

**CITY COUNCIL
AGENDA REPORT**



City of Millbrae
621 Magnolia Avenue
Millbrae, CA 94030

<p>SUBJECT: Repeal of the current Animal Control Ordinance and adopt the revised Animal Control Ordinance as new chapters 6.04, 6.08, 6.12 and 6.14 of the Millbrae Municipal Code.</p> <p>EXHIBITS: Proposed Animal Control Ordinance; Staff Report, Environmental Services Agency of the County of San Mateo for the September 13, 2005, meeting of the Board of Supervisors.</p>	<p>Report No. 4372</p>
	<p>For Agenda of: October 11, 2005</p>
	<p>Department: Police/Legal</p>
	<p>Originator: Chief Hitchcock/ City Attorney</p>
	<p>Approved: <i>[Signature]</i></p>
<p>Budget Action? Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> General Service Review: _____</p>	

Staff contact: Chief Hitchcock

<p>ACTION: <input checked="" type="checkbox"/> INFORMATION: <input type="checkbox"/></p>
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RECOMMENDATION:

Repeal the City's current Animal Control Ordinance in its entirety and adopt an updated and revised Animal Control Ordinance as new Chapters 6.04, 6.08, 6.12 and 6.14 of the Millbrae Municipal Code.

DISCUSSION/ANALYSIS:

The City has contracted through San Mateo County to have the Peninsula Humane Society (PHS) provide animals control services for many years. The contract between the County and the City states that the City shall adopt and maintain substantially the same animal control ordinance and fee schedule as the County. Enforcement of city ordinances which differ substantially from the County ordinance resulting in an increase to PHS' costs must be reimbursed directly from the city requiring such special services and negotiated between the city and PHS.

Currently, all cities in the County maintain animal control ordinances that do not require additional services from PHS. Following a series of meetings by the Animal Control Task Force including representatives from cities, the County and PHS, the San Mateo County Board of Supervisors recently approved an updated ordinance on the Chapter 6.04 requirements. Each city is now required to adopt the revised ordinance within 60 days.

The ordinance before the Council would adopt regulations on animal control regarding dangerous and vicious animals (Chapter 6.04), exotic animals (Chapter 6.08) and spaying, neutering and breeding (Chapter 6.12) in accordance with the County's ordinance on these subjects. The last Chapter 6.14 entitled "Miscellaneous" contains various animal control regulations regarding use of leashes, sanitation, behavior that disturbs the peace, and restrictions on the number of animals per premises. These regulations are described in more detail below.

Chapter 6.04

While the existing animal ordinance provides vigorous control over animals posing a threat to public safety, County, City and PHS staff sought to tighten current regulations. Under both the existing and revised ordinances, animal control staff has the latitude to declare an animal "dangerous," which means the animal owner may maintain the animal under a set of strict conditions under the jurisdiction of a dangerous animal permit. The dangerous animal designation generally follows an incident involving an attack of an egregious nature. Should an animal owner disagree with the dangerous animal declaration or intent to impound and euthanize an animal, they may request a hearing to contest the action. The revised ordinance follows this existing system yet allows for more stringent regulations for dangerous animals, clarifies the hearing procedure, and cleans up various provisions of the ordinance.

The following is a summary of changes to the County ordinance that are contained in the attached revised ordinance proposed for the City.

- Clarify definitions of "dangerous" (allow animals to be maintained with a permit) vs. "vicious" (animal must be euthanized)
- Expand definition of "vicious animal" to include an animal which kills another animal.
- Simplify and unify hearing procedures.
- Clarify procedures for the transfer of dangerous animals into the County, between cities and out of the County.
- Give PHS and hearing officer more options, e.g. order obedience training, etc.
- Require dangerous animals to be spay/neutered.
- Disallow animals declared dangerous because of aggression to humans from being maintained in a residence with juveniles under the age of 18.
- Clarify procedures allowing PHS or a hearing officer to modify dangerous animal permits, i.e. place additional restrictions on repeat offenders.
- Clarify that in cases in which no hearing is held, PHS' decision is final.
- Allow interested persons to request a hearing should the Animal Control Officer determine an animal is not dangerous or vicious.
- Give PHS the ability to process violations as infractions without going through the prosecuting attorney.
- Various other "clean-up" revisions.

Currently, the City's animal control ordinance is similar but not identical to the County's. In an effort to help promote efficient animal control services throughout the county, staff recommends adopting the substance of the County's revised ordinance in its entirety. This action will make the following further changes to the City's current animal control regulations, in addition to those outlined above:

- Adoption and placement of the County's fee schedule in the ordinance, which replaces the current procedure of setting fees by council resolutions and tracks the County's approach.
- Expansion of animal control program to include cats and wolf hybrids, as well as dogs.
- Addition of a microchip implant or other acceptable permanent identification as an alternative to tag or collar.
- Addition of three-year licensing as an alternative to one-year.
- Addition of prohibition against release of animal from confinement by unauthorized personnel.

no collars

OK

Chapter 6.08

This Chapter contains new animal control regulations for Millbrae. These regulations define and address the treatment of exotic animals and set up a permit process administered by the County's Health Department applicable to any person who desires to own or keep an exotic animal.

