ORDINANCE NO. ORD-2022-013

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING SANTA ROSA CITY CODE TITLE 7 – ANIMALS, CHAPTER 7-04 TO GIVE CITY ATTORNEY DISCRETION TO SEEK A VICIOUS DESIGNATION ON AN ANIMAL THAT, WHEN UNPROVOKED, KILLS OR SEVERELY INJURES ANOTHER DOMESTIC ANIMAL

WHEREAS, in 1989, the California State Legislature adopted Division 14 (Regulation and Licensing of Dogs, 30501-31683) and Chapter 9 (Potentially Dangerous and Vicious Dogs, 31601-31683) of the Food and Agricultural Code; and

WHEREAS, the California State Legislature adopted Division 14 and Chapter 9 of the Food and Agricultural Code after finding and declaring that potentially dangerous and vicious dogs had become a serious and widespread threat to the safety and welfare of citizens of the state, having assaulted without provocation and seriously injured numerous individuals, including children, and had killed other animals, often in public places; and

WHEREAS, the California State Legislature adopted Division 14 and Chapter 9 of the Food and Agricultural Code after finding and declaring that the number and severity of these attacks were attributable to the failure of owners to register, confine, and properly control vicious and potentially dangerous dogs; and

WHEREAS, the California State Legislature adopted Division 14 and Chapter 9 of the Food and Agricultural Code after finding and declaring that the necessity for the regulation and control of vicious and potentially dangerous dogs was a statewide problem, requiring statewide regulation, after determining that the then existing laws were inadequate to deal with the threat to public health and safety posed by vicious and potentially dangerous dogs; and

WHEREAS, Food and Agricultural Code Section 31621 et seq., are the California statutes for the rules and regulations regarding potentially dangerous and/or vicious dogs; they define what constitutes a potentially dangerous and/or vicious dogs, what is to be done with said dogs, and provide a model provision for municipalities to follow; and

WHEREAS, Food and Agricultural Code Section 31683 states that there is nothing in this chapter that shall be construed to prevent a city from adopting or enforcing its own program for the control of potentially dangerous or vicious dogs that may incorporate all, part, or none of this chapter, or that may punish a violation of this chapter as a misdemeanor, or may impose a more restrictive program to control potentially dangerous or vicious dogs; and

WHEREAS, in 2006, the City Council adopted ordinance 3764 Section 4, to establish a program for the control of potentially dangerous and vicious animals that incorporated Chapter 9 (commencing with Section 31601) of Division 14 of the Food and Agricultural Code; and

WHEREAS, over the years, the City has seen a surge in the number and severity of attacks by dogs against individuals and/or their domestic animals due to owners' failure to confine and control their aggressive dogs; and

WHEREAS, consistent with Food and Agricultural Code Section 31683, in the interests of public safety, and to better protect the public and, in particular, their more vulnerable domestic animals.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The City Council finds, based on evidence and records presented, that amending Chapter 7-04 will better shield the public and their domestic animals from unprovoked dog attacks from owners who fail to keep their dogs confined and controlled. This will also result in greater dog owner accountability.

Section 2. Section 7-04.010 (G) of the Santa Rosa City Code is amended to read as follows:

"(G) "Enclosure" means a fence or structure suitable to prevent the entry of minor children, and which is suitable to confine a vicious animal in conjunction with other measures which may be taken by the owner or keeper of the animal. The enclosure shall be designed in order to prevent the animal from escaping. "Enclosure" of a potentially dangerous animal means containment of the animal within the owner or keeper's dwelling or within a fence or structure on the property designed to prevent the animal from escaping. The animal shall be housed pursuant to Section 597t of the California Penal Code."

Section 3. Section 7-04.010 (O) of the Santa Rosa City Code is amended to read as follows:

"(O) "Potentially dangerous animal" means any of the following:

(1) Any animal which, when unprovoked, has attacked or bitten a person causing less than a severe injury.

(2) Any animal which, when it is off the property of its owner or keeper, and is unprovoked, has attacked or bitten a domestic animal causing less than a severe injury.

(3) Any animal which, when unprovoked, on two separate occasions within the prior 36-month period, 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 it is off the property of its owner or keeper, and is unprovoked, has killed or caused severe injury to a domestic animal may, at the City Attorney's discretion, be designated either a "Potentially dangerous animal" or "Vicious animal."

Section 4. Section 7-04.010 (R) of the Santa Rosa City Code is amended to read as follows:

"(R) "Severe injury" to a human being means any physical injury that results in muscle tears or disfiguring lacerations that require multiple sutures or corrective or cosmetic surgery, or broken or dislocated bone(s) or permanent nerve damage. "Severe injury" to a domestic animal means an injury that results in muscle tears or lacerations that require multiple sutures, broken or dislocated bone(s), permanent nerve damage, or corrective surgery."

Section 5. Section 7-04.010 (S)(4) of the Santa Rosa City Code is added to read as follows:

"(4) Any animal which, when it is off the property of its owner or keeper, and is unprovoked, has killed or caused severe injury to a domestic animal may, at the City Attorney's discretion, be designated either a "Potentially dangerous animal" or "Vicious animal." "

Section 6. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on October 25, 2022.

IN COUNCIL DULY PASSED AND ADOPTED this 1st day of November, 2022.

AYES: (6) Mayor C. Rogers, Vice Mayor Alvarez, Council Members Fleming, MacDonald, N. Rogers, Schwedhelm
NOES: (0)
ABSENT: (1) Council Member Sawyer
ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney