

ORDINANCE NO.

AN ORDINANCE DELETING CHAPTER 5 IN ITS ENTIRETY AND
ADDING A NEW CHAPTER 5 TO THE MOUNTAIN VIEW CITY CODE
RELATED TO ANIMALS

THE CITY COUNCIL OF THE CITY OF MOUNTAIN VIEW DOES ORDAIN AS
FOLLOWS:

Section 1. Chapter 5 of the Mountain View City Code is hereby deleted in its
entirety and a new Chapter 5 added, to read as follows:

“CHAPTER 5

ANIMALS

ARTICLE I.

GENERAL PROVISIONS.

SEC. 5.1. Definitions.

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

“Abandoned animal” means an animal that is left without proper and necessary
care for the animal’s well being for twenty-four (24) hours or an unreasonable period of
time. “Abandoned animal” shall also mean any animal, lawfully impounded by the
city, for which the owner has not paid fees, rates or charges relating to the detention of
the animal.

“Administrator” means the city manager or his/her designee.

“Animal” includes, but is not limited to, birds, cats, dogs, fishes, fowl, rabbits,
reptiles and nonhuman mammals.

“Animal control officer” means any person authorized by the administrator to
enforce the provisions of this chapter, or any person authorized by the County health
officer in the enforcement of rabies control laws and in the enforcement of state laws.

“Animal menagerie” means any place where dangerous animals are kept or maintained for any purpose, including places where dangerous animals are boarded, exhibited, trained or kept for hire.

“Animal shelter” means the service provider animal shelter, the Humane Society animal shelter, or any other facility designated by the service provider for the purpose of impounding and caring for all animals found in violation of this chapter, or surrendered to the city by their owners, and shall be a facility devoted to the welfare, protection and humane treatment of all animals.

“Animal rescuer” means any person or organization that provides temporary housing and care for domestic animals with the purpose of placing those animals with a new and permanent owner in a new home and that provides evidence satisfactory to the administrator of a history of active placement or an affiliation with a recognized group with a history of active placement.

“At large” means:

(1) General. The presence of any animal when it is off the premises of its owner and not restrained by a six-foot (6′) leash under the control of a person physically capable of retaining control of the animal, or when the animal is on the premises of its owner and not restrained by a six-foot (6′) leash, fence or other adequate enclosure sufficient to prevent ingress and egress of the animal or not under the control and/or the immediate presence of its owner;

(2) Animal in heat. For the purposes of this provision, “at large” shall also mean outside a house, vehicle or other enclosure adequate to prevent male dogs gaining access to the female dog.

“Cat” means a domestic cat (*Felis catus*).

“City council” means the city council for the City of Mountain View.

“City manager” means the city manager for the City of Mountain View or his/her designee.

“Commercial kennel” means any person or facility, as allowed under the current zoning code, engaged in, or used for, the keeping of dogs or cats, or both, for sale, individually or in litter lots, or in the boarding, training, sale or hire of dogs and/or cats for compensation, except that animal hospitals maintained by a veterinarian licensed by the state of California as part of the practice of veterinary medicine, animal shelters or private kennels shall not be considered commercial kennels.

“Dangerous animal” means any wild or exotic mammal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature or other characteristics, constitutes a danger to human life, other animals or property.

“Dangerous dog” means any dog, except a dog assisting a peace officer engaged in law enforcement duties, that:

(1) Without provocation, has bitten a person or a domestic animal while on public or private property;

(2) Without provocation, chases or approaches people or domestic animals on the streets, sidewalks or any public grounds in a threatening manner or apparent attitude of attack;

(3) Has a known propensity, tendency or disposition for unprovoked attack, causing injury and threatening the safety of people or domestic animals;

(4) Has been specifically trained to guard persons and/or property;

(5) Has inflicted severe injury on a person or domestic animal on public or private property; or

(6) Any dog declared potentially dangerous, dangerous or vicious in another jurisdiction.

“Dog” means a domestic dog (*Canis familiaris*).

“Domestic animal” includes dogs, cats and birds, rabbits and fowl commonly kept as pets.

“Domestic bird” includes, but is not limited to, budgies, canaries, cardinals, cockatiels, cockatoos, finches, lories, lorikeets, lovebirds, macaws, parakeets, parrots, sparrows, toucans and weavers.

“Euthanasia” means the humane destruction of an animal pursuant to the requirements of Sec. 5.60.

“Exotic” means any animal not normally kept as a domestic or household pet, fowl or livestock and including, but not limited to, lions, tigers and monkeys.

“Fowl” means any larger domestic bird such as a domesticated chicken, duck, goose, guinea fowl, peafowl, peacock, turkey, dove, pigeon, game bird or similar bird

intended for human consumption or for the production of eggs for human consumption.

“Grooming parlor” means any commercial place where animals are trimmed, bathed or groomed.

“Harbored” means the feeding or sheltering of an animal for three (3) or more consecutive days.

“Health officer” means the director of public health of the County of Santa Clara or any person authorized to act on his/her behalf.

“Hearing officer” means the service provider’s or the administrator’s designee.

“Livestock” means all domesticated bovine, equine, caprine, ovine, avian and rodent species.

“Lot” means a single parcel of land for which a legal description is filed of record or the boundaries of which are shown on a subdivision map or record of survey filed in the Office of the Santa Clara County Recorder.

“Owner” means a natural person over the age of eighteen (18) who owns, possesses, harbors, controls or has custody of an animal. All adults residing at the same property address shall be rebuttably presumed to be the owner of any animal owned, possessed, harbored or controlled on the property.

“Ownership” means any person keeping, harboring, controlling, having custody of or possessing one (1) or more animals for a period of not less than five (5) days.

“Person” means any individual, domestic or foreign corporation, partnership, association of any kind, trust, fraternal society or cooperative.

“Pet” means any animal kept for pleasure rather than utility.

“Pet shop” means a person or facility that obtains animals for sale, exchange, barter or hire to the general public as a principal or agent, or on consignment.

“Physical control” means any animal confined or restrained by a leash or lead by a person of size and responsibility to adequately keep control of the animal or within the real property limits of its owner.

“Premises” means any lot or parcel of land owned, leased or rented by a person.

“Private kennel,” under this chapter only, means a person who maintains within or adjoining his or her private residence two (2) dogs over four (4) months of age, and/or two (2) cats over four (4) months of age, but no more than a combined total of four (4) dogs and cats; such animals to be for that person’s recreational use or for exhibition in conformation shows, field or obedience trials and where the sale of offspring is not the primary function of the kennel. The maintenance of more than two (2) male dogs or cats used for breeding purposes for which compensation is received, or the parturition and rearing of more than two (2) litters of dogs or cats in any one (1) calendar year from the total number of females owned or maintained by that person on the premises, shall establish a refutable presumption that such animals are owned or maintained for the purposes of commercial breeding; and the owner of the premises shall be subject to the permit requirements of a commercial kennel.

“Provocation” means:

(1) An act intended, or which would be reasonably understood, to harass, menace, threaten or cause serious injury to a dog;

(2) An act intended, or which would be reasonably understood, to cause bodily injury to the dog’s owner, owner’s family, owner’s property or domestic animals, in the presence of the dog; or

(3) The entry into a private, fully enclosed area of the owner’s real property by an adult with the intent of committing a crime or injuring a person.

“Public place” includes, but is not limited to, streets, highways, sidewalks, carnivals, shopping malls, flea markets and areas in front of commercial establishments.

“Quarantine” means the isolation of any animal within a substantial enclosure to avoid its contact with other animals or unauthorized persons.

“Sanitize” means to make physically clean, remove and destroy to a practical minimum agents injurious to health.

“Service animal” means a dog specially trained to perform tasks for an individual with a disability, directly related to the individual’s disability, as defined by the Americans with Disabilities Act.

“Service provider” means any city department, contract agency or joint powers authority designated by the city manager to provide animal control services for the city.

“Severe injury” means any physical injury to a person that results in muscle tears or disfiguring lacerations, or requires sutures or corrective or cosmetic surgery.

“Slaughter” means to kill an animal for food or butcher.

“Small animals” means hares, rabbits, chickens, turkeys, geese, ducks, doves, pigeons, game birds or other fowl.

“Vaccination” means a protective inoculation against rabies with an antirabies vaccine recognized and approved by the Santa Clara County Health Department.

“Veterinary hospital” means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

SEC. 5.2. Animals running at large.

No person owning or having control of any animal shall permit the animal to stray or run at large upon any public street or other public place, or upon any private place or property or common area of any planned development, cluster, townhouse or condominium project, without the consent of the property owner or person in control of the property.

SEC. 5.3. Animals in sale of food establishments.

It shall be unlawful for any person to take any animal into or permit any animal to enter or remain in any place of business in the city where food for human consumption is sold or offered for sale. This section will not apply to persons who have a service dog which is used for guidance or to accommodate a disability.

SEC. 5.4. Conditions related only to seizures of dogs running at large.

An animal control officer shall not seize or impound a dog for running at large in violation of Sec. 5.50 when the dog has not strayed from and is upon private property owned by the dog owner or the person who has a right to control the dog, or upon private property to which the dog owner or person who has a right to control the dog has a right of possession.

