

**BUTTE COUNTY
BOARD OF SUPERVISORS
AGENDA TRANSMITTAL**

CLERK OF THE BOARD USE ONLY

MEETING DATE: 04/08/08

AGENDA ITEM: 5.2

AGENDA TITLE: ADOPTION OF ORDINANCE AMENDING BUTTE COUNTY CODE CHAPTER 4 - ANIMALS.

DEPARTMENT: PUBLIC HEALTH DATE: 04/02/08 MEETING DATE REQUESTED: 04/08/08

CONTACT: PHYLLIS MURDOCK PHONE: 7704 REGULAR: CONSENT:

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

SUMMARY OF REQUEST:

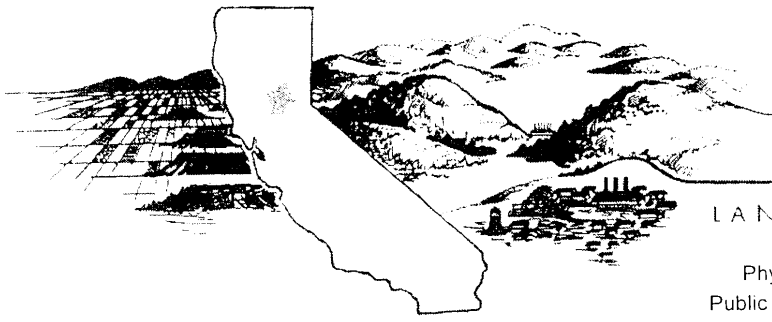
Please refer to the attached "Report to the Board of Supervisors."

ACTION REQUESTED:

Adopt the Ordinance amending Butte County Code Chapter 4 - Animals.

**GENDA ITEM SUBMITTALS REQUIRE THE ORIGINAL AND TWELVE (12) COPIES
ATTACH EXPLANATORY MEMORANDUM AND OTHER BACKGROUND INFORMATION AS NECESSARY**

Budgetary Impact: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If yes, complete Budgetary Impact Worksheet on back	
Budget Transfer Requested: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If yes, complete Budget Transfer Request Worksheet on back. (Deadline is one business day prior to normal agenda deadline)	
Will proposal require an agreement: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Auditor's Controller's Number (if required): _____ County Counsel's Approval: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	CAO OFFICE USE ONLY
Will proposal require additional personnel: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Number of Permanent: _____ Temp: _____ X-Help: _____	
Administrative Office Review: Administrative Office Staff Contact: <i>Phyllis Murdock</i> 4/5's Vote Required: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Date Received by Clerk of Board: <i>04/08/08</i>	
Previous Board Action Date: _____ Additional Information Attached: YES <input type="checkbox"/> NO <input type="checkbox"/>	
Describe: _____	



Butte County

LAND OF NATURAL WEALTH AND BEAUTY

Phyllis Murdock
Public Health Director

Mark A. Lundberg, M.D., MPH
Health Officer

PUBLIC HEALTH DEPARTMENT

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Phone: (530) 538-7581 Fax: (530) 538-2164

TO: Board of Supervisors
FROM: Phyllis Murdock, Public Health Director
DATE: April 1, 2008
RE: Ordinance Updating Chapter 4 - Animal Control

REPORT TO THE BOARD OF SUPERVISORS

Summary

Butte County Code Chapter 4 entitled "Animals" was originally adopted in 1979 by the Board of Supervisors and since that time, several minor revisions have been made to the chapter. Due to the age of the ordinance, much of the chapter has become outdated and major revisions are recommended by staff and the Animal Control Advisory Board to reflect current trends and modern approaches, as well as to provide clarification and guidance to staff and the public in relation to animal control in the unincorporated areas of the County.

Rather than attempt to revise the outdated code, an entirely new version of Chapter 4 is proposed for Board review and approval. In developing the replacement chapter, animal control statutes from other jurisdictions in the state were reviewed and portions of their codes that are applicable in our County were tailored to meet our specific needs.

