

**TOWN OF PARADISE
ORDINANCE NO. 484**

**AN ORDINANCE REPEALING SECTION 6.12.60 OF THE
PARADISE MUNICIPAL CODE AND ADDING A NEW CHAPTER 6.13
TO THE PARADISE MUNICIPAL CODE RELATING TO
POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS**

The Town Council of the Town of Paradise, State of California, does **ORDAIN AS FOLLOWS:**

SECTION 1. Section 6.12.60 of the Paradise Municipal Code is hereby repealed.

SECTION 2. Chapter 6.13 is hereby added to the Paradise Municipal Code to read as follows:

Chapter 6.13

POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS

Sections:

- 6.13.010 Purpose.
- 6.13.020 Definitions.
- 6.13.030 Investigation, confinement, seizures and impoundment.
- 6.13.040 Potentially dangerous animals.
- 6.13.050 Dangerous animals.
- 6.13.060 Vicious animals.
- 6.13.070 Destruction of vicious animal.
- 6.13.080 Determination of potentially dangerous, dangerous or vicious animal – Hearing.
- 6.13.090 Permit for potentially dangerous or dangerous animal required.
- 6.13.100 Unpermitted potentially dangerous or dangerous animals.
- 6.13.110 Time limit to meet requirements.
- 6.13.120 Potentially dangerous or dangerous animals to be kept under control at all times.
- 6.13.130 Impoundment authorized.
- 6.13.140 Compliance required-Violation.
- 6.13.150 Exception.
- 6.13.160 Restriction on future ownership.
- 6.13.170 Notification of change of status.

6.13.010 Purpose.

This chapter is intended to reduce the risk of attacks or bites by dogs and other animals.

6.13.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. Mitigations. The following circumstances shall be deemed to be “mitigations.” Mitigation shall be a factor in consideration of whether an animal is potentially dangerous, dangerous, or vicious and will be weighed with other circumstances in making such determination, including, but not limited to, circumstances such as, the nature of a trespass, the age of a trespasser, and the training of the animal in the use of deadly force. Mitigation shall not be considered if the animal has been trained to attack in a manner violating any other provision of law.

2. A person is “peaceably and lawfully upon the private property of an owner or possessor of the animal” when he or she is on such property in the performance of any duty imposed upon him or her by the laws of this state or any city or county, or by the laws or postal regulations of the United States, or when he or she is on such property upon invitation, expressed or implied.

3. “Proper enclosure of an animal” means that a potentially dangerous or dangerous animal shall be securely and humanely confined on the owner’s property in either of the following:

a. Within a fence line or structure suitable to prevent the entry of young children, and which is suitable to confine a potentially dangerous animal in conjunction with other measures which shall be taken by the owner or keeper of the animal, such as keeping the animal held securely in an enclosure. The enclosure shall be designed in order to prevent the animal from escaping; or

b. In an enclosed and locked (with a key or combination lock) pen or structure, suitable to prevent the animal from escaping or the entry of unauthorized persons. The pen or structure shall have secure sides and a secure top over entire structure which protects the animal from the elements. All sides must be embedded into the ground no less than two feet unless the bottom is adequately secured to the sides. The structure must be kept in a clean and sanitary condition and provide adequate light and ventilation. The enclosure shall be not less than five feet by ten (10) feet, and not less than six feet high.

4. “Severe injury” means any physical injury to a human being or other animal that results in death, a muscle tear, a broken bone or a laceration requiring sutures.

5. “When unprovoked” means person who has suffered the injury has not caused nor been a party to any act of teasing, tormenting, abusing or assaulting the animal, which act of teasing, tormenting, abusing or assaulting resulted in the animal inflicting injury on that person.

6.13.030 Investigation, confinement, seizures and impoundment.

A. Whenever an animal suspected of being potentially dangerous, dangerous or vicious is reported, an animal control officer shall investigate the circumstances, and if he or she finds that the animal shows a propensity to attack, bite, scratch, or harass people, domestic animals or livestock without provocation, or displays any other such behavior, he or she shall notify the owner in writing, stating all the facts and circumstances. The animal control officer may order that the animal be kept within a proper enclosure, securely leashed or otherwise controlled.

B. If the animal control officer has probable cause to believe an animal may be designated as “potentially dangerous,” “dangerous” or “vicious” under this chapter, the owner is unwilling or unable to properly contain or control the animal immediately and the animal poses an immediate threat to the safety of persons, domestic animals or livestock, the animal may be seized, pending the outcome of hearing or appeal; or during the period of time the owner requires to comply with any requirements of this chapter.