A dog that has strayed from but then returned to the private property of its owner or the person who has a right to control the dog shall not be seized or impounded merely for violation of Sec. 5.50, but in such a case, a citation for such violation may be issued; provided, however, that if in such a situation, the owner or the person who has a right to control the dog is not available at the premises, the dog may be impounded, but the officer shall post a notice of such impoundment on the front door of the living unit or other conspicuous place on the property of the owner or person who has a right

to control the dog. This notice shall state the following: that the dog has been impounded, where the dog is being held, the name, address and telephone number of the agency or person to be contacted regarding release of the dog, and an indication of the ultimate disposition of the dog if no action to regain it is taken within a specified period of time by its owner or by the person who has a right to control the dog.

This section shall not otherwise affect the authority of an animal control officer to seize or impound a dog or issue citations as a result of the violation of other sections of this chapter.

SEC. 5.5. Animal bites, quarantine, violation and examinations.

Any person having knowledge that any animal is known to have or is suspected of having bitten any person shall immediately report that fact to an animal control officer or health officer with full information regarding the incident.

Upon receipt of such a report, an animal control officer will seize and quarantine the animal for a period of fourteen (14) days or such other period as may be prescribed by the State Department of Health. The animal control officer or health officer may order the owner to quarantine the animal on the owner's premises.

Any person who fails, refuses or neglects to quarantine any animal as ordered by the animal control officer, or who refuses to allow the animal control officer to inspect any private premises where the animal is kept is guilty of a misdemeanor. No animal shall be removed or released during the quarantine period without written permission of the animal control officer.

The administrator may charge a fee, as set forth in a resolution adopted by the city council, to recoup the costs of quarantining animals and inspections for quarantine of animals. Any fee charged shall be paid by the owner of the animal. This fee shall be in addition to the actual costs of the animal control officer in housing, feeding and otherwise caring for a quarantined animal.

The specimens from any animal that dies or is destroyed while under quarantine shall be submitted to the laboratory of the County Health Department for rabies examination.

SEC. 5.6. Diseased animals.

(a) No person owning or having charge of any animal known to be infected with any disease transmittable to humans shall permit such animal to be or remain within the county other than at an approved veterinary hospital unless the health officer approves an alternative means of confinement.

(b) The animal control officer shall seize any animal he or she reasonably believes to be infected with disease transmittable to humans. The animal control officer shall keep such animal in a safe place for a period sufficient to observe, examine and determine whether it is diseased or vicious so as to be a menace to public health or safety.

(c) Diseased or vicious animals which are a danger to public health or safety shall be impounded and may be destroyed.

SEC. 5.7. Dead animals.

Upon the death of any animal, the owner shall provide for the burial, incineration or other disposition of the body of the animal. If the owner of any dead animal is unable to provide for burial or other disposition, the owner may request the animal control officer dispose of the body of the animal.

Upon learning that the body of a dead animal has not been disposed of in a safe and sanitary manner, the animal control officer will remove the animal's body immediately; provided, however, that the animal control officer shall not be required to remove and dispose of bodies of dead animals on state highways or on state property. Before disposing of the body of a dead animal, the animal control officer will give notice to the owner of the animal, if known, within seventy-two (72) hours of the time that the dead animal is removed.

The administrator will collect a fee sufficient to recover costs associated with removal and disposal of dead animals which shall be paid by the owner, if known; but no fee shall be charged to the owner of a dead dog or cat if that person is sixty-five (65) years or older. The fee shall be set by resolution of the city council, or approved by the service provider's board of directors, as applicable.

SEC. 5.8. Abandoned animals.

No person shall abandon any animal in the City of Mountain View.

SEC. 5.9. Animals on city property or in designated areas.

(a) No person having the control or care of any animal shall permit such animal to enter or remain on city property and/or in city-owned or city-managed buildings other than a building used for the purpose of care, detention, control or treatment of animals, or areas designated as "dog parks," "off-leash areas," "off-leash training areas" or a building used for training classes, shows or exhibitions. City property, as used in

this section, does not include public sidewalks, open areas or parks that are otherwise regulated in the city code.

(b) Any permit or other authorization issued by the city for the operation of a festival or other special event within city limits may include a condition prohibiting animals within the area of the festival or special event. If such a condition is included in the permit or other authorization for the festival or special event, it shall be unlawful for any person owning or having control of any animal to allow such animal within the area of the festival or special event.

(c) This section does not apply to persons who have a service animal to accommodate a disability, or dogs used in law enforcement by a governmental agency, or persons expressly authorized by the administrator upon finding that the animal will not be disruptive to the operations of the city, or a hazard to persons or property.

SEC. 5.10. Poisoning and abusing dogs, cats or other domestic animals.

In addition to California Penal Code Sec. 596 and as amended, it is unlawful for any person to willfully administer poison to any dog, cat or other domestic animal, or to willfully place, expose or leave poisonous or harmful substances of any kind in any place with intent to injure or kill any dog, cat or other domestic animal. Further, it is unlawful for any person to maliciously kill, maim, wound, mutilate, torment, torture or physically abuse any animal.

SEC. 5.11. Public nuisance.

(a) No person owning or having control of any animal shall permit the animal to do any of the following:

(1) Defecate or urinate on private property (other than that of the owner or person having control of the animal);

(2) Defecate on public property without immediately removing the excrement to a proper receptacle;

(3) Obstruct or interfere with the reasonable and comfortable use of property by chasing vehicles, molesting passersby, barking, howling, baying or making any other noise;

(4) Permit unsanitary conditions to exist on the premises where the animal is kept that would cause odors, attract flies or vermin, or otherwise be injurious to public health and safety, or be indecent, or offensive to the senses, or be such an

obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property by other persons;

- (5) Trespass on schools or grounds;
- (6) Attack other humans or animals;
- (7) Damage private or public property;
- (8) Repeatedly run at large;
- (9) Run at large while in the stage of heat;

(b) The animal control officer may seize and impound any animal causing or creating a public nuisance.

(c) A violation of this section is hereby declared to be a public nuisance.

(d) Any private person may maintain an action under California Civil Code Sec. 3493, and as may be amended, for enforcement of this section declaring certain acts a public nuisance, if such acts are specifically injurious to that person.

SEC. 5.12. Authority of animal control officer.

Each animal control officer shall have and is hereby vested with the authority of a peace officer. Each animal control officer may, in the performance of his/her duties, enter upon any property to ascertain if any of the provisions of the chapter or any state laws relating to disease, care, treatment, impounding or cruelty to animals are being violated. Each animal control officer may make arrests for the violation of the provisions of this chapter or any state laws in the manner provided by law.

SEC. 5.13. Animals and vehicles.

(a) No person shall transport or carry any animals in or on a motor vehicle on any public highway, street or roadway located within the city limits unless the animal is safely enclosed within the vehicle or otherwise safely attached or secured to the vehicle by means of a container, cage or other device which will prevent the animal from falling from, jumping from or being thrown from the vehicle while the vehicle is in motion.

(b) No person shall leave any animal in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures that may adversely affect the health or well-being of the animal.

(c) An animal control officer, police officer or safety officer is authorized to use reasonable force to remove an animal from a vehicle when it appears that the animal's health, safety or welfare is or will be endangered.

SEC. 5.14. Interference with police dogs/horses.

No person shall injure, torture, tease, kick, strike, mutilate, disable, kill or otherwise interfere with any police dog or horse within the jurisdictional boundaries of the city while the police dog or horse is in the custody of a police officer or is being used in the performance of official duties.

SEC. 5.15. Reserved.

SEC. 5.16. Animal maintenance and duties of owners.

(a) The provisions of this section shall be in addition to, and not in lieu of, any other regulations contained in this code or in any other ordinance of the city regarding the keeping and maintenance of animals.

(b) The owner of every animal shall have the duty to keep and maintain such animal in a healthy and sanitary condition, and shall have the duty to supply such animal with food, water and suitable shelter. All animal enclosures and shelters shall be kept in a clean and sanitary condition, and free from all noxious odors or substances. The keeping of any animal in such a manner as to create unhealthy or unsanitary conditions is hereby prohibited and declared to be a public nuisance.

SEC. 5.17. Shelter requirements.

(a) Any animal maintained outdoors shall have adequate shade and shelter so that the animal can protect itself from the direct rays of the sun when the sunlight is likely to cause overheating or discomfort, and so the animal can remain dry during rain and stay warm during cold weather.

(b) The shelter for any animal shall be:

(1) Accessible to the animal at all times and constructed and maintained so that the animal has convenient access to food and water;

(2) Situated to prevent exposing the animal to unreasonably loud noise, or teasing, abuse or injury by another animal or person;

(3) Constructed with at least five (5) sides, including a roof and floor. The floor shall be raised off the ground; be free of cracks, depressions and rough areas

where insects, vermin or eggs for internal parasites may lodge; and protect the animal's legs and feet from injury;

(4) Of adequate size inside and outside the shelter to allow the animal to stand up, sit, turn around freely or lie down in a normal position, defecate or urinate away from its confinement, and safely interact with any other animal;

(5) Adequately lighted to provide regular diurnal lighting cycles of natural or artificial light uniformly diffused throughout the shelter, and sufficient illumination for routine inspections and care of the animal;

(6) Supplied with clean and dry bedding material or other means of protection from the weather elements to maintain the shelter at a temperature that is not harmful to the health of the animal;

(7) Cleaned and maintained in a manner designed to ensure sanitary conditions and to control for insects, ectoparasites and other pests. Carcasses, debris, food waste and excreta shall be removed from the shelter as often as necessary to minimize unreasonably obnoxious odors, allergens, pests and the risk of disease.

