486: Repeal of Provision Regarding Release of Wild Animals

The Code provision proposed for repeal requires a VCAS-issued permit prior to a release of a wild animal in the County, requires animal tracking via specified measures, and makes the releasing party liable for damages inflicted. VCAS is recommending repeal because this Code provision discourages the release of rescued wild animals back into their native habitat.

10. Expanded Administrative Hearing Process for Citations to Include an Administrative Review—Section 4493-8.1

Section 4493-8.1 of the current code requires an Administrative Hearing to be held if the citee (person who received the citation) chooses to contest the citation. However, this process is very time consuming for VCAS and the citee who is required to attend an in-person hearing to appeal their citation. In an effort to offer a more efficient and customer-friendly process, the proposed revision will allow a citee, who wishes to contest the citation, to seek an

administrative desk review of their citation to be conducted by a designated VCAS reviewing official within ten (10) days from receipt of the request. If the reviewing official determines that there was not a violation and/or the citee was not responsible for the violation, the citation will be vacated and the citee will be notified of the decision. If the reviewing official determines that the citation should be upheld, the citee will be notified of that decision and may request a full administrative hearing for further review of the citation. This two-step process will allow for better utilization of time for all persons involved without restricting a citee's opportunity to appeal the citation.

Section 4493-8.5: Clarification Regarding Enforcement Officer Attendance at Hearing

Section 4493-8.5 clarifies that the presence at a hearing of the enforcement officer serving the underlying citation is not required unless the enforcement officer is subpoenaed.

Summary

Your Board is being asked to introduce the attached proposed ordinance to repeal and/or amend various sections of Ventura County Ordinance Code, Division 4, Chapter 4, and Division 2, Chapter 4, Article 6, read in title only and waive further reading, and to schedule the second reading of the ordinance for October 19, 2021.

The County Executive Office, the Auditor-Controller's Office, and County Counsel have reviewed this letter. If you have any questions regarding this item, please feel free to contact Jackie Rose at (805) 388-4355.



Jackie Rose, JD, MS, CAWA
Animal Services Director

Attachments:
Exhibit 1 – Proposed Ordinance
Exhibit 2 – Legislative Version of Revisions