C. The animal's owner shall be charged for all costs incurred or fees applicable with respect to impoundment under this section unless a finding is made that the animal is not potentially dangerous, dangerous, or vicious. An animal held under the provisions of this section shall not be released until the owner pays all charges as specified in this code. If the owner refuses to pay such charges, the animal shall be treated as unredeemed by the owner, and animal control shall dispose of the animal pursuant to this code. Disposal of the animal does not release the owner from his or her responsibility to pay the keeping charges.

6.13.040 Potentially dangerous animals.

A. Any animal, except a dog assisting a peace officer engaged in law enforcement duties, is a potentially dangerous animal if, on three separate occasions within a twelve (12) month period, the animal has been observed uncontrolled and off its owner's or custodian's premises by an animal control officer or any peace officer or has been properly impounded three times within a twelve (12) month period by an animal control officer.

B. An animal control officer may issue a notice designating an animal exhibiting the aforementioned characteristics as potentially dangerous and may recommend that the animal's owner take certain actions to prevent future injury by the animal, notwithstanding exceptions as provided for in section 31626 of the Food and Agricultural Code. Such designation shall be subject to a hearing as provided for in section 6.13.080B.

6.13.050 Dangerous animals.

A. Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any of the following behavior, is rebuttably presumed dangerous:

1. Any animal previously determined to be and currently listed as a potentially dangerous animal which, after its owner or keeper has been notified of this determination, displays the behavior described in section 6.13.040, or is maintained in violation of section 6.13.080C;
2. Any animal that chases or approaches a person, domestic animal or livestock, anywhere other than on the property of the owner or custodian, in a menacing fashion or apparent attitude of attack, including, but not limited to, behavior such as growling or snarling;
3. Any animal which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the property of the owner or keeper of the animal;
4. Any animal which, when unprovoked, bites, *injures*, or *causes injury to*, a person or domestic animal or livestock causing a less severe injury than as defined in section 6.13.020; or
5. Any animal which, when unprovoked, has seriously bitten, inflicted injury, or otherwise caused injury attacking any domestic animal or livestock off the property of the owner or keeper of the animal.

B. An animal control officer may issue a notice designating an animal exhibiting the aforementioned characteristics as dangerous and may recommend that the animal's owner take certain actions to prevent future injury by the animal, notwithstanding exceptions as provided for in section 31626 of the Food and Agricultural Code. Such designation shall be subject to a hearing as provided for in section 6.13.080B.

6.13.060 Vicious animal.

Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any of the following behavior, is rebuttably presumed dangerous:

- A. Any animal which, when unprovoked, inflicts severe injury on or kills a human being, in a place where such person is conducting himself or herself peacefully and lawfully;
- B. Any animal which, when unprovoked, inflicts severe injury on or kills a domestic animal or livestock;
- C. An animal which has been trained to fight or which is owned or harbored for this purpose;
- D. Any animal previously determined to be and currently listed as a dangerous animal which continues the behavior described in sections 6.13.050, or is maintained in violation of section 6.13.080C.

6.13.070 Destruction of vicious animal.

After the notice and hearing set forth in section 6.13.080B, the hearing officer may further find, in writing with supporting substantial evidence, that an animal is so vicious, or that other special circumstances exist, such that maintaining the animal poses a substantial threat to health and safety of human beings, domestic animals, or livestock. Ten (10) business days after mailing notice of a finding under this section, the animal control department may dispose of the vicious animal by humanely destroying it by injection. This section shall not be applicable to appeals to the superior court.

6.13.080 Determination of potentially dangerous, dangerous or vicious animal--Hearing.

A. An animal which exhibits any behavior described in sections 6.13.040, 6.13.050 or 6.13.060, may be respectively determined to be a potentially dangerous, dangerous or vicious animal. The animal's status shall be established after a hearing as provided in this section. Proceedings may be instituted by:

1. Observation by an animal control officer or police officer;

2. A complaint under penalty of perjury by a person or persons, at least eighteen (18) years of age, who observed the animal's behavior.

B. Hearings for classification as "potentially dangerous," "dangerous," or "vicious" shall be conducted as follows:

1. The owner shall be given written notice, by first-class certified mail or by personal service, of the facts which are the basis of the complaint and notice of a hearing. The owner shall be notified of the restrictions which will apply to the animal if it is classified as a potentially dangerous, dangerous or vicious animal.

2. The owner may waive his or her right to a hearing by filing a written waiver with the animal control department, whereupon the animal control department shall make the findings and apply the sanctions provided in this chapter.