The proposed chapter contains eleven (11) articles. The rabies control provisions (Article III) and the Wild and Exotic Animals provisions (Article IX) are similar to the existing ordinance language. Significant changes have been made to the other articles and these changes are briefly reviewed in the following paragraphs. Article X sets forth fees for services, penalties and civil fines. Fee adjustments are proposed based on levels established in State law, and an analysis of actual costs in providing the service, plus consideration of whether it will be feasible to actually collect the fee given the income level of a majority of animal owners incurring a charge. Several fees have been proposed at levels below actual costs in an attempt to balance affordability with the need to cover costs of services.

An attachment has been prepared to provide a "quick glance" at significant changes to the new Chapter 4 (see attached "At a Glance").

Article I - Definitions

Article I contains forty-six (46) definitions relating to animals. Included are noteworthy definitions such as cattery, kennel, barking dog, animal hoarder, potentially dangerous animals and vicious animals. These definitions will be expanded upon in the following sections.



Article II - General and Control Provisions

Section 4-2-1 of this article provides the authority for animal control officers to carry out the responsibilities of the position. Responsibilities include impounding animals in violation of the chapter, removing dead animals from public places, quarantine animals, licensing and permitting animals, issuing citations, pursuing animals on private property, and to direct the destruction of an animal in the field when other means have failed.

Section 4-2-3 describes the duties and responsibilities of owners of animals. Among the duties of animal owners are the following: animals shall be restrained as required; vaccinate dogs and cats against rabies; dog licenses and permits shall be obtained; animals shall be treated humanely at all times; animals shall not disturb the peace or create a nuisance; animals shall be prevented from attacking, biting or causing injury to any other animal or person engaged in a lawful act.

Section 4-2-4 prohibits the inhumane treatment or the abandonment of any animal and requires the owner to provide proper and adequate food water, shelter and care for any animal. Violation of this section carries misdemeanor charges.

Section 4-2-5 contains the nuisance language of the ordinance. Among the nuisances prohibited are barking; keeping or maintaining an animal in conditions that pose a significant potential to cause economic or personal injury to persons or properties; not confining dogs and cats in breeding season; and preventing animals from harassing or biting persons or animals.

Article III - Rabies Provisions

The disease of rabies continues to be a major concern in Butte County. The rabies virus can be carried by skunks and bats, and it remains endemic in these species. Fortunately, "spillover" of the disease into companion animals, livestock or humans is rare. (Butte County has had two human rabies-related deaths in recent recorded history, both due to bat bites.) To prevent "spillover" rabies cases, rabies vaccinations are required for cats and dogs, animal bites must be reported to the health department, and biting animals must be observed for 10 days following a bite to make sure the bite is not an initial symptom of rabies.

This article also requires that a copy of the certificate of rabies vaccination be forwarded from the vaccinating veterinarian to the Health Department. This information may then be used for the dog license registration program.

Article IV - Dog Licenses

Dog licenses are required for all dogs over four months of age. The licensing program ensures that all licensed dogs are protected from rabies, provides a means of identification for the dog, and provides a stable funding mechanism for the animal control program. A new and significant addition is the creation of the companion animal overpopulation fund. This fund will create a dedicated revenue fund from a portion of the licensing fees of unaltered dogs. Twenty dollars of every license fee for unaltered pets will be directed to this fund. All of the revenue will then be used for altering animals owned by qualifying pet owners in specific target areas. Similar successful programs have been created throughout the country, with noted success in New Hampshire and Illinois.

Article V - Impoundment

It remains a high priority to rehome all animals if found straying from home. However, in some cases, dogs, cats, and occasionally livestock must be impounded. If the animal is wearing a dog license or other form of identification, attempts will be made to contact the owner prior to impoundment of the animal. Article V details the impoundment process and reflects changes in state law with regards to minimum holding periods. It also recommends that upon redemption of an animal, microchip technology

is used to maintain a permanent identification record for the animal. The microchip contains important owner information readily available using a hand-held scanner in the field. This information is then used to return the animal to its home.

Article VI - Barking Dog Violation and Civil Fine

Barking dog complaints comprise between ten and twenty percent of animal control service requests. Requests can be divided into two general groups: short term barking and long term or chronic barking nuisances. Most short term barking complaints are a result of leaving a dog unattended while at work or short term vacation without proper planning for a caretaker. The dog becomes lonely, seeking attention and begins barking out of boredom and lack of attention. Long term chronic barking nuisances are more problematic and are the source of frustration for all involved. In the past, resolution of these nuisances was largely ineffective due to difficulties collecting evidence, providing witnesses and an overflowing court calendar.