(8) Be constructed and maintained in good repair to protect the animal from injury.

SEC. 5.18. Water requirements.

No person shall keep, use or maintain any animal on any premises unless the animal has access to clean and fresh water at all times. If the water is kept in a container, this container shall be designed sufficiently to prevent tipping and spilling of the water contained therein. Watering containers shall be kept clean, kept out of the sun and must be emptied and refilled with fresh water at least once a day. If the water is provided by an automatic or demand device, the water supply connected to the device must function twenty-four (24) hours a day.

SEC. 5.19. Feeding requirements.

No person shall keep, use or maintain any animal on any premises unless the animal is provided sufficient food daily to maintain proper body weight and good health. The animal shall be provided food, which shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritional value to meet the normal daily requirements for the condition and size of the animal.

SEC. 5.20. Confinement requirements.

(a) All animals shall be able to stand to their full height, stretch out, turn around, lie down and make normal postural adjustments comfortably. Minimum space for dogs in pens (not including shelter space) shall be as follows:

Number of Dogs	Small (to 25 lbs.)	Medium (25-50 lbs.)	Large (over 50 lbs.)
1	3' x 7' (21 sq. ft.)	6' x 10' (60 sq. ft.)	8' x 10' (80 sq. ft.)
2	4' x 8' (32 sq. ft.)	8' x 10' (80 sq. ft.)	8' x 12' (96 sq. ft.)
3	5' x 9' (45 sq. ft.)	8' x 12' (96 sq. ft.)	10' x 14' (140 sq. ft.)
4	8' x 10' (80 sq. ft.)	10' x 12' (120 sq. ft.)	12' x 16' (192 sq. ft.)

(b) No dog shall be tethered, fastened, chained, tied or restrained to a shelter, tree, fence or any other stationary object, except in accordance with Penal Code Sec. 597 or as may be amended.

(c) If a dog is confined in compliance with Subsection (a), the owner may:

(1) Attach a dog to a running line, pulley or trolley system, except no dog may be tethered to a running line, pulley or trolley system by means of a choke collar or pinch collar;

(2) Tether, fasten, chain, tie or otherwise restrain a dog pursuant to the requirements of a camping or recreational area;

(3) Tether, fasten, chain or tie a dog no longer than is necessary for the person to complete a temporary task that requires the dog to be restrained for a reasonable period;

(4) Tether, fasten, chain or tie a dog while engaged in or actively training for, an activity that is conducted pursuant to a valid license issued by the State of California if the activity for which the license is issued is associated with the use or presence of a dog. Nothing in this section shall be construed to prohibit a person from restraining a dog while participating in activities or using accommodations that are reasonably associated with the licensed activity;

(5) Tether, fasten, chain or tie a dog while actively engaged in conduct that is directly related to the business of shepherding or herding cattle or livestock, or directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

SEC. 5.21. Adequate exercise.

All animals must be provided with adequate exercise. "Adequate exercise" means the opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, size and condition of the animal.

SEC. 5.22. Chain collar prohibited.

It shall be unlawful for any person to use a chain as a collar for any animal except during training sessions under the direct supervision of the owner or handler.

SEC. 5.23. Ventilation and light requirements.

All animal holding areas shall be constructed to allow a free flow of fresh air. All animals shall have at least ten (10) hours of light per day, except as directed by hibernation, veterinarian advice or professionally accepted practices for the safety and well-being of the animal. Lighting of primary enclosures shall be designed to protect animals from excessive illumination. The duration of illumination shall be appropriate for the species involved.

SEC. 5.24. Veterinary treatment.

All animals shall receive veterinary treatment from a veterinarian licensed by the State of California when such treatment is necessary to alleviate the animal's suffering or prevent the transmission of disease.

SEC. 5.25. Unnecessary suffering.

No animal shall be subjected to unnecessary suffering or cruelty. Unnecessary suffering or cruelty may be caused by deficiencies in the categories listed above. Unnecessary suffering is also caused by situations which expose an animal to prolonged fear, injury and pain, physical abuse or lack of proper sanitation. The absence of interaction with humans or other animals also causes an animal unnecessary suffering if it results in health and/or temperament problems.

SEC. 5.26. Reserved.

SEC. 5.27. Slaughtering.

(a) It is unlawful for any person, by any means, to slaughter any animal within the city.

(b) This section shall not apply to the act of putting to death any such animal by the discharge of firearm by a sworn peace officer or animal control officer if the animal is dangerous or is so badly injured that humanity requires its relief from further suffering and no other disposition is practical.

(c) This section shall not apply to the act of putting to death any such animal by a licensed veterinarian, pursuant to Sec. 5.60(e).

ARTICLE II. IMPOUNDMENT OF ANIMALS.

SEC. 5.28. Fees for impounding and keeping.

(a) An impoundment fee shall be charged to the owner of an animal impounded to defray the costs of impoundment, in an amount fixed by resolution of the city council or approved by the service provider's board of directors, as applicable.

(b) In addition, a fee for keeping an impounded animal shall be charged in an amount sufficient to defray the actual costs of keeping and caring for the animal, as determined by the administrator.

SEC. 5.29. Redemption of impounded animals.

The administrator or animal control officer may permit an owner or other person entitled to custody of an impounded animal to redeem the animal. No animal may be redeemed without payment of the fees for impounding and keeping the animal, and without compliance with the licensing provision of this title.

SEC. 5.30. Notification of impoundment.

The animal control officer will give notice of impoundment to the owner of every animal impounded, if known, by either posting a written notice of the impound in a conspicuous place at the owner's residence, or personally delivering the notice to the owner on the day of the impound. The notice shall advise the owner that the animal may be forfeited unless the owner contacts the administrator within five (5) business days. The notice shall set forth a telephone number to contact the administrator.

SEC. 5.31. Disposition of impounded animals.

(a) No animal may be disposed of until seventy-two (72) hours have elapsed from the time of impoundment, exclusive of the day of impoundment and the days that the impounding facility is closed to the public.

(b) Notwithstanding anything to the contrary, an animal which has been determined by a veterinarian licensed by the State of California or by other authorized personnel to be diseased or injured to the extent that emergency veterinary care will not alleviate suffering will be destroyed in accordance with all state and county humane laws as soon as possible.

SEC. 5.32. Care of impounded animals.

The animal control officer shall ensure that all impounded animals receive suitable and adequate food, water and shelter.

SEC. 5.33. Summary seizure and postseizure notification.

(a) Notwithstanding Sec. 5.4, an animal control officer may seize and impound an animal for violation of any provision of this chapter or state law prior to a hearing in any of the following situations where the owner is not present and where the officer reasonably believes it is necessary:

- (1) To protect public health, safety and property;
- (2) To protect an animal that is injured, sick or starving and must be cared for;
- (3) To protect an animal from injury which has strayed onto public property or public right-of-way.

(b) Even when the owner of any animal is present, an animal control officer may seize or impound any animal the officer reasonably believes to be infected with disease transmittable to humans or to be dangerous so as to be a threat to public health, safety or property. Such seizure or impoundment may be made even though the animal is at the time of seizure confined by the person owning or having charge of the animal if the animal control officer reasonably believes such seizure and impoundment is necessary to protect the public health or safety.

(c) If the owner or person with the right to control the animal wishes to challenge the seizure or impoundment, he or she shall notify the administrator in writing, within five (5) business days after the seizure or impoundment.

(d) The administrator will promptly set the time and place for a hearing and will send notice of the hearing by first-class United States mail to the party requesting the hearing no later than five (5) business days before the hearing.

(e) The hearing will be conducted as set forth in Sec. 5.35.

SEC. 5.34. Hearing prior to animal deprivation.

(a) Except as provided in Sec. 5.4 and 5.33, the administrator or animal control officer may not seize or impound any animal without the consent of the owner or person entitled to custody of the animal unless an appeal hearing is held as set forth in Sec. 5.35.

(b) If the owner or person who has a right to control an animal refuses to consent to an impoundment of his/her animal, the animal control officer may issue a notice commanding the person to appear before the administrator at a set time. Failure of a person to appear at the hearing is an infraction, and upon conviction thereof shall be punishable by a fine not to exceed five hundred dollars (\$500) and, in addition, the animal control officer may immediately seize and impound the animal.

SEC. 5.35. Postseizure appeal hearing.

(a) At the hearing, petitioner and the animal control officer may be represented by counsel, may present oral and written evidence, and may cross-examine witnesses. Technical rules of evidence shall not apply. Any relevant evidence may be admitted as determined by the hearing officer. The decision of the hearing officer shall be supported by the weight of the evidence and shall be final.

