ORDINANCE NO. 1556

AN ORDINANCE REPEALING AND ADDING ARTICLE IV OF CHAPTER 4
OF THE SOLANO COUNTY CODE, RELATING TO DANGEROUS ANIMALS

The Solano County Board of Supervisors ordains as follows:

Section 1. Article IV of Chapter 4 of the Solano County Code is repealed.

Section 2. Article IV and Sections 4-50 through 4-60 of Chapter 4 of the Solano County Code are added to read as follows:

ARTICLE IV. DANGEROUS ANIMALS

Sec. 4-50 Definitions.

As used in this Article, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) Dangerous animal:

(1) Any animal that when unprovoked, bites, or attacks and/or injures a human being or domestic animal, either on public or private property, or in a dangerous or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places; or

(2) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise endanger the safety of human beings or domestic animals; or

(3) Any animal which engages in, or is found to have been trained to engage in exhibitions of fighting; or

(4) Any animal at large found to attack, menace, chase, display threatening or aggressive behavior, or otherwise threaten or endanger the safety of any person or domestic animal; or

(5) Any animal which because of its physical nature or dangerous propensity is capable of inflicting serious physical harm or death to human beings, and has had three (3) or more violations under this or any other animal control ordinance.

(b) A dangerous animal does not mean any animal in a situation in which it is shown that the person or domestic animal which had been attacked, threatened or menaced had:

(1) Provoked, tormented, teased or abused the animal into the alleged behavior; or

(2) Committed a willful trespass or other tort upon the private property of the owner or keeper in control of the animal; or

(3) Threatened or committed an unprovoked assault or battery against the owner or keeper in control of the animal.
(c) Enclosure means a fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to humanely confine an animal with adequate exercise area, and posted with an appropriate warning sign, in conjunction with other measures which may be taken by the owner or keeper.

(d) Abused animal means any animal which is:

(1) Mistreated, beaten, tormented or teased; or
(2) Deprived of water, food or shelter; or
(3) Kept under unsanitary conditions; or
(4) Abandoned; or
(5) Trained for fighting other animals.

(e) Animal control means any person designated under this Article as an animal control officer and/or the animal control department.

(f) Impounded means taken into the custody of the county animal shelter.

(g) Person means a natural person or any legal entity, including, but not limited to, a corporation, firm, partnership or trust.

(h) Hearing Officer means any designated representative of the county administrative officer who conducts a hearing under section 4-54.

Sec. 4-51 Inspection.

(a) Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this Article, or whenever any sheriff's deputy or animal control officer (the "officer") has probable cause to believe that there exists in any building or upon any premises any violation of the provisions of this Article or other applicable law, the officer is authorized to enter such property at any reasonable time and to inspect it and perform any duty imposed upon the officer by this code or other applicable law; provided that:

(1) If the property is occupied, the officer shall first present proper credentials to the occupant an request entry and provide an explanation. If entry is refused, the officer shall have recourse to every legal remedy, including an inspection warrant, to secure lawful entry and inspect the property.

(2) If the property is unoccupied, the officer shall first make a reasonable effort to locate the owner or other person having charge or control of the property and request entry, with an explanation. If entry cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the officer shall have recourse to every legal remedy, including an inspection warrant, to secure lawful entry and inspect the property.

(3) Notwithstanding the foregoing, if the officer has probable cause to believe that the keeping or maintaining of any animal is so dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right immediately to enter and inspect the property, and may use any reasonable means required to enter and inspect, whether or not the property is occupied and whether or not permission to inspect has been obtained. If the property is occupied, the officer shall first present proper credentials to the occupant and demand entry, explaining the reasons and purpose of the inspection.
(b) No person shall interfere with, hinder, fail or refuse, after proper demand has been made upon him or her, to permit the officer to make any inspection under subdivision (a) (3). Any person violating this section shall be guilty of a misdemeanor.

(c) The licensee of any license issued under this Chapter, by accepting the license, consents to the entry upon the premises described in the license by any officer for the purpose of conducting the inspections required by this Article or other applicable law.