3. Any hearing shall be set not less than five (5) business days nor more than fifteen (15) business days after the notice was mailed to the owner by first-class return receipt mail or the owner was personally served, unless the animal has been seized, in which case the hearing shall be conducted not later than ten (10) days after the seizure.

4. If the owner fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued.

5. The public hearing shall be conducted before a hearing officer. The appointment of the hearing officer shall be by the town manager. Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest or for any other reason for which a judge may be disqualified in a court of law. The town manager shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the Town as hearing officers and for the disqualification of hearing officers.

6. The hearing officer may continue a hearing, based on good cause, as established by one of the parties to the hearing or the hearing officer.

7. The hearing officer shall consider all relevant evidence presented at the hearing. The formal rules of evidence shall not apply. The hearing officer shall also consider circumstances of mitigation, as well as the owner's and animal's history. If the hearing is held as a result of a sworn complaint, at least one of the complainants shall appear and testify at the hearing or the complaint shall be dismissed.

8. After the hearing, the owner of the animal shall be notified in writing of the determination and orders issued, either personally or by first-class return receipt mail. The hearing officer shall make a written determination within fifteen (15) business days after the hearing is concluded, unless the animal has been seized, in which case the determination shall be made in seven (7) business days. The decision of the hearing officer shall be final unless appealed pursuant to this section.

9. If the owner or keeper of the animal contests the hearing officer's determination, the owner may, within five (5) business days of the receipt of the notice of determination, appeal the decision of the hearing officer to the Butte County Superior Court. The owner of the animal shall serve personally or by first-class return receipt mail, notice of the appeal to the town. Any such appeal shall be by trial de novo.

10. The determination of the superior court hearing an appeal shall be final and conclusive upon all parties.

C. If an animal is determined to be vicious, the animal shall be immediately removed from corporate limits of the town or destroyed pursuant to section 6.13.070. If an animal is designated "potentially dangerous" or "dangerous," the following requirements shall apply:

1. The owner of the animal shall immediately confine the animal in a run which is totally enclosed or kept under other adequate control as approved by the animal control officer. If any of these means of restraint is impossible or impracticable, the animal shall be impounded in the animal shelter facility at the owner's expense, until such time as the owner of the animal shall provide for the restraint of the animal either in a run which is totally enclosed or held securely on a chain or kept under other adequate control as approved by an animal control officer.

2. The owner of the animal shall be required to provide proof that he or she has current liability insurance in the amount of \$250,000 covering activities of the animal.
3. The animal shall have an identity micro-chip inserted under its skin.
4. The animal's color photograph shall be provided to the animal control department by its owner.
5. A potentially dangerous or dangerous animal shall be securely confined in an enclosure as described in section 6.13.020 or in the dwelling while on the owner's or custodian's property. The owner shall conspicuously display signs with a symbol warning of the presence of a potentially dangerous or dangerous animal.
6. While off the owner's premises, a potentially dangerous or dangerous animal shall, at all times, be muzzled and restrained by a substantial chain or leash not exceeding six feet in length, held by and under the control of an adult capable of physically controlling the animal.
7. All potentially dangerous or dangerous animals shall be properly licensed and vaccinated. In addition, the town shall include a designation of potentially dangerous in the registration records of such animal, and the owner shall pay an annual potentially dangerous animal registration/permit fee, in addition to the regular license fee. The fee shall be established from time to time by resolution of council.
8. A dangerous dog shall be spayed or neutered, at the owner's expense, within thirty (30) days of a potentially dangerous animal determination.
9. The animal control officer and/or his or her designee is authorized to make whatever inspections he or she deems necessary to ensure compliance with these provisions.
10. The owner of the animal shall submit a permit application under section 6.13.090 to the animal control department within ten (10) business days of notification of determination.

6.13.090 Permit for potentially dangerous or dangerous animal required.

Upon receipt of a permit application to keep a potentially dangerous or dangerous animal, an animal control officer may investigate the application and after permit fees have been paid, may grant a town permit if he or she finds based on substantial evidence that all the following conditions are satisfied:

- A. All requirements of section 6.13.080 C have been met;
- B. The animal will not create any detriment or danger to the peace, health or safety of the people in the vicinity of the location the animal will be kept;
- C. Possession and maintenance of the animal at the location has not resulted in and is not likely to result in the animal being subjected to neglect, suffering, cruelty or abuse;
- D. The location where the animal is maintained is kept clean and sanitary, and the animal is provided with proper and adequate food, water, ventilation, shelter and care at all times;