(b) After submission of all the evidence, and not more than fifteen (15) days after the hearing, the hearing officer shall notify the petitioner in writing of his/her decision. The hearing officer may order the animal released without conditions, may designate the animal dangerous and order release with conditions, may order the animal destroyed or may make other orders as the hearing officer determines appropriately fulfills the needs of the animal and the safety of the public based on the weight of the evidence and consistent with this Chapter. The decision of the hearing officer shall be final. Any release conditions imposed by the hearing officer, which may include but shall not be limited to spaying and neutering, shall be solely in the interest of protecting public health, safety and property.

SEC. 5.36. Failure to appeal impoundment.

Any person who fails to appeal any seizure or impoundment by the animal control officer under this article within five (5) business days from impoundment shall forfeit all rights of ownership and control of the animal. Final disposition of the animal shall be determined in accordance with the provisions of this article and other applicable law.

SEC. 5.37. Mandatory sterilization for multiple impounds.

Any unsterilized dog or cat impounded twice or more from the same owner within the lifetime of the animal shall be sterilized at the owner's expense prior to redemption. At the option of the owner, a private veterinarian may perform the required spaying or neutering. The impounding agency may require that transportation to a private veterinarian be performed by the impounding agency. The owner may request a hearing as set forth in Sec. 5.33.

**ARTICLE III.
KEEPING OF CERTAIN ANIMALS.**

SEC. 5.38. Keeping of certain animals and fowl – Generally.

(a) No person shall keep any livestock in any R district.

(b) It shall be unlawful for any person to keep or maintain any equine animal, any bovine animal, any sheep, hog or goat, any live hare, rabbit, chicken, duck, turkey, goose, pigeon or other fowl except as provided in this article.

(c) Any person maintaining any such animal or fowl within the city shall keep the premises upon which such is kept fenced, or if such animal is staked, so as to keep the animal or fowl from leaving the premises upon which such is kept, and shall not permit such animal or fowl to run at large upon the street or upon the property of any other person.

SEC. 5.39. Nearness to dwelling.

(a) All structures for housing animals shall be compliant with applicable zoning regulations. No person shall keep any live hare, rabbit, chicken, turkey, goose, duck, pigeon, game bird or other fowl or exotic animal in any structure within the ten-foot (10') setback from the property line of the owner of such animal or fowl, without a permit.

(b) The permit mentioned in subsection (a) of this section shall be issued by the administrator, and only when he/she finds that each such animal may be maintained at such location without injury to its health and the health and safety of any person. If the administrator does not so find and is not satisfied that the animal may be so maintained without injury to its health and the health and safety of any person, no such permit shall be issued.

(c) The permit shall be issued by the administrator only after he/she is assured to his/her satisfaction that each such animal will be maintained at such location in compliance with the following conditions:

(1) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury.

(2) Sanitary condition of all animals and all animal buildings or enclosures shall comply with Sec. 5.41.

(3) Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals and to provide appropriate protection from the elements.

(4) All animal buildings, cages and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein.

(5) Each animal shall be maintained in a good, healthy condition in a manner not causing injury to the health of any animal or the health and safety of any person.

(d) Said permit shall set forth whatever conditions the administrator may deem necessary to assure compliance with the provisions of this chapter.

(e) Each permit is subject to suspension and revocation whenever an animal is maintained in such a manner that any of the conditions of subsection (c) of this section is violated.

(f) In case of denial, suspension or revocation of a permit issued under this section, the applicant or holder of the permit may appeal the decision by filing a written request for an appeal hearing to the administrator within ten (10) days of receipt or constructive receipt of the decision. The administrator shall appoint a hearing officer for the purpose of the permit appeal. Until the ruling of the hearing officer, the denial, suspension or revocation shall remain in full force and effect.

The hearing officer shall provide notice to the appellant and a date for the hearing within twenty (20) days of receipt of the appeal. The hearing shall be set within twenty (20) days, unless the applicant or holder requests a continuance. At the hearing, both the applicant or holder and staff shall have the right to appear and be represented by counsel and to present evidence and arguments which are relevant to the grounds for the appeal, limited to the grounds for appeal stated in the filing of the appeal. The applicant or holder may appear in person or by submitting written material. A nonappearance shall result in a vacation of the appeal.

Within ten (10) days of the hearing, the hearing officer shall issue a written decision which states whether the initial denial, suspension or revocation of the permit will be upheld, modified or reversed. The decision shall be served on the holder or applicant by mail and the decision of the hearing officer shall be final.

SEC. 5.40. Roosters.

No rooster over four (4) months old shall be kept on any premises within the city, unless the premises involved are operating on a commercial basis in conformance with existing zoning regulations and state statutes governing their operations.

SEC. 5.41. Cleaning and maintenance of corrals, barns, stables, stalls, apartments and structures.

Every owner, lessee or tenant of any corral, barn, stable, stall, apartment or other structure in which any horse, cow or other animal is or shall be kept or of any place in which manure or any liquid discharge of any such horse, cow or other animal shall collect or accumulate, shall cause such manure or liquid to be removed and shall, at least once in every fifteen (15) days, cause such corral, barn, stable, stall, apartment or structure to be thoroughly cleaned and disinfected and shall at all times keep the same in a clean and wholesome condition.

SEC. 5.42. Sanitary conditions.

No person shall, at any time, maintain any lot or other premises, or any portion thereof in the city, upon which any animal is kept, in an unsanitary condition. No person shall maintain any such lot or other premises, or portion thereof, upon which any animal is kept, in such condition as to cause the same to be infested with flies or insects or increase any noxious or offensive odors.

SEC. 5.43. Quantity of animals.

(a) Not more than four (4) animals, in all, including hares, rabbits, guinea pigs, feline, bovine, sheep, hogs, goats, chickens, turkeys, geese, ducks, game birds, or other fowl or any combination thereof shall be kept on any premises within the city, unless the premises involved are operating on a commercial basis in conformance with existing zoning regulations and state statutes governing their operations. This section shall not apply to fish.

(b) The administrator may allow more than four (4) animals, but no more than twenty-five (25) animals, upon finding that the animals will be maintained in a healthy and sanitary condition, and will not be foreseeably injurious to the health, or indecent or offensive to the senses, so as to unreasonably interfere with the comfortable

enjoyment of neighboring properties. In making this determination, the administrator shall consider:

- (1) The lot size of the premises on which the animals will be kept;
- (2) Whether or not the animals will be located or housed in a manner that will eliminate views, noise or odors to the adjoining properties;
- (3) The animals can be cared for in a manner that produces no noticeable noise or odor beyond the premises on which they will be kept;
- (4) The animals are restricted to a portion of the premises that is not proximate to any adjoining residences;
- (5) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury;
- (6) Sanitary condition of all animals and all animal buildings or enclosure shall comply with Sec. 5.16;
- (7) Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals and to provide appropriate protection from the elements;
- (8) All animal buildings, cages and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein;
- (9) Each animal shall be maintained in a good, healthy condition in a manner not causing injury to the health of any animals or the health and safety of any person;
- (10) All structures for housing animals shall be compliant with applicable zoning regulations; and
- (11) Said permit shall set forth whatever conditions the administrator may deem necessary to assure compliance with the provisions of this chapter.

(c) At least ten (10) days before making a decision on whether or not to allow more than four (4) animals, the administrator shall mail a notice by first-class United States mail addressed to the addresses of all residential parcels located within fifty feet (50') of the property boundaries of the premises where the animals would be kept. The notice shall describe the nature of the exception being requested and the street address of the property boundaries where the animals would be kept. The notice shall further

advise the recipients they must contact the administrator within ten (10) days from the date the notice was mailed with any concerns they may have about the requested exception in writing or by telephone at an address and telephone number provided in the notice.

(d) At the end of the ten (10) day period, and no later than thirty (30) days after receipt of the request for more than four (4) animals, the administrator shall render his or her decision, which shall be final.

(e) Any exception granted pursuant to this section may be revoked by the administrator upon finding that the additional animals are not being maintained in a healthy or sanitary condition, or are creating a condition that constitutes a public nuisance. At least ten (10) days prior to revoking any approval for more than four (4) animals, the administrator shall notify the owner of the animals, by first-class United States mail, of his/her intention to consider revocation of the approval, and the basis for that revocation. The notice shall also set forth an address and telephone number at which the owner can contact the administrator and shall advise the owner that if the owner opposes the revocation, the owner must contact the administrator within ten (10) days from the date the letter was mailed. The administrator's decision on the revocation shall be final.

ARTICLE IV. BEEKEEPING.

SEC. 5.44. Notice required when moving apiaries.

No apiary shall be moved into the city or within the confines of the city without notice in writing being given to the administrator within five (5) days from the date movement is begun, stating:

- (a) The number of colonies of bees to be moved into or within the city;
- (b) The location of the property in the city to which bees are to be moved, and the name and address of the owner of the property or person in possession thereof;
- (c) The distance of the proposed location of the apiary from the nearest public road intersection.

SEC. 5.45. Natural hives – Notice.