Sec. 4-52 Dangerous animals at large.

(a) A person who owns or keeps an animal and who allows, permits or causes the animal to run, stray, be uncontrolled, or in any manner be in, upon, or at large upon a public street, sidewalk, park, or other public property or in or upon the premises or private property of another person, shall be guilty of a misdemeanor if the animal bites, attacks or causes injury to any human being or other animal.

(b) Any person convicted under this section shall not own or keep the type of animal which caused the bite, attack or injury for a three (3) year period after the date of conviction. Animal control and the county shall not issue or renew any license to the convicted person for that type of animal.

Sec. 4-53 Temporary impoundment or confinement.

(a) Animal control shall have the power to summarily and immediately impound any animal where there is evidence it has attacked, bitten or injured any human being or other domestic animal pending:

1. Any court proceeding or animal license revocation proceeding arising from the attack, bite or injury; or
2. A hearing under section 4-54, subdivision (a).

(b) Failure to surrender on demand the animal for impoundment to an animal control officer shall be a misdemeanor.

(c) An animal impounded under this section shall be returned to the owner or keeper as provided for in section 4-55, or when the animal is no longer required as evidence, or if a notice of a hearing under section 4-54, subdivision (a) to declare the animal a dangerous animal has not been served on the owner or keeper within seven (7) days after the impoundment.

(d) In lieu of impounding, animal control may permit the animal to be confined at the owner’s or keeper’s expense in an animal control approved kennel or veterinary facility or at the owner’s or keeper’s residence provided that:

1. The animal is not removed from the kennel, veterinary facility or residence without the prior written approval of animal control; and
2. The animal shall be available for observation and inspection by animal control or members of law enforcement or their authorized representatives. Animal control shall specify to the owner or keeper the exact way the animal is to be restrained while awaiting the hearing.
3. The animal may be photographed for identification purposes.

(e) If there is no reasonable method available to determine ownership of the animal, the animal shall be considered a stray.
Sec. 4-54 Hearing procedures.

(a) The county administrative officer, or his/her authorized representative (the "Hearing Officer"), shall conduct a hearing to determine whether or not an animal confined or impounded under section 4-53 is a dangerous animal. The hearing shall be conducted in an informal manner and shall afford the owner and the owner’s witnesses a full opportunity to be heard.

Notice of the time and place of the hearing shall be served upon the owner or keeper, either personally or by pre-paid, first class mail, within thirty (30) days after the impoundment and at least seven (7) days before the hearing. The written notice shall contain the following information:

1. A description of the animal;
2. A summary of the facts and circumstances supporting the allegation that the animal is dangerous;
3. The proposed terms and conditions for release of the animal;
4. A copy of this Article.

(b) After a hearing, the Hearing Officer may declare any animal to be a dangerous animal as defined in section 4-50.

(c) In making a determination that an animal is or is not dangerous, evidence of the following shall be considered:

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 and the number of victims involved;
3. The place where the bite, attack or injury occurred;
4. The absence or presence of any provocation for the bite, attack or injury;
5. The extent to which property has been damaged or destroyed;
6. Whether the animal exhibits any characteristics of being trained for fighting or attacking or other evidence to show such training;
7. Whether the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or domestic animals;
8. Whether the animal can be effectively trained or retrained to change its temperament or behavior;
9. The manner in which the animal has been maintained by its owner or keeper;
10. Any other relevant evidence concerning the maintenance of the animal;
11. Any other relevant evidence regarding the ability of the owner or keeper, or animal control, to protect the public safety in the future if the animal is permitted to remain in the county.
(d) Within ten (10) days after the hearing, the owner or keeper of the animal shall be notified in writing of the determination and orders issued by the Hearing Officer, either personally or by pre-paid, first class mail. The notice of determination shall include the following information:

1. A determination of whether or not the animal is dangerous;
2. A summary of facts supporting the determination;
3. Conditions imposed for release under section 4-55;
4. Advisement of appeal rights.