E. Neither the applicant, owners nor the possessor of the animal has had a town potentially dangerous or dangerous animal permit or any other license required under this chapter revoked, or been convicted of a violation of this chapter or any law regulating animals within the preceding five (5) years;

F. Possession of the animal at the location specified shall not violate any law, chapter or regulation;

G. The animal shall not be possessed nor maintained at any other location than that expressed on the permit.

6.13.100 Unpermitted potentially dangerous or dangerous animals.

If an animal is declared potentially dangerous or dangerous under this chapter and the animal's owner fails to obtain a permit pursuant to sections 6.13.080.C and 6.13.090, the owner shall be in violation of this chapter, and the animal control department shall be empowered to seize and impound or destroy the animal.

6.13.110 Time limit to meet requirements.

All requirements for owners of potentially dangerous or dangerous animals shall be satisfied within fifteen (15) business days, unless otherwise specified, of the issuance of the permit. Satisfactory proof of compliance shall be provided to the animal control department. If all requirements for owners of dangerous animals are not satisfied within fifteen (15) business days of the permit issuance, or the owner is unable or unwilling to implement them, the animal shall be humanely euthanized either by the animal control department or by a licensed veterinarian. Proof of euthanasia shall be provided to the animal control department within three business days of its occurrence.

6.13.120 Potentially dangerous or dangerous animals to be kept under control at all times.

Even if the owner is in compliance with the regulations for keeping such a potentially dangerous or dangerous animal, if such animal attacks, bites, causes injury, or otherwise threatens the safety of a person, domestic animal, or livestock, then such animal shall be immediately impounded at the animal shelter facility and be subject to destruction.

6.13.130 Impoundment authorized.

If upon receiving written notification the owner fails to restrain or control a potentially dangerous or dangerous animal, as ordered pursuant to this chapter, the owner is in violation of this chapter and the animal control department shall be empowered to seize and impound or destroy the animal.

6.13.140 Compliance required--Violation.

It shall be unlawful for any person to violate the provisions of this chapter relating to the keeping, harboring, owning, possessing or controlling of any potentially dangerous, dangerous, or vicious animals, which violation shall constitute an infraction punishable by a fine not exceeding \$1,000.

6.13.150 Exception.

Nothing in this chapter shall limit the right of any person or officer to take any proceedings against a potentially dangerous, dangerous, or vicious animal or the owner thereof otherwise permitted or provided by state law.

6.20.160 Restriction on future ownership.

A. Any person who owns, possesses, keeps or harbors an animal determined to be dangerous or vicious pursuant to this chapter may, after opportunity for hearing and a finding of good cause by the animal control department or hearing officer, be subject to restrictions relating to the ownership of other animals for a period of five (5) years after the original determination.

B. At least fifteen (15) business days prior to imposition of restrictions under this section, the animal control department shall mail or otherwise deliver to the person on whom restrictions are proposed a notice containing a statement of the reasons supporting the imposition of restrictions and specifying the proposed restrictions and notice of the person’s right to request, in writing within five (5) business days of receipt of the notice, a hearing before the hearing officer as to the existence of good cause for imposition of restrictions. If a hearing is requested, the town shall mail or otherwise deliver to the requesting party notice of the time and place of the hearing. If, after the hearing, the hearing officer determines that good cause for restrictions exists, the hearing officer shall impose the specific restrictions within ten (10) days after mailing notice of the decision. If no hearing is requested, the animal control officer may impose restrictions within fifteen (15) business days of the original notice.

6.13.170 Notification of change of status.

A. The owner of an animal found to be a potentially dangerous or dangerous animal under this chapter shall notify the animal control department immediately if the animal is loose, unconfined, has attacked another animal or human being, or has died.

B. A potentially dangerous or dangerous animal shall not be sold, bartered, given away, or placed in a new household without prior notification of and written approval by the animal control department. Any new owner shall comply with the requirements of this chapter. If the animal in question is sold, transferred or permanently removed from the town where the owner resides, the owner of the potentially dangerous or dangerous animal shall notify the animal control department of the changed condition and new location of the animal in writing within two (2) business days.

SECTION 3.

This ordinance shall take effect thirty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its passage, this ordinance or a summary thereof shall be published in a newspaper of general circulation published and circulated within the Town of Paradise along with the names of the members of the Town Council of Paradise voting for and against same.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this ___ day of _____ 2008, by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

Alan White, Mayor

ATTEST:

JOANNA GUTIERREZ, Town Clerk

APPROVED AS TO FORM:

DWIGHT L. MOORE, Town Attorney