This section of the ordinance is designed to approach the challenge from a new perspective. Developed in Orange County, CA., this approach has reportedly been producing positive results. Briefly stated, a citizen can file a service request due to a barking dog if the dog "barks, bays, howls...for an extended period of time which shall consist of incessant barking for thirty (30) minutes or more in any 24 hour period, or intermittent barking for sixty (60) minutes or more during a 24 hour period. The Department, upon receiving a service request, will make a personal visit with the dog owner and offer educational information about the alleged barking dog violation. From the day of the visit, the owner is allowed ten (10) days to remedy the violation. If after 10 days the violation continues, the complainant files a second complaint signing a sworn affidavit. The animal control officer will make a second visit and may issue a citation for the barking dog violation. The citation will be a civil citation; fines will be levied and collected by the Department. A per citation fine shall be progressively increased based on the number of violations occurring with the same 12-month period.

Any person who receives a barking dog citation may contest it by submitting a request for an administrative hearing. The complainant is required to be present at the hearing and the violator, complainant (and other witnesses) shall be given an opportunity to testify in an informal hearing. The hearing officer shall issue a final written decision.

Article VII - Potentially Dangerous and Vicious Animals

This section of the code significantly alters the existing dangerous dog section. First, the term "dog" is replaced by "animal." It has been the experience of the Department that other animals can exhibit dangerous and vicious tendencies as well as dogs. Secondly, the minimum requirements for the determination of a dangerous or vicious animal have been modified so that even one incident of biting or killing another animal may be grounds to determine an animal to be potentially dangerous. Likewise, the definition of severe injury, a finding that must be made in order to determine that an animal is vicious, has been modified.

Article VIII - Kennels and Catteries

In Butte County, a kennel permit is required if more than five dogs (over four months of age) reside on a property. Prior to the kennel license issuance, a use permit must be obtained through the Department of Development Services. This article also lays out standards for kennels including indoor and outdoor facilities, general space and sanitation requirements.

Within this article are license requirements for catteries. A cattery is defined as any enclosure, premises, building structure, lot or area in or on which twelve (12) or more cats at least 3 months of age are kept, harbored, or maintained. The owner must apply for a cattery license and meet the standards described in the article. Space requirements, sanitation, and proper rabies vaccinations are required by this section.

Both kennels and catteries will be subject to at least annual inspections with emphasis placed on sanitation, vaccination records, and humane operation.

Article IX - Wild or Exotic Animals

This section remains unchanged and is being readopted in its entirety.

Article X - Fees and Penalties; Waivers

This article contains fees and penalties for licenses, permits, impounds and barking dog civil fines. The challenge in establishing fees for services is that it is recognized if true actual costs were charged, the number of animals recovered by owners would be reduced. The Department has attempted to balance the need to cover charges for services against the need for redemption of animals to remain affordable so owners are encouraged to actually redeem their animals rather than result in an increase in animals being euthanized. Therefore, although several charges have been increased, they still remain under actual costs of services in an attempt to strike this balance.

Additionally, new civil fines are proposed in implementing the new barking dog procedures. The fines recommended up to the third violation are based on the estimated actual cost involved in addressing a barking dog situation. Beyond a third violation, the charge is proposed as a deterrent to refusal of an owner to remedy the problem.

This article also codifies a fee deferral provision in which the Public Health Director may approve a fee waiver based on sufficient supporting evidence.

Article XI - Administrative Hearings

Historically, the animal control citations were issued through the Butte County court system. This article will provide an alternative to the court system. The administrative hearing process is successful in the Code Enforcement program and this article closely mirrors that program. It is important to note that the addition of the administrative hearing process does not prohibit the use of the court system.

Requested Action

Staff requests the Board of Supervisors adopt the ordinance amending Butte County Code Chapter 4 – Animals.