(e) The decision of the Hearing Officer shall be final. If any party to the hearing contests the Hearing Officer’s determination, he or she may, within ten (10) days of the receipt of the notice of determination, appeal the decision to the municipal court. California Food and Agriculture Code section 31622 will govern the appeal.

Sec. 4-55 Disposition of dangerous animals.

(a) The owner or keeper of an animal which has bitten any person or a domestic animal, or has otherwise been declared a dangerous animal after a hearing, may be required as a condition of the release of the animal from confinement or impoundment, in addition to paying for all costs of the hearing and any impoundment, to comply any or all of the following conditions imposed by the Hearing Officer in the written orders:

1. Immediately register the animal with animal control. The fee for a permit to keep one dangerous animal shall be fifty dollars ($50.00) for a 12 month term, and the fee for each additional dangerous animal shall be twenty-five dollars ($25.00). The permit expires at the end of each term and is renewable.

2. Keep the animal securely confined on its premises in a locked enclosure approved by animal control. The structure must have secure sides and a secure top attached at the sides. It must be locked with a key or a combination lock when holding animals. The structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. The structure must be adequately lighted, ventilated, kept in a clean and sanitary condition and comply with all building and zoning regulations.

3. Keep the animal securely muzzled, leashed and under the control of a person eighteen (18) years or older, and who is physically capable of restraining the animal when it is not confined in a secure pen.

4. Spay or neuter the animal by a licensed veterinarian and present proof to the animal control officer.

5. Provide and maintain financial responsibility for injuries to the public by obtaining and showing proof of liability insurance in a form and amount considered acceptable under the circumstances by the Hearing Officer. The insurance policy shall provide for no cancellation unless ten (10) days’ written notice is first given to both the county administrator office and animal control.

6. Immediately inform any local postmaster or utility company meter readers, and anyone else who lawfully and regularly comes onto the property, of the animal’s dangerousness and to inform animal control in writing of any new location in the county or if the animal dies.
(7) Display in a prominent place on the property a sign easily readable by the public, using the words “Beware of Dangerous Animal” in letters at least three (3) inches high.

(8) All dangerous dogs shall receive a micro-chip and permanently wear a “Dangerous Dog” tag. The owner or keeper of the dog shall pay for the micro-chip and tag. Animal control shall maintain on file the assigned micro-chip and tag numbers. The owner or keeper shall immediately notify the animal control if the tag is lost or stolen and replace it for fifteen dollars ($15.00). Failure to report the lost or stolen tag or to replace it is a misdemeanor.

(9) Pay the reasonable costs for the hearing incurred by the county and its officials, not to exceed five hundred dollars ($500.00).

(10) Take any other reasonable steps to prevent injuries to the public.

(b) The owner or keeper of the animal shall have thirty (30) days from the receipt of the written disposition to complete any conditions imposed by the Hearing Officer. The Hearing Officer may grant a written extension of time for compliance.

(c) The owner or keeper of the animal must within thirty (30) days from the receipt of the written disposition provide animal control with two (2) color photographs of the animal, which clearly shows its color and size.

(d) No dangerous animal shall be kept on a porch, patio or in any part of a house or structure that would allow the animal to leave on its own volition. Additionally, no dangerous animal may be kept in a house or structure when the windows are open or screen doors are the only obstacle preventing the animal from leaving the premises.

(e) If the Hearing Officer finds that an animal is so dangerous that it would constitute a danger to human beings or other domestic animals even with reasonable conditions upon release, any person, including the county counsel, the county administrative officer or the animal control director, may commence a proceeding under California Civil Code section 3342.5, or its successor, to have the animal destroyed. This remedy is in addition to all other remedies and shall not limit nor restrict them, including the right of the Hearing Officer to order the destruction of a dangerous animal under section 4-57 (a).

(f) If an unlicensed animal is determined not to be dangerous, it shall be returned to the owner or keeper, who shall be cited for failure to obtain a license. When neither the owner or keeper of a licensed and impounded animal, fails to appears at the section 4-54 hearing, and the animal is determined not to be dangerous, the animal shall be returned to the owner or keeper. Any stray animal determined not to be dangerous will be handled like any other stray animal.