Property owners or occupants thereof in the city shall give immediate notice to the administrator of the establishment by bees of natural hives, so that the same shall be

removed in accordance with approved methods and to avoid harm to persons and property.

SEC. 5.46. Location of apiary.

No apiary shall be located:

(a) At a distance less than ten (10) feet from the property line, in side and rear yards only, unless the owner or persons in possession of the adjacent property have given written permission to the location of such apiary at a closer distance;

(b) On any lands without the written consent of the owner or person in possession thereof;

(c) Closer than twenty (20) feet from any public road.

SEC. 5.47. Water supply.

A water supply adequate in quantity for the apiary should be provided and maintained.

SEC. 5.48. Identification of premises.

Every person maintaining any apiary on premises other than their own residence shall identify the apiary by affixing and maintaining signs thereto showing the name of the owner or person in possession of the apiary, the owner or person's address and telephone number or a statement that the owner or person has no phone. These signs shall be prominently placed and maintained on each entrance side of the apiary and immediately adjoining the same and lettered in black at least one inch (1") in height on a white or light background.

SEC. 5.49. Notice, correction of violation.

Any person transporting or maintaining an apiary who violates any of the provisions of this chapter may be given verbal or written notice by the administrator or any law enforcement officer. A written notice shall also be posted on the location for forty-eight (48) hours, and it is unlawful for the owner or person in possession of such apiary to fail to correct the violations within that period. The provisions of this article, however, shall not authorize the keeping of bees in areas where they are not otherwise allowed by law.

**ARTICLE V.
DOGS AND CATS.**

SEC. 5.50. Restraint of dogs.

The owner of any dog shall keep and maintain such dog under their own physical restraint by use of a leash not to exceed six feet (6') in length, or shall keep such dog sufficiently confined behind a fence of reasonable height. This section shall not apply to the following:

- (a) Service animals while performing their duties;
- (b) Dogs participating in field or obedience trials or exhibitions;
- (c) Dogs assisting their owner/handler in legal hunting or in the herding of livestock;
- (d) Dogs assisting a private patrol operator properly registered in accordance with MVCC Sec. 20.2 and as amended, or assisting a peace officer engaged in law enforcement activities;
- (e) Dogs being trained for any of the above purposes on private land with permission of the landowner, so long as such dogs are under direct control of such individuals to assure they do not violate any other provision of law.

SEC. 5.51. Maximum number of dogs, cats or litters.

- (a) No person shall keep or maintain more than a total of four (4) adult dogs and/or cats (any combination) over four (4) months of age, at any street address.
- (b) No person shall keep or maintain more than one (1) unspayed female dog or one (1) unspayed female cat, at any street address.
- (c) A female dog or cat shall be rebuttably presumed to be unspayed, unless the owner provides evidence of spaying. Written certification from a licensed veterinarian that an animal cannot be spayed for health reasons or is incapable of breeding shall be deemed a satisfactory substitution for a certificate showing an animal is spayed.
- (d) No person shall allow the parturition and rearing of more than one (1) litter (dogs or cats) in any one (1) calendar year from females owned by him/her or maintained on his/her premises.

(e) The provisions of this section shall not apply to a bona fide veterinarian licensed by the State of California for the practice of veterinary medicine, or a pet shop, commercial kennel, private kennel, animal shelter or animal menagerie that holds a valid permit from the administrator.

SEC. 5.52. Vaccination of dogs.

Every owner of a dog over four (4) months of age shall cause such dog to be vaccinated with an antirabies vaccine approved by the State Department of Public Health, unless otherwise approved by the Department of Public Health. Revaccination shall be made at such intervals of time as may be prescribed by the state Department of Public Health. Compliance with the provisions of this section shall be a condition to the issuance or renewal of dog licenses.

SEC. 5.53. License required.

(a) No person shall maintain or board any dog four (4) months of age or older that has not been licensed pursuant to the provisions of this chapter, except:

(1) A license shall not be required for dogs owned or under the control of a nonresident of the city that is to be kept in the city for less than thirty (30) days in any twelve (12) month period.

(2) A license shall not be required for dogs temporarily brought into the city for entry into an event, show or exhibition scheduled not more than ten (10) days thereafter.

(b) A license shall not be required for cats, but an owner may voluntarily license or register a cat.

SEC. 5.54. License fees.

(a) Mandatory dog and voluntary cat license fees, including reduced fees for spayed females or neutered males, for each dog or cat within the city shall be those set by resolution of the city council or approved by the service provider board of directors, as applicable. Dog and cat license fees shall not be refundable in whole or in part.

(b) The administrator may require the submission of a certificate of a licensed veterinarian stating that a dog or cat has been spayed or neutered, or cannot be spayed or neutered for health reasons and is incapable of breeding, or is incapable of breeding, prior to issuance of a license at a lesser fee.

(c) An additional fee, in an amount determined by the city council or approved by the service provider's board of directors as applicable, shall be paid for a license purchased more than sixty (60) days after expiration of a previously issued license or sixty (60) days after notice to the owner to obtain a license.

(d) Licenses and tags for service animals and for dogs used in law enforcement by any governmental agencies shall be issued upon request without charge.

(e) The administrator may waive the license fee for only one (1) spayed or neutered dog or cat kept in a household where the owner of the dog or cat is over the age of sixty-five (65) years, provided such owner presents or qualifies for a state Medi-Cal card.

SEC. 5.55. Issuance of license.

Upon payment of the license fee and, if required, the presentation of a valid certificate of vaccination by a duly licensed doctor of veterinary medicine, the administrator shall issue a license stating the name and residence of the person to whom the license is issued, the amount paid, the date of issuance and expiration thereof, the date of expiration of the vaccination, and a description of the dog or cat for which such license is issued, together with the number of the metallic tag, or passive integrated transponder or other implanted radio frequency identification device ("microchip"), as applicable, accompanying the same.

SEC. 5.56. Metal tags and passive integrated transponders.

(a) With each dog or cat license, the administrator shall issue a metal tag bearing an identifying number and the words and letters "DOG/CAT LICENSE." Each dog shall wear the metal tag issued for it at all times except when being shown at a dog show, exhibition or event. In the event it is necessary to issue a duplicate tag, a fee, established by city council resolution or approved by the service provider's board of directors, as applicable, shall be charged to the owner. A valid and registered passive integrated transponder or other implanted radio frequency identification device ("microchip") may be used in place of the metal tag for licensed or registered cats.

(b) It shall be unlawful for any person to attach a metal tag issued pursuant to this section to any dog or cat other than the dog or cat for which it was issued.

SEC. 5.57. License period.

(a) The term of any dog license issued hereunder shall commence on the date of the issuance of the license and shall terminate twelve (12), twenty-four (24), or thirty-six

(36) months from the date of issue, depending on the expiration of the dog's rabies vaccination.

(b) The term of any voluntary cat license issued hereunder shall commence on the date of the issuance of the license and shall terminate sixty (60) months from the date of issue.

(c) Dog licenses may be renewed upon expiration, upon proof of a new rabies vaccination. Cat licenses and registrations may be renewed voluntarily by the owner. When a license is renewed after the expiration date, the new license period shall begin on the expiration date of the previous period.

SEC. 5.58. Record of licenses and registrations.

The administrator shall keep a record of all licenses and registrations issued together with a description of the dog or cat for which such license is issued.

SEC. 5.59. Presentation of license on request.

Upon request of any authorized animal control employee or any peace officer, the owner or person having control of a dog or cat shall present the license.

SEC. 5.60. Veterinarian responsibilities.

(a) Every veterinarian who vaccinates or causes or directs to be vaccinated in the city any dog with an antirabies vaccine shall use a form provided by the administrator to certify that such animal has been vaccinated.

(b) Every veterinarian shall provide to the animal owner a copy of the antirabies vaccination form for use in obtaining a license for the animal.

(c) Every veterinarian shall submit to the administrator a copy of the county-approved antirabies vaccination form, within ten (10) days of the beginning of each month, for any dog which he or she vaccinates or directs to be vaccinated with antirabies vaccine during the previous month.

(d) Every veterinarian operating a business within the city shall conspicuously display a sign to notify dog owners that their animals must be licensed.

(e) The humane destruction of an animal must be accomplished by a person who has completed a training curriculum of at least eight (8) hours, provided by a veterinarian, a registered veterinary technician, or an individual who has been certified by the California Animal Control Directors Association and the State Humane

Association of California to train persons in the humane use of sodium pentobarbital. The curriculum shall include humane animal restraint techniques, sodium pentobarbital injection methods and procedures, verification of death training, safety training and stress management for personnel, and record keeping and regulation compliance for sodium pentobarbital. At least five (5) hours of the curriculum shall consist of hands-on training. The trained person may only use sodium pentobarbital to perform the humane destruction, per 16 California Code of Regulations Sec. 2039 and as may be amended.

SEC. 5.61. Dogs in posted off-leash areas.

The exemption from the requirements for the restraint of dogs as set forth in Sec. 5.50 shall apply only if all of the following conditions are met:

(a) No dog shall be in a posted off-leash area except when in the charge, care, custody or control of a person at least thirteen (13) years of age.

