

**BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE**

**IN THE MATTER OF:**

An Ordinance of the City Council of the )  
City of Lafayette amending Lafayette Municipal )  
Code Chapter 8-16 To Adopt By Reference )  
The Contra Costa County Animal Control Code, ) Ordinance No. 672  
Including County Ordinance Nos. 2011-08 )  
("Spaying And Neutering Dogs Impounded Dogs )  
Prior To Release"), 2011-09 ("Microchipping )  
Impounded Dogs And Cats Before Release"), )  
2016-02 ("Exemptions For Animal License )  
Fees") and 2017-12 ("Amendments To )  
Division 416 (Animals) Of The County Ordinance )  
Code"), And Adopting Penalties Therefor As )  
Provided In County Ordinance Nos. 97-33 )  
And 2017-12 )

WHEREAS, California Government Code section 51301 authorizes cities to contract with the county to perform city functions, and California Government Code section 50022.9 permits cities to adopt county ordinances by reference; and

WHEREAS, the County's animal control code is set forth in Contra Costa County Code, Division 416; and

WHEREAS, the City of Lafayette entered into a City-County Animal Services Agreement with Contra Costa County, effective May 21, 1981, pursuant to which the County agreed to enforce Division 416 and certain provisions of state law relating to animal control, and the City agreed to adopt Division 416 within its jurisdiction; and

WHEREAS, to permit efficient enforcement of animal-related regulations, the City desires to amend the Lafayette Municipal Code, Chapter 8-16, which has not been updated since 2006, for consistency with the County's animal control code; and

WHEREAS, in addition to the previously adopted Contra Costa County animal-related ordinances, the ordinances to be adopted by reference here include Contra Costa County Ordinance No. 2011-08 to require spaying and neutering dogs impounded dogs prior to release, Contra Costa County Ordinance No. 2011-09 requiring microchipping impounded dogs and cats before release, Contra Costa County Ordinance No. 2016-02 to provide exemptions from animal license fees for nonresidents, individuals with disabilities and government agencies, and Contra Costa County Ordinance No. 2017-12 to authorize administrative penalties for violations of Division 416, including barking dogs and noisy animals.

**THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:**

**Section 1. Incorporation of Recitals.** The City Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

**Section 2. Amendment to Lafayette Municipal Code Chapter 8-16.** Lafayette Municipal Code Chapter 8-16 ("Animals") is hereby amended and restated as set forth in its entirety as Exhibit "A," attached hereto

**Section 3. CEQA.** The City Council hereby determines that this ordinance is not subject to California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(3) because this activity is not a project as defined by Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, and pursuant to CEQA Guidelines Section 15061(b)(3) it can be seen with certainty that this activity will not have a significant effect or physical change to the environment. In the event this ordinance is determined to be a project, then it is exempt from environmental review pursuant to CEQA Guidelines Section 15307 because it consists of actions taken by regulatory agencies authorized by state law and local ordinance to assure the maintenance, restoration, or enhancement of a natural resource, including wildlife, where the regulatory process involves procedures for the protection of the environment. This ordinance adopts the County's animal services code by reference to ensure the licensing of domestic animals, provide for the impoundment of at large animals, provide for rabies control, registration of wild or exotic animals, regulation of dangerous and potentially dangerous animals among other miscellaneous provisions to assure the humane protection of wild and domestic animals within Contra Costa County.

**Section 4. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**Section 5. Effective Date and Publication.** This Ordinance shall become effective thirty (30) days from and after its passage. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Lafayette held on December 10, 2018 and continued to the City Council meeting of January 14, 2019 for second hearing and adoption of the ordinance, by the following vote:

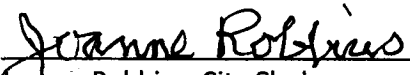
**AYES: Burks, Anderson, Bliss, Candell and Gerring**

**NOES: None**

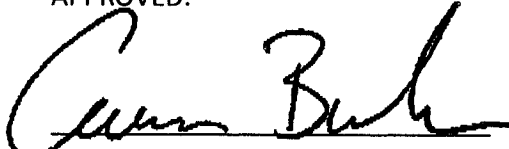
**ABSTAIN: None**

**ABSENT: None**

ATTEST:

  
Joanne Robbins, City Clerk

APPROVED:

  
Cameron Burks, Mayor

## EXHIBIT "A"

### Chapter 8-16 - ANIMALS

#### **8-1601 - Adoption by reference of county's animal control code.**

The board of supervisors of the Contra Costa County has adopted Ordinances 80-97, 83-10, 85-23, 87-74, 2005-24, 2005-25, 2006-05, 2011-08, 2011-09, 2016-02 and 2017-12 regarding animal control. These ordinances are codified in County Ordinance Code Division 416, including Chapters 416-2 through 416-12). Certified copies of Division 416 are on file with the city clerk, where they are open to public inspection as required by Government Code Section 50022.3. This animal control code (Division 416) Ordinance Nos. 80-97, 83-10, 85-23, 87-74, 2005-24, 2006-05, 2011-08, 2011-09, 2016-02 and 2017-12, with the exceptions of those portions of said county ordinances referring to penalties, are hereby referred to and adopted by this reference, under Government Code Section 50022.2. (Ord. 561 § 2, 2006: Ord. 365 § 1 (part), 1988)

#### **8-1602 - Request for enforcement in the city.**

County Ordinance Code Division 416, referred to and adopted in Section 8-1601, contains requirements referred to in the California Food and Agricultural Code, Section 30501. This chapter constitutes the city's request that Division 416 of the County Ordinance Code be applicable within the city. (Ord. 365 § 2, 1988)

#### **8-1603 - Enforcement.**

The penalty clauses of the Contra Costa County code Division 416, set forth in this section are expressly adopted under Government Code Section 50022.4:

#### **416-4.604 Penalties.**

- (a) Notwithstanding Section 14-8.004, and pursuant to Food and Agriculture Code Section 31401, violations of Division 416 of this code, excepting Chapter 416-10 and Article 416-12.2, are punishable by fine of not more than fifty dollars for the first offense, and not more than one hundred dollars for the second or subsequent offense.
- (b) Notwithstanding subsection (a) above, violation of Section 416-4.404 Abandonment, excluding abandonments under Section 416-8.014, is a misdemeanor and punishable as such.

#### **416-10.012 Violation.**

Violation of this Chapter, 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 this Division.

#### **Article 416-12.2.**

Per Section 14-8.004, violation of Article 416-12.2, Nuisance, is an infraction. Except as otherwise provided by statute, every infraction violation is punishable, upon conviction thereof, by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year;
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year. (See Government Code Section 25132(b).)

**416-12.202(d) Animal Noise Enforcement .** The department may issue an administrative penalty under Article 416-4.8 to any responsible person for a violation of Section 416-12.202 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 noisy animal.

**416-12.434 - Penalties for violation of dangerous animal permit.** It shall be a misdemeanor for any owner or keeper of an animal previously designated as dangerous to violate any of the conditions of the dangerous animal permit under Section 416-12.422 of Article 416-12.4, 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 Contra Costa County for a minimum of five years.

**416-12.436 - Prohibited dog ownership by convicted felons.**

- (a) 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 this article. A convicted felon under this article 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.
- (b) Any dog whose owner or keeper is in violation of this section shall be impounded, or impounded subject to destruction, at the owner's expense.
- (c) A dog that poses a danger to the public's health, safety or welfare if misused by a convicted felon under this section means any of the following:
  - (1) A dog weighing more than twenty pounds;
  - (2) A dog who has been designated a potentially dangerous or dangerous animal under Sections 416-12.402 and 416-12.404 of this article;
  - (3) A dog designated by the animal services director as posing a danger to the public's health, safety or welfare if misused by a convicted felon based upon the following factors:
    - (i) The nature of any complaints regarding the dog,
    - (ii) The strength of the dog, including jaw strength,
    - (iii) The dog's tolerance for pain,
    - (iv) The dog's tendency to refuse to terminate an attack,
    - (v) The dog's potential propensity to bite humans or other domestic animals,
    - (vi) The dog's potential for unpredictable behavior,
    - (vii) The dog's aggressiveness,
    - (viii) The likelihood that a bite by the dog will result in serious injury.

This section shall not apply to any assistance dog, including guide dogs, signal dogs and service dogs, trained or in training to assist a qualified individual with a disability.

**416-12.1006 - Enforcement.**

In addition to any other remedy allowed by this code or applicable law, the animal services director may issue an administrative penalty under Article 416-4.8 to any responsible person for a violation of this article.

### **8-1604 – Administrative Penalties.**

This Section sets forth Article 416-4.8 of the Contra Costa County Code, as adopted by Contra Costa County Ord. No. 2017-12, and provides for administrative fines that the animal services department may impose, enforce, and collect to address any violation of Division 416 as adopted by the City of Lafayette.

#### **416-4.802 - Applicability and Authorization.**

- (a) This article provides for administrative fines that the animal services department may impose, enforce, and collect to address any violation of this division.
- (b) Remedies under this article are in addition to any other remedy allowed by this code or applicable law.
- (c) This article is authorized by California Government Code Section 53069.4.

