

ORDINANCE 2018-###

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING CHAPTER 6.04 OF THE SAN PABLO MUNICIPAL CODE REGARDING ANIMAL CONTROL INCLUDING ADOPTION BY REFERENCE OF CHAPTERS 416-2 TO 416-12 OF DIVISION 416 OF THE CONTRA COSTA COUNTY CODE, “ANIMALS” WITH THE EXCEPTION OF ARTICLE 416-12.10

THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6.04.010 of the San Pablo Municipal Code is amended in its entirety to read as follows:

ANIMAL CONTROL

Sections:

- 6.04.010 Adoption by reference of County’s Animal Control Code.
- 6.04.020 Request enforcement in City.
- 6.04.021 Notice and contract with the County.
- 6.04.030 Violation—Penalties.
- 6.04.040 Sanitation of coops, pens, kennels, or other animal enclosures.
- 6.04.050 Permitting animals, fowls or birds to range near dwellings restricted.
- 6.04.060 Prohibition against animals in City buildings.

6.04.010 Adoption by reference of County’s Animal Control Code.

- A. The Board of Supervisors of Contra Costa County, an agency of the State of California within the meaning of Government Code Section 50022.1, has adopted Division 416, “Animals,” of the Contra Costa County Code, which constitutes Chapters 416-2 to 416-12 of Division 416 of the County Ordinance Code and is a codification of County Ordinances Nos. 80-97, 83-10, 85-23 and 87-74, 97-3, 2005-24, 2006-05, 2011-08, 2011-09, 2014-09, 2014-14, 2016-02, 2017-12 and 2018-13. These County ordinances may be referred to as the “Animal Control Code” or “County Ordinances.” The Animal Control Code addresses animal control, licensing, impoundment, rabies control, wild or exotic animals, disposal, noise, dangerous animals, sale and other animal regulations.
- B. The Animal Control Code, Division 416 of the Contra Costa County Code, is a code within the meaning of California Government Code Section 50022.1 and copies of it are on file with the City Clerk where they are open to public inspection, as required by California Government Code Section 50022.3. Division 416 of the Contra Costa County Code can also be accessed at: <http://www.co.contra-costa.ca.us/27/Government> .
- C. The Animal Control Code, Division 416 of the County Ordinance Code, is referred to and adopted by this reference as part of the San Pablo Municipal

Code, as provided for in California Government Code Section 50022.2, with the following exception:

1. Article 416-12.10, "Roosters" is not referred to and adopted by reference as roosters are prohibited within the jurisdictional boundaries of the City of San Pablo. (Ord. 06-002 § 1, 2006; Ord. 88-004 § 1 (part), 1988)

6.04.020 Request enforcement in City.

- A. The Animal Control Code referred to and adopted in this Chapter contains the provisions of those sections of the California Food and Agricultural Code referred to in Section 30501, and therefore, this Chapter constitutes the City's request that the provisions of the Animal Control Code be applicable within this City, and they shall so apply, pursuant to Food and Agricultural Code Section 30501. The provisions of this Chapter shall be enforced by the Contra Costa Animal Services Department pursuant to an agreement between the City of San Pablo and Contra Costa County.
- B. Such request and contract with the Contra Costa Animal Services Department does not preclude the San Pablo Police Department from enforcing the provisions of this Chapter. (Ord. 83-008 § 1(B), 1983)

6.04.021 Notice and contract with the County.

The City Clerk shall promptly send the Clerk of the Board of Supervisors a certified copy of the Ordinance codified in this Chapter. The Mayor and City Clerk are authorized to execute a contract with the County for animal control services by County personnel inside the City, being the enforcement of the provisions of this Chapter, including such things as licensing, impounding, fees and the like. (Ord. 83-008 § 1(C), 1983)

6.04.030 Violation—Penalties.

- A. Notwithstanding Section 14-8.004 of the Animal Control Code, and pursuant to California Food and Agriculture Code Section 31401, violations of the Animal Control Code, excepting Chapter 416-10 and Article 416-12.2 are punishable by a fine of not more than fifty dollars (\$50.00) for the first offense, and not more than one hundred dollars (\$100.00) for the second or subsequent offense.
- B. Violation of Section 416-4.404, "Abandonment," excluding abandonments under Section 416-8.014, is a misdemeanor and punishable as such.
- C. Violation of Chapter 416-10, "Rabies Control" of the Animal Control Code, except for the provisions of Section 416-10-010(b), is a misdemeanor. Violation of Section 416-10.010(b) is subject to Article 416-4.6 of Division 416.
- D. Violation of Article 416-12.2, "Nuisances," of the Animal Control Code, is an infraction. Except as otherwise provided by State law, every infraction violation is punishable, upon conviction thereof, by:
 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;