Section 4-56 Sale or transfer restrictions

(a) No person shall sell or transfer a dangerous animal registered with animal control to any person within the county, unless the recipient permanently resides with the owner or keeper.

(b) The owner or keeper of a dangerous animal shall not sell, transfer or remove from county to persons outside the county without the prior written approval of the animal control director.
Section 4-57 Enforcement and penalties.

(a) It shall be unlawful for an owner or keeper not to comply with the conditions imposed by the Hearing Officer or any other requirements imposed by this Article. If a failure to comply occurs, the dangerous animal shall be subject to immediate seizure and impoundment by animal control. Animal control may additionally order the removal of the animal from the county or seek its destruction if necessary.

(b) No animal may be destroyed under section 4-57(a) until fourteen (14) day after the owner or keeper has been served with written notice from the Hearing Officer that the animal will be destroyed. The destruction order shall be stayed if within the fourteen (14) days the owner or keeper:

   (1) Demonstrates to the satisfaction of the Hearing Officer compliance with the conditions imposed by the Hearing Officer and this Article; or

   (2) Files a petition to stay destruction of the animal in municipal court and serves an endorsed filed copy of the petition on the Hearing Officer.

If the owner or keeper of the animal fails to comply with either subsection (1) or (2), the Hearing Officer may without further notice have the animal destroyed.

The destruction order notice shall be served either personally or by pre-paid first class mail on the owner or keeper and a copy posted on the property.

(c) Any person who violates the provisions of this Article shall upon conviction in municipal court be fined not less than two-hundred fifty dollars ($250.00) and not more than one thousand dollars ($1000.00). The fine shall be paid to the animal control for the purpose of defraying the cost of implementing this Article under California Food & Agriculture Code section 31663. The court may also impose a jail term not to exceed thirty (30) days.

(d) Any person convicted of violating the provisions of this Article shall be prohibited from owning or keeping within the county the same type of animal for three (3) years from the date of conviction.

(e) The provisions of this Article may be enforced by any law enforcement agency, fire department, animal control or any authorized representative of the county administrative officer.

(f) The costs of abating a dangerous animal declared to be a public nuisance may be recovered from the owner or keeper. If the owner or keeper fails to pay such costs within thirty (30) days from the mailing of an invoice or within an extended time granted by the county administrative officer, the costs may be collected by a nuisance abatement lien, as provided by California Government Code section 38773.1. Notice of the lien shall be given to the owner of record of the parcel of land on which the nuisance is maintained prior to recordation of the lien and as specified under section 38773.1.

(g) The penalties and remedies in this Article are not exclusive but cumulative with all other remedies at law or equity.
Section 4-58 Exemptions.

The provisions of this Article shall not apply to:

(1) Any dog assisting a deputy sheriff engaged in law enforcement duties;

(2) Any guide dog for the blind or physically disabled while performing its services;

(3) Any animal shelter owned, operated or maintained by animal control.

Section 5-59 Removal of designation.

The owner or keeper of a dangerous animal may petition the animal control director for a hearing to remove the dangerous determination if there have been no incidents of the type which led to the dangerous animal determination for a period of three (3) years. This hearing shall be conducted as set forth in section 4-54.

Section 3. This ordinance will be effective thirty (30) days after its adoption.

Section 4. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in the Fairfield Daily Republic, a newspaper of general circulation in Solano County.

Passed and adopted by the Solano County Board of Supervisors on January 6, 1998, on the following vote:

AYES: Supervisors: Gojkovich, Kondylis, Silva, Thomson, and Chairman Carroll

NOES: Supervisors: None

ABSTAINED: Supervisors: None

ABSENT: Supervisors: None

Attest:
Michael Johnson, Clerk
Board of Supervisors

William J. Carroll, Chairman
Solano County Board of Supervisors

ATTEST:
Deputy