#### **416-4.804 - Definitions.**

For purposes of this article, the following words and phrases have the following meanings:

- (a) "Complainant" means a person who reports a violation of any section of Division 416 to the department.
- (b) "Department" means the animal services department.
- (c) "Effective date" means the date by which a violation must be corrected, as specified in a notice of violation.
- (d) "Hearing examiner" means the animal services director, or the animal services director's designee.
- (e) "Responsible Person" means any of the following:
  - (1) A person who possesses, has title to, has an interest in, or has control, custody or possession of an animal or the property on which an animal is kept.
  - (2) A person who allows, or whose agent, employee, or contractor allows, a barking dog or other noisy animal violation to exist, whether through action, failure to act, or failure to exercise control over a barking dog or other noisy animal.
  - (3) For purposes of this article, there may be more than one responsible person for a barking dog or other noisy animal violation.
- (f) "Service date" means the date a notice or decision is served in accordance with Section 416-4.816.

#### **416-4.806 - Administrative Fines.**

- (a) Notice of violation. If a violation is a continuing violation, such as the failure to obtain a dog or cat license, the department will first serve a notice of violation on the responsible person as specified in Section 416-4.816. The notice of violation will include all of the following information:
  - (1) The date of the violation.
  - (2) The name of the responsible person.
  - (3) The address or location where the violation occurred.
  - (4) The code section(s) violated and a description of the violation.
  - (5) Whether the violation(s) were established by inspection or by complaint, if applicable.
  - (6) A description of how the violation can be corrected.
  - (7) A specified time period of at least ten calendar days, beginning on the service date, within which the violation must be corrected.
  - (8) An advisement that the owner may be subject to an administrative fine under this article if the violation is not corrected by the effective date, and the amount of that fine.
- (b) The department may impose an administrative fine on a responsible person if any of the following occur:
  - (1) The violation is not a continuing violation, such as a violation of the animal noise ordinance.

- (2) The continuing violation has not been corrected in the time period specified in the notice of violation.
- (3) The continuing violation was corrected as specified in the notice of violation, but a violation of the same section continues, exists, or occurs within one year after the effective date.
- (c) Notice of fine. An administrative fine will be assessed by means of a notice of fine. The responsible party will be served with the notice of fine as specified in Section 416-4.816. The notice of fine will include all of the following information:
  - (1) The date of the violation.
  - (2) The code section(s) violated and a description of the violation.
  - (3) The amount of the fine.
  - (4) An advisement of the right to request a hearing before the hearing examiner, contesting the imposition of the fine.
- (d) For a continuing violation, the amount of the fine is one hundred dollars 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. If the owner still fails to correct the violation after the second notice of fine, the amount of the fine is five hundred dollars for each additional notice of fine that is sent within one year.
- (e) If the violation is not a continuing violation, the amount of the fine is one hundred dollars for a first violation, two hundred dollars for a second violation of the same section within one year, and five hundred dollars for each additional violation of the same ordinance within one year.

**416-4.808 - Hearings.**

- (a) Any person upon whom an administrative fine is imposed by the department may request a hearing pursuant to the procedures set forth in this section. The appellant must file a written appeal with the department within fifteen calendar days after the service date of the notice of fine. The written appeal must contain:
  - (1) A brief statement explaining who the appealing party is and what interest the appealing party has in challenging the imposition of the fine; and
  - (2) A brief statement of the material facts that the appellant claims supports his or her contention that no administrative fine should be imposed or that an administrative fine of a different amount is warranted.
- (b) Notice of the hearing will be served on the appellant and the complainant, if any, as specified in Section 416-4.816. The department will set the hearing no sooner than twenty days and no later than forty-five days following the service date of the notice of hearing.
- (c) The hearing of an administrative fine imposed for violations of this division will be heard by the hearing examiner.
- (d) At the hearing, the appellant and complainant, if any, will be given the opportunity to testify, and present written and oral evidence.
- (e) An appellant's failure to appear at the hearing shall constitute an abandonment of any defense the appellant may have to the administrative fine.
- (f) Where applicable, a complainant's failure to appear at the hearing shall constitute an abandonment of the complaint and shall be grounds for a dismissal of the administrative fine.
- (g) After considering the testimony and evidence submitted at the hearing, or after the appellant or complainant has failed to appear at the hearing, the hearing examiner will issue a written decision to uphold, modify, or cancel the administrative fine and will list in the decision the reason or reasons for that decision. The decision will be served as specified in Section 416-4.816.

**416-4.810 - Final Administrative Order.**

The imposition of the administrative fine becomes a final administrative order at one of the following times:

- (a) On the date the notice of fine is served, if the responsible party fails to file a written appeal to the department within the time specified.
- (b) On the date the written decision by the hearing examiner is served, if the responsible party files a written appeal to the department within the time specified.