2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance within one year;
 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year (See Government Code Section 25132(b).)
- E. Under Article 416-12.4, "Dangerous Animals," of the Animal Control Code, it is a misdemeanor for any owner or keeper of an animal previously designated as dangerous to violate any of the conditions of the dangerous animal permits under Section 416-12.422, punishable as provided by law. If an owner or keeper is convicted of violating this section, the court may, upon good cause, order the dangerous animal seized, declared a nuisance, and destroyed. Any person convicted in violation of this section shall be prohibited from owning, harboring or keeping any animal within the city for a minimum of five years.
- F. Article 416-4.8 of Division 416 of the Animal Control Code provides for administrative fines that the Animal Services Department may impose, enforce, and collect to address any violations of Division 416.
1. For a continuing violation, the amount of the fine is one hundred dollars (\$100.00) for the first notice of fine. If the owner fails to correct the violation after the first notice of fine, and a second notice of fine is issued in the same year, the amount of the fine in the second notice is two hundred dollars (\$200.00). If the owner still fails to correct the violation after the second notice of fine, the amount of the fine is five hundred dollars (\$500.00) for each additional notice of fine that is sent within one (1) year.
 2. If the violation is not a continuing violation, the amount of the fine is one hundred dollars (\$100.00) for a first violation, two hundred dollars (\$200.00) for a second violation of the same section within one (1) year, and five hundred dollars (\$500.00) for each additional violation of the same ordinance within one (1) year.
- G. The County Animal Services Department may issue an administrative penalty under Article 416-4.8 to any responsible person for a violation for Section 416-12.202, "Animal Noise," based on either or both of the following:
1. An observation of the violation by a Department employee.
 2. A complaint, signed under penalty of perjury, lodged by a person who has been disturbed by the barking dog or noise animal.
- H. Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country who owns, purchases, receives, or has in his or her possession or under his or her custody or control a dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon is guilty of a misdemeanor, unless the person possesses a current, valid prohibited dog permit for that dog as provided in Section 416-12.438 of the Animal Control Code. A convicted felon under Article 416-12.4 shall not include felons whose convictions were set

aside pursuant to Penal Code Section 1203.4. "Misuse" by a convicted felon means use of a dog in a threatening or aggressive manner, or in the commission of a crime. (Ord. 06-002 § 2, 2006; Ord. 97-008 § 1, 1997; Ord. 88-004 § 1 (part), 1988)

6.04.040 Sanitation of coops, pens, kennels, or other animal enclosures.

No person shall keep or maintain or cause or permit to be kept or maintained for the use, restraint or confinement of any animal or fowl any yard, coop, building, structure, pasture, pen, hutch, kennel or enclosure which is in an unsanitary condition. (Prior code § 5.5)

6.04.050 Permitting animals, fowls or birds to range near dwellings restricted.

No person shall keep or permit to range any animal, fowl or bird, wild or domestic, other than cats, two dogs, aviaries or birds of the psittacinae family, within thirty-five feet of any residence or dwelling house or other building used for the habitation of human beings, or within one hundred feet from any school, hospital or similar institution. (Prior code § 5.6)

6.04.060 Prohibition against animals in City buildings.

No animals are permitted in a building that is leased, rented, or owned by the City, except the following:

- A. Animals participating in special programs approved by the City Manager or designee and the persons responsible for the building.
- B. Animals under the control of either a peace officer or an animal control officer.
- C. "Service animals," as defined by state and federal law, who are assisting individuals with disabilities. A service animal may be prohibited or removed from a City building as authorized under state or federal law. (Ord. 87-010 § 2, 1988)

SECTION 2. Severability. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

SECTION 3. CEQA. This ordinance is not a project under CEQA pursuant to Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. If a project, then the ordinance is exempt from the provisions of the California Environmental Quality Act, (CEQA), under CEQA Guidelines § 15061(b)(3), in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The City Manager is directed to ensure that a notice of exemption is filed

immediately with the County Clerk.

SECTION 4. Effective Date; Publication. This ordinance shall become effective thirty (30) days following its adoption. The City Clerk's Office shall publish and post the ordinance in accordance with California Government Code section 36933.

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First read at a regular meeting of the City Council of the City of San Pablo on October 1, 2018 and finally passed and adopted at a regular meeting of said City Council held on the _____, 2018, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

ATTEST:

APPROVED:

Elizabeth Pabon-Alvarado, City Clerk

Genoveva Garcia Calloway, Mayor