

ORDINANCE NO. 716.1

AN ORDINANCE OF THE COUNTY OF RIVERSIDE AUTHORIZING THE SEIZURE, IMPOUNDMENT AND TERMINATION OF OWNERSHIP RIGHTS IN ABANDONED, NEGLECTED, OR CRUELLY TREATED ANIMALS

The Board of Supervisors of the County of Riverside, State of California, Ordains as Follows:

Section 1. Any dog, cat or other animal which is abandoned, neglected, sick, lame, feeble, is unfit for the labor it is performing, or that in any manner is being cruelly treated may be impounded and disposed of in a humane manner as hereinafter provided.

Section 2. Whenever any peace officer or animal control officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with the procedure established in Section 4 of this Ordinance. In all other cases, the officer shall comply with the procedure established in Section 4 of this Ordinance. In all other cases, the officer shall comply with the provisions of Section 5 of this Ordinance. The cost of caring for and treating any animal properly seized under this Ordinance shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, unless the hearing officer determines that the seizure was unjustified.

Section 3. Whenever an animal control officer or peace officer seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings provide the owner or keeper of the animal, if known or ascertained after reasonable investigation, with the opportunity for a post seizure hearing as hereinafter provided to determine the validity of the seizure or impoundment, or both.

- (1)** The Health Department shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:
 - (a)** The name, business address, and telephone number of the officer providing the notice.
 - (b)** A description of the animal seized, including any identification upon the animal,
 - (c)** The authority and purpose for the seizure, or impoundment, including the time, place, and circumstances under which the animal was seized.
 - (d)** A statement that, in order to receive a post seizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the Health Department within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or

mail.

- (e) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.
- (2) The post seizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing shall be conducted in accordance with the provisions of Section 9 of this Ordinance.
- (3) Failure of the owner or keeper, or of his or her agent, to request a hearing within the prescribed time period, or to attend a scheduled hearing, shall result in forfeiture of any right to a post seizure hearing or right to challenge his or her liability for costs incurred.
- (4) The Health Department, or law enforcement agency that directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the post seizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal, and the animal shall not be returned to its owner until the charges are paid and the seizing agency or hearing officer has determined that the animal is physically fit or the owner demonstrates to the seizing agency's or the hearing officer's satisfaction that the owner can and will provide the necessary care.

Section 4. Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings the Health Officer shall provide the owner or keeper of the animals, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide the verification is guilty of an infraction, punishable by a fine of not less than two hundred and fifty dollars (\$250.00) no more than one thousand dollars (\$1,000.00).

- (1) The Health Department or law enforcement agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized. The notice shall include all of the following:
 - (a) The name, business address, and telephone number of the officer providing the notice.
 - (b) A description of the animal to be seized, including any identification upon the animal.

- (c) The authority and purpose for the possible seizure or impoundment.
 - (d) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.
 - (e) A statement that the cost of caring for and treating any animal properly seized is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request a hearing within the prescribed time period, or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.
- (2) The preseizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of this request. The hearing shall be conducted in accordance with the procedure established in Section 9 of this Ordinance.
 - (3) Failure of the owner or keeper, or his or her agent, to request a hearing within the prescribed time, period or to attend a scheduled hearing, shall result in a forfeiture of any right to a preseizure hearing or right to challenge his or her liability for costs incurred pursuant to this Ordinance.

Section 5. If any animal is properly seized under this Ordinance, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Furthermore, if the charges for the seizure or impoundment and any other charges permitted under this Ordinance are not paid within 14 days of the seizure, or, if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this Ordinance and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the impounding officer.

Section 6. If the animal requires veterinary care and the seizing agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the impounding officer. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is incurably ill or crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

Section 7. No animal properly seized under this ordinance shall be returned to its owner until, in the determination of the seizing agency or hearing officer, the animal is physically fit or the owner can demonstrate to the seizing agency's or hearing officer's satisfaction that the owner can and will provide the necessary care.