(b) No animals other than dogs shall be in any posted off-leash area. Dogs are only permitted in the posted off-leash area during posted hours of operation.

(c) No person shall have more than two (2) dogs in a posted off-leash area at any one time.

(d) Any dog in a posted off-leash area must be at least four (4) months of age, vaccinated for rabies, and currently licensed by the city's animal services division or other jurisdiction. All persons entering the posted off-leash area are responsible for ensuring their dog is not sick, in heat, injured, less than four (4) months of age, or displaying aggressive behavior toward other dogs or humans in the posted off-leash area.

(e) Any person having charge, care, custody or control of a dog in a posted off-leash area shall:

(1) Carry at all times a suitable container or other suitable instrument for the removal and disposal of dog feces;

(2) Promptly remove and properly dispose of any waste deposited by the dog;

(3) Quiet or remove the dog if it disrupts or disturbs the reasonable and comfortable use of the area;

(4) Have in his/her possession a leash for such dog that shall be worn by the dog, and physically held by the owner, at all times the dog is not in the posted off-leash area; and

(5) Comply with all other applicable state and local laws, including without limitation those that govern the health, safety and maintenance of dogs.

Compliance with this section shall not relieve any person of liability for damages arising out of his/her use of a posted off-leash area.

SEC. 5.62. Barking dogs.

It shall be unlawful for any person to harbor, keep or maintain any dog in the city which disturbs the peace and quiet of one (1) or more persons in the immediate neighborhood by loud barking or making unusual noises. "Loud barking" means barking, howling or baying by day or night continuously and/or incessantly for a period of ten (10) minutes or intermittently for one-half (1/2) hour or more which creates a noise disturbance across a residential or commercial real property line. "Loud barking" does not mean barking where a dog is in the act of protecting or resisting trespassers upon its premises. The burden of proof of such an act of protection or resistance to trespassers by a dog is upon the person owning, harboring, controlling, maintaining, possessing or having charge of the dog.

SEC. 5.63. Hearing regarding classification as dangerous.

(a) Any dog which exhibits any behavior described in Sec. 5.1, "Dangerous dog," may be determined to be a dangerous dog. The status shall be established after a hearing as hereinafter provided. Proceedings may be instituted by:

(1) Observation by the animal control officer;

(2) A complaint sworn by a person or persons who observed the behavior complained of.

(b) Hearings for classification as dangerous shall be conducted as follows:

(1) The owner shall be given written notice, by first-class mail with return receipt requested or personal service, of the date, time and place of the hearing at least five (5) business days in advance of the hearing date, as well as the facts which are the basis of the complaint. The owner shall be notified of the restrictions which will apply to the animal if it is classified as a dangerous animal. Written notice of date, time, place and reason for the hearing shall also be mailed by first-class United States mail to all

residential parcels located within one hundred feet (100') of the boundaries of the owner's property at least five (5) business days in advance of the hearing date.

(2) The owner may waive his/her right to a hearing by filing a written waiver with the service provider, whereupon the service provider shall make the findings and apply the sanctions provided in this title.

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

(4) The hearing shall be conducted before a hearing officer. The appointment of the hearing officer shall be by the administrator. 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.

(5) The hearing officer may continue hearings, based on good cause, as established by one (1) of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.

(6) 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 (1) of the complainants shall appear and testify at the hearing or the complaint shall be dismissed.

(7) After the hearing, the owner or keeper of the dog 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) calendar days after the hearing is concluded, unless the animal has been seized, in which case the determination shall be made within seven (7) calendar days of the hearing.

(8) The hearing officer may also prohibit the owner from owning, possessing, controlling or having custody of any dog for up to three (3) years, if it is determined, after a dangerous dog hearing, that ownership or possession of a dog by that person would create a significant threat to the public health, safety and welfare. Thereafter, such person must demonstrate to the administrator that he or she is capable of directly restraining the dog he or she seeks to own, possess, control or have custody of.

(9) If the owner or keeper of the animal contests the dangerous dog determination, he/she may, within five (5) business days of receipt of the notice of determination, appeal the decision of the hearing officer to the superior court. The

owner or keeper of the animal shall serve notice of the appeal to the administrator either personally or by first-class mail, return receipt requested.

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

(11) The owner shall comply with all conditions imposed by the animal control officer pending the hearing.

(12) The city council may establish a filing fee by resolution or such fee may be approved by the service provider's board of directors, as applicable, for requests for hearings under this section.

SEC. 5.64. Restrictions of dogs designated as "dangerous."

(a) The owner or person with the right to control a dangerous dog shall be required to comply with all of the following requirements:

(1) Keep the dog under his/her own physical restraint when in the front of the publicly accessible area of the owner's property and when off of the owner's property by complying with all of the following:

(a) Use of a nonretractable leash not to exceed three feet (3') in length;

(b) Capable of restraining four (4) times the weight of the dog;

(c) Attached to an escape-proof, commercial-quality walking harness that fastens securely across the shoulders and midchest, encompassing the rib area and upper abdomen of the dog;

(d) No neck collar of any type or material will be sufficient;

(e) The dog shall not be leashed or tethered at any time to inanimate objects such as trees, posts or buildings, except when the dog is inside a securely enclosed, escape-proof locked kennel or pen;

(f) The dog shall be securely muzzled with a device constructed to allow normal respiration but impossible for the dog to remove without human assistance; and

(g) The dog shall be under the direct physical control of a person who is at least eighteen (18) years old and who is physically capable of restraining the dog.

(2) The administrator may require the use of specially marked or colored leash and collar or harness for identification of dangerous dogs.

(3) The dog shall be spayed or neutered.

(4) The dog shall have a valid and registered passive integrated transponder or other implanted radio frequency identification device ("microchip") for identification purposes.

(5) The owner of such animal shall immediately keep such animal in a securely enclosed, escape-proof, locked kennel or pen, the location and placement of which shall be determined by the hearing officer. Such kennel, pen or structure must have secure sides and a secure top attached. The kennel or pen must be constructed in a manner and of such materials so that it cannot be broken down by any action of the confined dog. All structures used for confinement of dangerous dogs must be locked with a key or combination lock of sufficient strength to ensure confinement of the dog. Such structures must be erected upon a secure bottom or floor constructed of concrete or other material of sufficient depth to prevent the dog from digging free. Sides of the structure shall be embedded not less than two feet (2') into the ground behind a solid fence not less than six feet (6') in height. The supporting posts of the structure shall be set in concrete or other material not less than two feet (2') into the ground and no further than six feet (6') apart. The sides and ends of the structure shall be constructed of solid boards or chain-link material not less than six feet (6') in height and securely fastened to the top and bottom of the structure. The structure shall not be constructed or maintained in any front or required side yard and shall be maintained in a sanitary condition at all times. The dog(s) confined therein shall be afforded adequate protection from the elements and kept in a humane manner.

(6) The dog must be confined by means of a house, apartment, building or similar structure wherein the windows and doors are secured to prevent the dog from exiting without the assistance of the owner or person having a right to control such dog.

(7) Any owner or person having a right to control the dog shall seek preapproval from the administrator for a dog obedience class and attend the dog obedience class with the dog that exhibited behavior that led to this designation.

(8) The owner must post a sign advising of the presence of a dangerous dog at the entrance to every place wherein any such dog is confined. The sign must be capable of being understood by a child with the normal reading skills of a second grader.

(9) No person shall transport a dangerous dog except in a locked animal carrier equivalent in construction quality to those used by commercial air carriers.

(10) No person shall leave a dangerous dog unconfined or unattended in or about any motor vehicle.

It is understood that the provision of subsection (a)(5) of this section shall not apply to the owner or person with the right to control a dangerous dog living in an apartment or condominium.

(b) This Sec. 5.64 shall not apply to the following:

(1) Service animals;

(2) Dogs participating in field or obedience trials or conformation exhibitions;

(3) Dogs assisting their owner/handler in legal hunting activities or in the herding of livestock;

(4) Dogs assisting a private patrol operator properly registered in accordance with MVCC Sec. 20.2, or assisting a peace officer engaged in law enforcement activities; or

(5) Dogs being trained for any of the above-described purposes on private property with the permission of the landowner, so long as these dogs are under the direct control of individuals who assure they do not violate any other provision of law.

SEC. 5.65. Registration of dangerous dogs.

(a) Every owner of a dangerous dog over four (4) months of age shall be required to register the dog with the administrator. Such registration shall be renewed on an annual basis. A registration fee, and a fee to be charged for multiple inspections of required confinement facilities for such dogs, shall be set by resolution of the city council or approved by the service provider's board of directors, as applicable.

(b) Every owner of a dangerous dog over four (4) months of age shall be required to obtain a public liability insurance policy from an insurer licensed to practice in the state of California for a single-incident amount of not less than one hundred thousand dollars (\$100,000), or provide another surety that would provide for similar financial compensation to anyone whose person or property is injured by the dog, in a form and amount satisfactory to the administrator. Such owner shall give written notice to the administrator of any cancellation or material change in such policy or surety at least thirty (30) days prior to the date of such cancellation or material change.

