

ORDINANCE NO. 693

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER 6.04 (ANIMAL CONTROL) OF THE CALISTOGA MUNICIPAL CODE REGARDING ANIMAL CONTROL REGULATIONS AND STANDARDS

The City Council of the City of Calistoga does hereby ordain as follows:

WHEREAS, under the police powers authorized by the California Constitution, the City of Calistoga ("City") has the authority to enact laws that promote the public health, safety and general welfare of its residents; and

WHEREAS, in 1982, the City Council adopted Ordinance No. 380, which established the provisions of the Calistoga Municipal Code Chapter 6.04 relating to Animal Control; and

WHEREAS, at that time the City Council found and determined that designating the Napa County Department of Environmental Health as the enforcement agency of animal control within the City was in the public interest, health, safety and welfare of the residents; and

WHEREAS, similarly situated cities have designated other entities with animal control experience including counties, cities, joint powers authorities, and nonprofit animal welfare organizations as the enforcement agency of animal control within their jurisdictions; and

WHEREAS, section 6.04.140 of the Municipal Code regarding the disposition of impounded animals is not consistent with applicable requirements of the California Food and Agriculture Code; and

WHEREAS, the City Council desires to amend Chapter 6.04 (Animal Control) to provide flexibility in the designation of the enforcement agency for animal control, to clarify the scope of the animal control officer's authority and achieve consistency with state law.

SECTION ONE:

Findings. The above recitals are true and correct and are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

SECTION TWO:

Amendments

Section 6.04.020 (F) of the Calistoga Municipal Code shall be amended to read and provide as follows:

6.04.020 Definition of Terms

- F. "Quarantine" shall mean the taking up and impounding of an animal in the designated City animal shelter or other suitable location by the Animal Control Officer for a period of time determined by the Animal Control Officer; or, in the discretion of the Animal Control Officer or other designated health official, the confinement of an animal in a substantial pen on the property of the owner of the animal so that the animal does not come into contact with any other animal or any human being for a period of time designated by the Animal Control Officer or designed health officer.

Section 6.04.030 of the Calistoga Municipal Code shall be amended to read and provide as follows:

6.04.030 Animal control.

It is found and determined by the Council that the public interest, health, safety, and welfare of the residents of the City require that an entity(s) with animal control and sheltering experience be designated as the enforcement agency of animal control within the City. The City Council shall designate by resolution one or more entities with animal control experience as the enforcement agency. Such enforcement agency is authorized and charged to enforce the provisions of this chapter and any state laws authorizing such enforcement relating to the care, control and treatment of animals within the City limits.

All references in this chapter to "Animal Control Officer" shall mean any person or persons designated as an animal control officer for the enforcement agency who is qualified to perform such duties.

Section 6.04.040 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.040 Animal Control Officer Authority and Enforcement.

- A. The Animal Control Officer is authorized to demand the exhibition of any dog, owned or under the control or in the custody of any person residing within the

City, and to require the exhibition of the license for such dog or any other reasonable information that may be required. It shall be the duty of such person to exhibit the dog and such license to the Officer upon demand.

- B. Pursuant to Section 12031 of the Penal Code the Animal Control Officer is authorized to carry firearms when acting within the course and scope of that officer's employment.
- C. If the Animal Control Officer in discharging any firearm or tranquilizer gun in the exercise of duties under this chapter, shall injure or destroy any animal, neither the officer, nor the City shall be liable as a result thereof.
- D. The Animal Control Officer may exercise the powers of arrest of a peace officer as specified in Section 836 of the Penal Code and the power to serve warrants as specified in Sections 1523 and 1530 of the Penal Code during the course and within the scope of employment, if the Animal Control Officer has timely and successfully completed a course in the exercise of those powers pursuant to Section 832 of the Penal Code.
- E. It shall be unlawful for any person to violate any of the provisions of this Chapter, or any state laws which the animal control officer is authorized to enforce, relating to the care, control and treatment of animals. The Animal Control Officer may, in his or her sole discretion, enforce any violation of this chapter by any remedy available to it, including without limitation pursuit of a civil injunction and imposition of civil fines and penalties.

Section 6.04.050 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.050 Use Designated Shelter.

The Animal Control Officer shall use the shelter that is designated by the City Council by resolution.

Section 6.04.060 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.060 License and license tax for dogs.

- A. Every owner of any dog in the City, which dog is over the age of four months, shall obtain annually a license for such dog from the Animal Control Officer and shall pay therefor a fee as set forth pursuant a resolution by the City Council.