Section 8. All hearings conducted pursuant to this ordinance shall be conducted by the Health Officer or his designee (Hearing Officer), who shall not have been directly involved in the subject action and shall not be subordinate in rank to the person seizing or impounding the animal. Hearings shall be conducted in the following manner:

- (1) The Hearing Officer may continue the hearing for a reasonable period of time, if the Hearing Officer deems such continuance to be necessary and proper or if the owner or custodian shows good cause for such continuance.
- (2) The Health Department shall have the burden of proof to establish, by a preponderance of evidence, the existence of the condition or conditions which give rise to the need for the seizure or impoundment.
- (3) In a case where the Department is also seeking to terminate the owner's rights in the animal, the Department shall have put the owner or keeper of the animal on due written notice thereof and shall establish the existence of the owner's or keeper's acts or omissions resulting in cruelty or neglect to the animal by clear and convincing evidence to a reasonable certainty.
- (4) The Department shall present its case first, followed by the party against whom the seizure or impoundment is being proposed. The Department may present rebuttal in the discretion of the Hearing Officer.
- (5) Oral evidence shall be taken only on oath or affirmation.
- (6) Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any other matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called the witness, and to rebut evidence.
- (7) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in Civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized in the hearing. Irrelevant and unduly repetitious evidence shall be excluded.
- (8) At the conclusion of the hearing, each side shall be given an opportunity to summarize its position.
- (9) Within three (3) working days after the conclusion of the hearing, the Hearing Officer shall

render, in writing, his findings, decision and order thereon, and shall give notice, in writing, of said findings, decision and order to the owner or custodian of the animal.

- (10) In the event a sufficient quantum of evidence presented at the hearing supports a determination for seizure, impoundment, and/or termination of the owner's rights in the animal, the Hearing Officer as a part of his decision may order, but is not limited to ordering, that one or more of the following actions be undertaken:
- a. That the owner's and/or custodian's rights in the dog, cat or other animal are terminated.
 - b. That the owner or custodian of the dog, cat or other animal shall remove the animal(s) from the premises by a specified date.
 - c. That the Health Department personnel after a specified date, shall impound the animal or animals.
 - d. That the Health Department shall sell, give away, or otherwise dispose of, the animal(s) with the owner or custodian of the animal(s) being responsible to reimburse the County or agency as designated by the County for all costs and expenses including, but not limited to, board, care, veterinary services, and costs of disposal. If the animal(s) are sold, the proceeds from the sale shall go to the County or agency as designated by the County.
- (11) A decision upholding seizure or impoundment shall become effective upon issuance.
- (12) A decision terminating an owner's rights in the animal shall become effective 30 days from the date the decision is mailed unless a stay of execution is granted.

Section 9. Every such, disabled, infirm or crippled animal, except a dog or cat, abandoned in any part of the unincorporated area the County of Riverside may be immediately killed by the Health Department or law enforcement agency or their designees if, after a reasonable search, no owner of the animal can be located. It shall be the duty of all peace officers and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned.

Section 10. Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the

responsible animal control agency has first been contacted and has refused to take possession of the animal.

Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic which is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services which are provided pending the owner's inquiry to the responsible agency or department shall be paid from the dog license fees, fines, and fees from impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The cost of caring for and treating any animal seized under this Section shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision which he or she makes or for services which he or she provides pursuant to this section.

An animal control agency which takes possession of an animal pursuant to Section 11 of this Ordinance shall keep records of the whereabouts of the animal for a 72-hour period from the time of possession, and those records shall be available for inspection by the public upon request.

Section 11. Notwithstanding any other provision of this section, any peace officer or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to dispose of the animal.

Section 12. Every owner, driver or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square or lot within the unincorporated area of Riverside County, without proper care or attention shall be guilty of an infraction or misdemeanor as hereinafter specified. Such individual shall be deemed guilty of a separate offense of each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued or permitted. Any individual convicted of a violation of this ordinance shall be: (1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation. The third and any additional violations shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six (6) months in jail, or both. Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor. Payment of any penalty herein shall not relieve an individual from the responsibility for correcting the violation.

Section 13. Upon the conviction of a person charged with a violation of this ordinance, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer for proper disposition. A person convicted of a violation of this Ordinance shall be personally liable to the seizing agency

for all costs of impoundment from the time of seizure to the time of proper disposition. This Ordinance shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

Section 14. This Ordinance is not intended, nor shall it be construed in any way, to affect Sections 31101 or 31752 of the Food and Agriculture Code.

Section 15. Severability. If any provision, clause, sentence or paragraph of this Ordinance, or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable.

Section 16. Section 13 of Riverside County Ordinance No. 630 is hereby repealed.

Section 17. This Ordinance shall take effect immediately upon adoption. The facts constituting the necessity of adopting this Ordinance as an emergency ordinance are as follows:

To immediately preserve and protect the welfare of animals which urgently require safeguarding from abusive or neglectful treatment, and to protect the health of persons which may come into contact with those diseased or injured animals, it is necessary that this ordinance take effect immediately.

ADOPTED:11-12-91 (Eff.: immediately)
716.1 (Eff.: 4/13/00) (Adopted: 3/14/00)