(c) The owner or keeper shall notify the service provider within twenty-four (24) hours if a dangerous dog is on the loose, is unconfined, has attacked another animal, has attacked a human being or has died.

(d) The owner or person having a right to control the dog may not move the place of residence of the dog within the city, sell, trade, give away or otherwise transfer ownership and/or the right to control the dog to a person residing within the city, unless the administrator has approved the dangerous dog registration for the new location or approved the new person assuming ownership and/or right to control the dog.

(e) If the dog owner or person having a right to control the dog decides to sell, trade, give away or otherwise transfer ownership and/or the right to control the dog to a location outside of the city and/or to another person residing outside the city, the person transferring ownership or control shall:

(1) Notify the service provider at least five (5) business days prior to the physical transfer of the dog; and

(2) Provide the service provider with the name, address and telephone number of the new owner or new person having a right to control the dog.

(f) An animal control officer is hereby empowered to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this chapter, and any such officer is hereby empowered to seize and impound any dangerous dog whose owner fails to comply with the provisions hereof.

(g) Owners of dangerous dogs unable to meet the requirements directed by the administrator shall be required to surrender the dogs to the service provider for humane destruction or other disposition, at the discretion of the administrator, unless the administrator determines the dog no longer presents any threat to persons or property in the city.

ARTICLE VI. ANIMAL ESTABLISHMENTS.

SEC. 5.66. Permit required.

The applicant shall obtain any applicable zoning permit prior to requesting a permit under this article.

No person shall conduct, operate or keep any pet shop, commercial kennel, private kennel, pet grooming parlor, animal menagerie, animal shelter or horse establishment

without first obtaining an appropriate permit from the administrator. The annual permit fee for the above animal facilities shall be set by resolution of the city council or approved by the service provider's board of directors, as applicable.

SEC. 5.67. Application for permit.

(a) An application for a permit to operate and keep a pet shop, commercial kennel, private kennel, pet grooming parlor, animal menagerie, animal shelter, horse establishment or dangerous animal shall be in writing on a form approved by the administrator. The applicant shall furnish a list of the types of animals to be maintained or used for any purpose, together with the approximate number of animals of each type.

(b) The administrator may establish regulations and standards relating to:

(1) The maximum number and species of animals to be kept or maintained on the premises;

(2) The construction, sanitation and maintenance of facilities; and

(3) Any other regulations and standards in conformity with and for the purpose of carrying out the intent of this chapter.

Compliance with such rules and regulations shall be prerequisite to the issuance and continued validity of any permit provided pursuant to this chapter.

(c) Permittee shall maintain a record of the names and addresses of persons from whom animals are received and to whom the animals are sold, traded or given. This shall be available to the administrator upon request.

SEC. 5.68. Conditions relating to animal facilities.

Every person who owns, conducts, manages or operates any commercial kennel, private kennel, pet shop, pet grooming parlor, animal menagerie, animal shelter or horse establishment shall comply with each of the following conditions:

(a) Housing.

(1) Housing facilities for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and restrict entrance of other animals or the escape of animals so contained therein.

(2) Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors; heating and cooling shall be provided as required, according to the physical need of the animals, with sufficient light to allow observation of animals.

(3) All animal rooms, cages, kennels, runs, stalls and corrals shall be of sufficient size to provide adequate and proper accommodation and protection from the weather for the animals kept therein.

(4) All animal facilities shall be constructed and operated in a manner that reasonably protects public health and safety and safety of the animals.

(b) Sanitation.

(1) All animal facilities shall be maintained and operated at all times in a clean and sanitary condition, and in a manner that avoids causing odors or attraction of flies and vermin, and excessive noise.

(c) Care of animals.

(1) All animals shall be supplied with a quantity of wholesome food suitable for the species and age of the respective animals, as often as the feeding habits of such animals require, sufficient to maintain a reasonable level of nutrition. All animals shall have available to them sufficient potable water. Food and water shall be served in separate, clean receptacles.

(2) No animal, except animal(s) in a pasture provided with adequate feed and water, shall be without attention for more than twenty-four (24) consecutive hours. The name, address and telephone number of a person responsible for the animal shall be posted in a conspicuous place, visible from outside the facility or at the main gate of a pasture where animals are kept, unless the owner or attendant of the animal(s) is immediately available on the premises.

(3) All sick, diseased or injured animals shall be isolated from healthy animals at all times and shall be given proper medical treatment. The administrator may order the operator of the facility to immediately seek licensed veterinary treatment for any animal.

(4) All animals shall be treated in a humane manner.

(d) Compliance.

(1) The administrator shall have the authority to enter the animal facility when he/she has reason to believe the provisions of the permit, this chapter or applicable state laws are being violated. The failure of the operator to consent to the entry shall be deemed just cause for the revocation of the permit.

(2) Failure of an applicant or a permit holder to comply with any of the provisions of the permit, this chapter or applicable state law, shall be deemed just cause for the denial of any permit, either original or renewal, or for revocation of a permit.

SEC. 5.69. Expiration and renewal of permit.

(a) Any permit issued under this article shall expire twelve (12) months from the date of issuance. The procedure for the renewal of a permit shall be the same as for an original permit.

(b) Upon failure to make application for the renewal of a permit within thirty (30) days of the expiration of a permit, the applicant shall pay an additional monetary penalty for late renewal in accordance with the city or service provider's fee schedule as applicable.

SEC. 5.70. Inspection.

As a condition to the issuance or renewal of a permit under this article, the administrator shall have the authority to inspect, at any reasonable time, the animal facility.

SEC. 5.71. Denial or revocation of permit.

The administrator may deny or revoke any permit issued pursuant to this article in the following situations:

(a) Whenever determined by inspection that any animal facility fails to meet any of the conditions of the permit, this chapter or applicable state law.

(b) Whenever there is reason to believe the applicant or permit holder has willfully withheld or falsified any information required for a permit.

(c) If the applicant or permit holder has been convicted by a court of law of more than two (2) violations of this chapter in a twelve (12) month period, of state laws relating to animals or public nuisance caused by animals or has been convicted of cruelty to animals in this or any other state within the previous five (5) years. For the

purposes of this section, bail forfeiture shall be deemed to be a conviction of the offense charged.

SEC. 5.72. Appeal from denial or revocation of permit.

In case of denial, suspension or revocation of a permit issued under this section, the applicant or holder of the permit may appeal the decision by filing a written request for an appeal hearing to the administrator within ten (10) days of receipt or constructive receipt of the decision. The administrator shall appoint a hearing officer for the purpose of the permit appeal. Until the ruling of the hearing officer, the denial, suspension or revocation shall remain in full force and effect.

The hearing officer shall provide notice to the appellant and a date for the hearing within twenty (20) days of receipt of the appeal. The hearing shall be set within twenty (20) days, unless the applicant or holder requests a reasonable continuance. At the hearing, both the applicant or holder and staff shall have the right to appear and be represented by counsel and to present evidence and arguments which are relevant to the grounds for the appeal, limited to the grounds for appeal stated in the filing of the appeal. The applicant or holder may appear in person or by submitting written material. A nonappearance shall result in a vacation of the appeal.

Within ten (10) days of the hearing, the hearing officer shall issue a written decision which states whether the initial denial, suspension or revocation of the permit will be upheld, modified or reversed. The decision shall be served on the holder or applicant by mail and the decision of the hearing officer shall be final.

SEC. 5.73. No new permit after denial or revocation.

If a permit has been denied or revoked, the administrator will not accept a new permit application from the same person for the same activity at the same location less than six (6) months after such denial or revocation, unless the applicant shows, and the administrator finds, by inspection and/or investigation, that the grounds upon which the first application was denied or the permit revoked no longer exist.

SEC. 5.74. Permit not transferable.

Permits issued pursuant to the provisions of this chapter shall not be transferable.

SEC. 5.75. Animal rescuer registration.

(a) Any person or organization that maintains more than the number of adult animals allowed under Sec. 5.51 shall register with the administrator as an animal

rescuer. In order to register as an animal rescuer, the applicant must provide the administrator with the following information:

(1) Verifiable proof of membership in or status as a State of California not-for-profit corporation that meets the requirements of Internal Revenue Code Section 501(c)(3) and is in good standing with the State of California;

(2) Verifiable proof that animal adoption and placement of rescued animals with a new and permanent owner in a new home is one of its primary organizational goals and proof of a history of placement of animals with new and permanent owners in new homes;

(3) The location and contact information of the rescue work to be performed and the identity of the person(s) responsible for the care of the animals at that location;

(4) Payment of the registration fee in an amount set by resolution of the city council or approved by the service provider's board of directors, as applicable;

(5) Agreement from the applicant to abide by the requirements set forth in Sec. 5.68; and

(6) Agreement from the applicant to any other conditions reasonably necessary for the proper care and maintenance of the animals.

SEC. 5.76. Maintenance of animal rescuer registration.