- B. The City may choose, at its sole discretion, to authorize entities such as (but not limited to-) veterinarians to act as an intermediary in the issuance of dog licenses.
- C. No dog license shall be required for:
 - 1. A dog which is sent or brought into the City for a period not to exceed sixty (60) days; or
 - 2. A dog which is sent or brought into the city for the exclusive purpose of receiving veterinary care in a veterinary hospital or clinic, provided that the dog is kept at the hospital or clinic at all times.

Section 6.04.070 (B) of the Calistoga Municipal Code shall be amended to read and provide as follows:

6.04.070 Vaccination.

- B. Every owner of any dog in the City over the age of four months shall have such dog vaccinated against rabies at least once every two years.

Section 6.04.090 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.090 Loss of dog license tag.

In the event a license tag is lost from any dog for which it has been issued, the owner shall procure a new license tag. The fee for which shall be in accordance with the City fee schedule as adopted by the City Council.

Section 6.04.140 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.140 Disposition of impounded animals.

- A. The Animal Control Officer shall observe the following rules in disposing of impounded dogs and cats:
 - 1. An impounded dog shall be held and disposed of in a manner consistent with State law, as appearing in California Food and Agricultural Code Sections 31107 and 31108 or such applicable state law, as amended from time to time.
 - 2. An impounded cat shall be held and disposed of in a manner consistent with State law, as appearing in California Food and Agricultural Code

Section 31752 or such applicable state law, as amended from time to time.

3. At any time during the holding period required by this section, subject to the provisions for owner redemption provided for by State law, any person may at any time prior to the sale or other disposition thereof, during the regular office hours of the animal shelter, redeem a dog or cat by: (a) paying all outstanding fees and charges owing to the animal shelter, (b) procuring the required license, if applicable.
4. At any time after the expiration of the holding period required by this section, the Animal Control Officer may, without further notice, and without advertising in any manner, sell, give away, or humanely euthanized and dispose of any dog or cat not claimed or redeemed. Any dog or cat having been released to a nonprofit animal rescue or adoption organization shall, upon its return to the custody of the Animal Control Officer, be deemed to have completed the holding period required by Section 31108 or 31752, provided, however, that Animal Control Officer may not transfer title to any living animal to any institution engaged in the diagnosis or treatment of human or animal disease, or in research for the advancement of veterinary, dental, medical, or biologic science, or in the testing or diagnosis, improvement or standardization of laboratory specimens, biologic products, pharmaceuticals, or drugs.

Section 6.04.150 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.150 Redemption of impounded animals.

The owner or person entitled to possession of any animal impounded under the provisions of this chapter may redeem the animal during regular business hours Monday through Friday (holidays excepted) before sale or disposal as herein provided, by paying to the Animal Control Officer the appropriate fees as set forth by City Council resolution.

Section 6.04.170 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.170 Removal of dead or live animals.

The owner of any animal may request the Animal Control Officer to pick up and dispose of such animal or the body thereof, and the fee for such service shall be as set forth by City Council resolution.

A new subsection (C) shall be added to Section 6.04.185 of the Calistoga Municipal Code, which shall read and provide as follows:

6.04.185 Prohibited conduct.

- C. No person shall interfere with, harass, hinder or molest the Animal Control Officer in the performance of duties, or seek to release any animal in custody.

Section 6.04.190 of the Calistoga Municipal Code shall be amended in its entirety to read and provide as follows:

6.04.190 Violation – Penalty.

Violations of this chapter are punishable as follows:

- A. Any person who violates Section 6.04.185 C shall be deemed guilty of a misdemeanor.
- B. Any person who violates any section of this chapter other than Section 6.04.185 C shall be deemed guilty of a misdemeanor or an infraction.

SECTION THREE:

The City Council finds pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION FOUR:

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that

any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION FIVE:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before expiration of fifteen (15) days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading at a regular meeting of the City Council of the City of Calistoga held on **the 15th day of October, 2013**, and was passed and adopted at a regular meeting of the City Council on **the 5th day of November, 2013**, by the following vote:

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| AYES: | Councilmembers Kraus, Barnes and Lopez-Ortega, Vice Mayor Dunsford and Mayor Canning |
| NOES: | None |
| ABSENT: | None |
| ABSTAIN: | None |


CHRIS CANNING, Mayor

ATTEST:


KATHY FLAMSON, Deputy City Clerk