**416-4.812 - Payment of the Fine.**

The fine must be paid to the county within thirty days after the imposition of the administrative fine becomes a final administrative order. Payment of a fine under this article does not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the notice of fine. The payment of a fine does not bar the county from taking any other enforcement action regarding a violation that is not corrected.

**416-4.814 - Collection.**

If the fine is not paid within thirty days after the imposition of the fine becomes a final administrative order, the county may collect the fine, the county's collection costs, and interest. An administrative fine accrues interest at the same annual rate as any civil judgment, beginning on the twentieth day after the fine becomes a final administrative order. The county may collect by using any available legal means, including but not limited to the following:

- (a) The county may file a civil action. If a civil action is commenced, the county is entitled to recover all costs associated with the collection of the fine, including those costs set forth in Code of Civil Procedure Section 1033.5.
- (b) The county may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgments Law, California Code of Civil Procedure Section 680.010 et seq.

**416-4.816 - Service.**

All notices or decisions required to be served by this article will be served by any of the methods specified below:

- (a) First class mail. First class mail will be addressed to the responsible person at the address shown on the last equalized assessment roll, at the address where the violation occurred, or as otherwise known. Service is deemed completed upon the deposit of the notice or decision, postage pre-paid, in the United States mail.
- (b) Personal service. Personal service is deemed complete on the date the notice or decision is personally served on the responsible person.

**416-4.818 - Judicial Review.**

A final administrative order may be appealed to the superior court of the county in accordance with the provisions set forth in Government Code Section 53069.4.



# Contra Costa Times

2850 Shadelands Dr., Ste. 101  
Walnut Creek, CA 94598  
925-943-8019

2010502

LAFAYETTE, CITY OF  
ATTN: ACCOUNTS PAYABLE  
3675 MT. DIABLO BLVD., #210  
LAFAYETTE, CA 94549-3793

## PROOF OF PUBLICATION

**FILE NO. Joanne Robbins Ord 672**

In the matter of

### Contra Costa Times

I am a citizen of the United States. I am over the age of eighteen years and I am not a party to or interested in the above entitled matter. I am the Legal Advertising Clerk of the printer and publisher of the Contra Costa Times, a newspaper published in the English language in the City of Walnut Creek, County of Contra Costa, State of California.

I declare that the Contra Costa Times is a newspaper of general circulation as defined by the laws of the State of California as determined by court decree dated October 22, 1934, Case Number 19764. Said decree states that the Contra Costa Times is adjudged to be a newspaper of general circulation for the City of Walnut Creek, County of Contra Costa and State of California. Said order has not been revoked.

I declare that the notice, of which the annexed is a printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

**03/18/2019**

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Executed at Walnut Creek, California.  
On this 18th day of March, 2019.

  
Signature

Legal No.

**0006309120**

### NOTICE AND SUMMARY OF ADOPTION OF ORDINANCE NO. 672

#### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE AMENDING CHAPTER 8-16 OF THE LAFAYETTE MUNICIPAL CODE THEREBY ADOPTING BY REFERENCE THE CONTRA COSTA COUNTY ANIMAL CONTROL CODE

Notice is hereby given that on March 11, 2019, the City Council of the City of Lafayette adopted Ordinance No. 672 by title and number only Amending Lafayette Municipal Code Chapter 8-16 To Adopt By Reference The Contra Costa County Animal Control Code, Including County Ordinance Nos. 2011-08 ("Spaying And Neutering Dogs Impounded Dogs Prior To Release"), 2011-09 ("Microchipping Impounded Dogs And Cats Before Release"), 2016-02 ("Exemptions For Animal License Fees") And 2017-12 ("Amendments To Division 416 (Animals) Of The County Ordinance Code"), And Adopting Penalties Therefor As Provided In County Ordinance Nos. 97-33 And 2017-12.

The Ordinance was adopted by the City Council by the following vote:

Ayes: **Burks, Anderson, Bliss, Candell and Garringer**  
Noes: **None**  
Absent: **None**

Note: The above is a simply a summary of the Ordinance. To obtain a full understanding of the Ordinance it should be read in its entirety. A certified copy of the full text of the Ordinance is posted in the City Clerk's office at 3675 Mount Diablo Blvd., Suite 210, Lafayette, California 94549. A copy may be obtained from that office upon payment of the fee based on the City's actual cost of copying of the document.

Date: **March 13, 2019**  
Joanne Robbins, City Clerk  
**CCT #6309120; Mar. 18, 2019**