“At a Glance” View of Significant Changes to Animal Control Ordinance
 (Prepared for Animal Control Advisory Board Meeting, March 11, 2008)

Section	Summary of Change	Why Change is Being Made	Who is Impacted
4-1-6 Definitions Page 1	Defines animal hoarder as person who possesses large number of animals and i) fails to or is unable to provide adequate care or ii) keeps animals in severely crowded environment or iii) displays the inability to recognize or understand the nature of or has the reckless disregard for the conditions of the animals	Bringing to light a problem that Animal Control continues to see. Animal Hoarding cases are very expensive to resolve and this definition will tie in hoarding to owner's duties and conditions of ownership (Sec. 4-2-3).	Animal hoarders throughout the unincorporated area.
4-1-9 Definitions Page 1	Defines barking dog; incessant barking for 30 minutes in 24 hours or intermittent barking for 60 minutes in 24 hour period.	To provide foundation for educational resolution and enforcement through administrative process if necessary.	Owners of habitually barking dogs.
4-1-13 Definitions Page 2	Adds definition of cattery to ordinance.	To ensure that cats in catteries are properly vaccinated and conditions are sanitary and humane.	Owners or harborers of 12 or more cats.
4-1-36 Definitions Page 4	Revises definition of potentially dangerous: 1) replaces "dog with animal" and 2) requires only one animal bite or attack instead of two events.	1) Animals other than dogs can be determined to be dangerous or vicious. 2) Many "one time" bite events or killing of another animal by attack are severe; enforcement and monitoring are warranted.	Owners of potentially dangerous animals.
4-1-43 Definitions Page 4	Revises definition of "severe injury" Adds multiple bite wounds in definition.	Enables judicious use of vicious animal finding when warranted.	Owners of "vicious" animals.
4-2-3 Owner's Duties Page 7	Adds language describing "humane treatment."	Requires owners to provide adequate food, water, shelter, veterinary care.	All Animal Owners
4-2-5 Nuisances Page 8	Adds language to include as a nuisance the keeping of an animal in conditions that pose a significant potential to cause economic or personal injury or damage to neighboring persons or property.	To provide additional enforcement tools for resolution of long-standing animal nuisances.	Animal owners who choose to continue to create and maintain nuisance conditions.
4-3-2 Vaccination Certificate Page 9	Requires veterinarians to forward copy of rabies certificate to Health Department each quarter.	Dog license information will be sent to all owners of vaccinated animals. Will increase compliance with dog license requirements.	Veterinarians and owners of unlicensed dogs.
4-5-1 Animals at Large Page 12	Revises language so that animals (including cats) must be under the control of the owner.	Provides additional enforcement mechanisms to prevent the running at large of nuisance animals.	Animal owners who permit animals to wander "at large"

Section	Summary of Change	Why Change is Being Made	Who is Impacted
4-5-4 Duration of Impoundment Page 12	Revises duration of impoundment of animals placed in shelter.	Code will conform to state law.	Owners of animals will have more time to locate impounded animals.
4-6-1 Barking Dog Violation Page 14	Describes procedure for barking dog violation including civil fine and appeal before administrative hearing officer if requested.	Provides a direct path toward resolution of difficult nuisance barking problems, promoting education and information prior to any enforcement activities.	Owners of dogs that create chronic barking nuisances requiring call-out of officers
4-7-1 Potentially Dangerous and Vicious Animals Page 19	Revises definitions and directs hearing in Superior Court instead of by Environmental Health Director. Increases fees for the keeping of described animals. Requires microchip identification of same.	Protection of citizens from dangerous animals, even after one altercation.	Owners of dangerous and vicious animals.
4-8-2 Kennel and Cattery Standards Page 22	Requires license for kennels and catteries. Describes standards for same.	Kennels - provides enforceable standards; Catteries will be licensed on a complaint basis with goal of decreasing nuisance or hoarding situations.	Dog owners with more than five dogs over 4 months of age and cat owners with more than 12 cats.
4-10-1 Fees and Penalties Page 30	Increases fees for dog licenses for altered and unaltered dogs; creates "Senior Owner" reduced license category.	To help fund costs of services and enforcement and to encourage the altering of animals.	Owners of dogs, particularly owners of unaltered dogs.
4-10-1 Companion Animal Overpopulation Fund Page 30	Creates a permanent spay/neuter fund. Twenty dollars of every unaltered license fee will be directed to a dedicated fund to subsidize spay/neuter activities for qualifying dog/cat owners.	To decrease numbers of dogs and cats killed at shelter for population control.	Citizens of Butte County concerned with population control killing of companion animals.
4-11-1 Administrative Hearings Page 32	Provides for an alternative hearing process for a variety of violations including nuisance, unlicensed animals and neglect/cruelty.	Some cases do not need to be heard in Superior Court. This provides an option to the court process.	Code violators.