(a) In order to maintain a valid animal rescuer registration, the animal rescuer shall comply with each of the following requirements:

(1) Rescue work such as the temporary housing and care of domestic animals shall be performed in conformity with all standards of animal care and housing set forth by state and local law;

(2) Rescue work shall not create a public nuisance;

(3) The animal rescuer shall cooperate with the animal services division during investigations of complaints and inspections of animal areas; and

(4) The animal rescuer shall limit the number of animals maintained at the registered location if the administrator deems limitations are necessary because of space, finance, effect on surrounding area, history or any other criteria relevant to the animal rescuer's ability to maintain the animals.

(b) The administrator may revoke the animal rescuer registration if the holder of the registration fails at any time to satisfy one (1) or more of the requirements specified in subsection (a).

SEC. 5.77. Adoption of animals.

(a) Any person adopting an unspayed or unneutered dog or cat from any Humane Society animal shelter, public animal shelter or Society for the Prevention of Cruelty to Animals shelter in the County of Santa Clara, shall have such animal spayed or neutered on or before a date specified in the adoption agreement unless a licensed veterinarian states in writing that the date specified in the adoption agreement is inappropriate for the animal in question. On submission of such written statement to the person at such shelter responsible for ensuring compliance with this section, the adoption agreement will be modified accordingly.

(b) As a condition for adoption, the person adopting an animal may be required to deposit with the shelter an amount sufficient to cover the cost of spaying or neutering such animal by a veterinarian or spaying or altering clinic designated by the person adopting the animal. The deposit shall be forwarded to the veterinarian or clinic upon receipt by the pound or shelter of a notice from the veterinarian or clinic that the cat or dog has been spayed or neutered.

**ARTICLE VII.
DANGEROUS AND EXOTIC ANIMALS.**

SEC. 5.78. Permit for dangerous animals.

(a) No person shall keep, have, maintain, sell, trade or let for hire a dangerous or exotic animal without first obtaining a permit from the administrator. The application for a permit, permit conditions, inspection, denial, revocation and appeal shall be the same as set forth in Sec. 5.67, 5.68 and 5.70 through 5.74.

(b) No permit shall be required of any zoo, university, college, governmental research agency, duly incorporated Society for the Prevention of Cruelty to Animals (SPCA), humane society or animal control agency under the direction of the city, or other bona fide scientific institution, as determined by the administrator, engaging in scientific or public health research. For the purposes of this title, a zoo shall be considered any organization that exhibits animals to the general public at regular specified hours, equaling at least thirty (30) hours a week for thirty-six (36) weeks a year, and whose animals, whether maintained for exhibit purposes or not, are not for sale to private individuals.

(c) The owner of a dangerous or exotic animal shall post the entrances to the property where the animal is kept with a legible sign at least twelve inches (12") square, warning persons of a dangerous animal.

SEC. 5.79. Permit denial.

(a) Notwithstanding anything to the contrary, the administrator may deny or revoke a permit to keep or maintain any dangerous or exotic animal when, in his or her opinion:

(1) Any such animal may not be kept or maintained without endangering the safety of any person(s) or property;

(2) The keeping of the animal would constitute a public nuisance; or

(3) The animal would be subject to suffering, neglect, cruelty or abuse.

(b) The administrator, in his/her discretion, may require any such animal to be properly caged, tethered or restrained in zoo-type facilities that meet or are in addition to, or more restrictive than, state guidelines issued under the provisions of Sec. 671.3 of Title 14 of the California Code of Regulations and federal standards issued under Chapter 1 of Title 9 of the Code of Federal Regulations and as amended. Nothing in this chapter shall be construed to permit the keeping of dangerous or exotic animals where zoning provisions or state law would prohibit such keeping.

SEC. 5.80. Permit period and fee.

The fee for a permit to keep or maintain one (1) or more dangerous or exotic animals shall be set by resolution of the city council or by the service provider's board of directors, as applicable, and shall be valid for a twelve (12) month term. The permit shall expire and be renewable as set forth in Sec. 5.69.

**ARTICLE VIII.
SALE OF ANIMALS.**

SEC. 5.81. Sale of cats or dogs.

(a) No person or establishment other than a licensed or county-operated animal shelter shall sell, exchange or barter any cat or dog less than eight (8) weeks of age. Proof of age of the dog or cat may be required by the administrator. Proof of age may include, but not be limited to, a certification by a licensed veterinarian attesting to the animal's age.

(b) Any person who provides or offers any dog or cat to the public, whether or not for compensation, shall provide to the prospective owner, free of charge, information related to pet care and ownership, including information on county laws pertaining to animal control and spay/neuter programs available in the county. This information shall be prepared and made available either free of charge or at cost by the administrator.

(c) Any person offering a dog for sale, barter, exchange or adoption, whether or not for compensation, shall disclose to any prospective owner, information regarding the city licensing requirements applicable to such animal.

(d) No person shall give away any dog or cat as a prize or as an inducement to enter any contest, lottery, drawing, game or competition.

(e) No person shall give away any dog or cat as an inducement to enter a place of business or to enter into a business arrangement. This prohibition shall not apply to any licensed veterinarian who offers dogs or cats for sale or adoption.

(f) No person shall sell, barter, exchange or offer for adoption, whether or not for compensation, any dog or cat to any person who is under the age of eighteen (18) years, without the written permission of the minor's parent or legal guardian.

SEC. 5.82. Immunization.

All cats or dogs over eight (8) weeks of age, before they are sold, must be immunized against common disease; in the case of dogs against distemper and parvovirus; in the case of cats against panleukopenia, rhinotracheitis and calicivirus. The seller of a dog or cat shall provide to the buyer at the time of sale a signed statement from the seller attesting to the date of vaccination and the seller's knowledge of the animal's health. Such statement shall also include the animal's immunization history, and the record of any known disease, sickness or internal or external parasites the animal is afflicted with at the time of transfer of ownership, including treatment and medication.

SEC. 5.83. Return of dog or cat.

(a) Any person purchasing a dog or cat from a person or establishment required to be licensed or registered pursuant to this chapter may, within five (5) days of such purchase, cause such animal to be examined by a veterinarian licensed by the State of California and if such examination reveals clinical signs of a contagious or infectious disease or serious congenital defects, not otherwise disclosed to the purchaser as required by Sec. 5.82, the purchaser may, within one (1) business day of the examination, return such animal to the seller. When returned, such animal must be

accompanied with a certificate signed by the examining veterinarian stating examination findings. Upon return of such animal for the reasons stated in this section, the seller shall reimburse the purchaser for the cost of the animal.

(b) If the seller refuses to reimburse the purchaser for the cost of the animal upon purchaser's offer to return it, the purchaser may file court proceedings against the seller.

SEC. 5.84. Location of sale.

(a) It shall be unlawful for any person to display for sale, offer for sale, exchange, barter or give away any animal except in the following places:

(1) Pet shop, commercial kennel, private kennel, pet grooming parlor, animal menagerie, animal shelter, or horse establishment, which have a valid permit under Sec. 5.66; and

(2) Private residence.

(b) This prohibition shall not apply to:

(1) Any animal rescue or humane organization or agency recognized by the service provider;

(2) Any cat breeder selling cats at a nationally sanctioned cat show; or

(3) Any dog breeder selling dogs at a nationally sanctioned dog show.

**ARTICLE IX.
ENFORCEMENT OF TITLE.**

SEC. 5.85. Enforcement of MVCC Chapter 5 – Payment of funds to account.

Except when more specific provisions contained in this chapter are intended to supersede the provisions of MVCC Chapter 1, the following shall apply.

(a) The remedies provided in this division are cumulative and in addition to any other remedies available at law or in equity, including enforcement pursuant to Chapter 1 of this Code. Any violation of this division may be remedied by an enforcement action brought by the city, including, but not limited to, administrative or traditional nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

(b) Enforcement authority. The following designated employee positions may enforce the provisions of this title by issuance of citations. Peace officers and persons employed in such positions are authorized to exercise the authority provided in California Penal Code Sec. 836.5 and as amended, and are authorized to issue citations for violations of this title. The designated employee positions are the administrator or his/her duly authorized agents and representatives and the animal control officers of the service provider.

(c) Funds collected pursuant to civil or administrative enforcement of this chapter shall be paid to the service provider.

(d) Nothing in this chapter shall be deemed to in any way restrict, regulate or prohibit the City of Mountain View, or public entities authorized by the city from maintaining, constructing or operating stables, riding trails, children's zoos or similar activities for public usage."

Section 2. The provisions of this ordinance shall be effective thirty (30) days from and after the date of its adoption.

Section 3. It is the intent of the City Council of the City of Mountain View to supplement State and Federal law and not to duplicate or contradict such law, and this ordinance shall be construed consistently with that intention. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the other remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. Pursuant to Section 522 of the Mountain View City Charter, it is ordered that copies of the foregoing proposed ordinance be posted at least two (2) days prior to its adoption in three (3) prominent places in the City and that a single publication be made to the official newspaper of the City of a notice setting forth the title of the ordinance, the date of its introduction, and a list of the places where copies of the proposed ordinance are posted.

Section 5. This ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) of the CEQA Guidelines (Title 14, Chapter 3 of the California Code of Regulations) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) of the CEQA Guidelines (because it has no potential for resulting in physical change to the environment, directly or indirectly).

LMD/7/ORD
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