JUSTIFICATION FOR CHANGES IN CHARGES/PENALTIES CHAPTER 4 – ANIMAL CONTROL

The challenge in establishing fees for services related to animal control services is that it is recognized if true actual costs were charged, the number of animals recovered by owners would be reduced. The Department has attempted to balance the need to cover charges for services against the need for redemption of animals to remain affordable so owners are encouraged to actually redeem their animals rather than result in an increase in the euthanizing of animals.

Explanation of Changes in Charges/Penalties

The “Dog License Fee” levels are being adjusted to reflect a minor increase, although the actual cost of providing this service exceeds the recommended fee levels in order to encourage the licensing of animals.

The “Late License Penalty Fee” is being reduced to encourage the licensing of animals by those that have allowed their current license to expire or have not yet licensed their animal(s).

The “Ownership Transfer Fee” is being eliminated since licensing is tracked by the animal using the Department’s tracking software system, rather than by owner.

The daily “Boarding Fee” is slightly increased by \$3 per day due to actual costs of boarding and feeding of animals.

The “Unaltered Animal Fee” is being adjusted to reflect the amount set forth in the California Food and Agriculture Code section 30804.7 (dogs) and 31751.7 (cats).

The “Kennel/Cattery Annual Permit Fee” is changed to apply the current Kennel Permit Fee to Catteries, and to more closely reflect the time taken to prepare and inspect facilities on an annual basis.

The “Potentially Dangerous Animal Fee” is increased because of the amount of time demanded in court processes and appearances, assistance by County Counsel, and time required by Animal Control Officers to handle a seriously dangerous animal situation.

“Barking Dog Civil Fines” are being established based on two factors: 1) to help defray costs in responding to persistent barking problems, and 2) to deter future occurrences. The program is designed to address community complaints through an educational process that encourages owners to remedy the disturbance. Where there is a lack of action by the animal’s owner or possessor, a citation will BE issued and an appeal process provided through an administrative hearing process.

Note: A cost of services analysis (nexus study) which justifies the above increases is available for review in the Clerk of the Board’s office.

CHANGES IN CHARGES/PENALTIES IN CHAPTER 4 - ANIMALS

PROPOSED FEES/PENALTIES				CURRENT FEES/PENALTIES			DIFFERENCE		
	Unaltered Animal	Altered Animal	Senior Rate (62+) Altered Animal Only	Unaltered Animal	Altered Animal	Unaltered Animal	Altered Animal	Senior Rate (62+) Altered Animal Only	
Dog License Fee									
One Year	\$40	\$20	\$10	\$20	\$10	\$20	\$10	\$10	
Two Year	\$60	\$30	\$15	\$35	\$17	\$25	\$13	\$15	
Three Year	\$80	\$40	\$20	\$45	\$22	\$35	\$18	\$20	
Late License Penalty Fee			\$10						
Transfer of License from other CA Jurisdiction			no charge						
Ownership Transfer Fee			\$0						
Replacement License Tag			\$5						
Impound Fee (per animal)			\$25						
Transport to Facilities per Trip			\$40						
Boarding Fee (per day)			\$60						
Unaltered Animal Fee			\$15						
Kennel/Cattery Annual Permit Fee			actual cost						
Potentially Dangerous Animal Fee			\$8						
Wild or Exotic Animal Permit Fee			\$2						
Barking Dog Civil Fines			\$5						
Barking Dog Fine Late Penalty Fee			\$10						
Penalty for Infractions			actual cost						
			\$35						
			\$50						
			\$100						
			\$100						
			\$150						
			\$250						
			\$500						
			\$200						
			\$50						
			\$50						
			\$25						
			\$200						
			\$225						
			\$250						
			\$275						
			\$300						
			\$325						
			Double amount of fine						
			\$50						
			\$150						
			\$300						
			Double amount of fine						
			\$0						
			\$0						
			\$0						
			\$0						