Chapter 6.12

This Chapter establishes new regulations in the Millbrae Municipal Code that require owners of dogs or cats to have such animals spayed or neutered once the animals reach 6 months of age unless they obtain a license to keep an unaltered dog or cat and obtain a breeding permit. The Chapter sets forth the applicable permit and licensing procedures.

No

Chapter 6.14

This last Chapter sets forth miscellaneous regulations regarding animal control that are not necessarily modeled after the County, but are intended and designed to establish appropriate requirements for Millbrae. The regulations here limit the number of animals allowed on any one premises to 3 dogs and 3 cats without a permit. They also require a special permit if a person keeps more than 4 fowl, bird, rabbit, rodent or combination thereof on any one premises. This Chapter also specifies certain other pet owner responsibilities regarding use of leashes, sanitation, barking or other behavior that disturbs the peace, etc.

No

FISCAL IMPACT:

Most of the enforcement measures and permit requirements under Chapters 6.04, 6.08 and 6.12 are administered by the County or the PHS under its contract with the County. The miscellaneous regulations under Chapter 6.14 would be enforced by the Millbrae Police Department. Thus, the fiscal impact to the City constitutes the resources necessary to enforce the requirements of Chapter 6.14 should violations arise.

COUNCIL ACTION:

Repeal Chapter 6.05 of the Municipal Code in its entirety and adopt the proposed Animal Control ordinance, adding it as new Chapters 6.04, 6.08, 6.12 and 6.14 to the Millbrae Municipal Code.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MILLBRAE REPEALING
CHAPTER 6.05 AND ADDING NEW CHAPTERS 6.04, 6.08, 6.12, AND 6.14 OF TITLE 6
OF THE MILLBRAE MUNICIPAL CODE REGARDING ANIMAL CONTROL**

WHEREAS, for many years the City of Millbrae ("City") has contracted through the County of San Mateo ("County") for the provision of animal control services; and

WHEREAS, the contract between the City and County requires the City to adopt and maintain an animal control ordinance and fee schedule substantially similar to the County's; and

WHEREAS, currently the City's animal control ordinance is similar but not identical in substance of the County's ordinance; and

WHEREAS, the County has recently approved substantial revisions to its animal control ordinance and the City is required to adopt said revisions within sixty (60) days; and

WHEREAS, in order to promote the efficient provision of animal control services, the City now desires to take the opportunity presented by the County's revisions to its animal control ordinance to adopt the revisions in their entirety, as well as to adopt other chapters from the County Code related to animal control.

NOW, THEREFORE, the people of the City of Millbrae by and through the Millbrae City Council do ordain as follows:

SECTION 1. REPEAL OF CHAPTER 6.05 OF TITLE 6 OF THE MILLBRAE MUNICIPAL CODE

Chapter 6.05 is repealed in its entirety and placed on reserve.

SECTION 2. ADDITION OF CHAPTER 6.04 OF TITLE 6 OF THE MILLBRAE MUNICIPAL CODE.

A new chapter 6.04 is added to the Millbrae Municipal Code to read as follows:

**Chapter 6.04
ANIMAL CONTROL**

Sections:

- 6.04.010 Definitions
- 6.04.020 Animal control program
- 6.04.030 Rabies vaccinations
- 6.04.040 Dog and cat licenses
- 6.04.045 Three year licenses for dogs and cats
- 6.04.050 Wolf hybrid registration
- 6.04.060 Public protection from dogs
- 6.04.070 Prohibited conduct

- 6.04.080 Protection of animals in motor vehicles
- 6.04.090 Release for confinement
- 6.04.100 Dangerous animal permit required
- 6.04.105 Declaration of vicious animals
- 6.04.110 Issuance of permit for dangerous animal
- 6.04.115 Hearing Procedures
- 6.04.120 Mandatory dangerous animal permit requirements
- 6.04.130 Misdemeanor violations
- 6.04.140 Possession of animals after revocation of dangerous animal permit or vicious declaration
- 6.04.150 Inspection fee
- 6.04.160 Revocation or modification of permit
- 6.04.170 Animals to be impounded
- 6.04.180 Notice of animals impounded
- 6.04.200 Record of impounded animals
- 6.04.210 Field return fee
- 6.04.220 Redemption
- 6.04.230 Redemption fees
- 6.04.240 License fee to be paid upon redemption
- 6.04.250 Epidemics
- 6.04.260 Bite reporting requirements
- 6.04.270 Quarantine fee
- 6.04.280 Service fees
- 6.04.290 Schedule of fees and charges
- 6.04.300 Penalty for violation
- 6.04.310 Use of license and other revenue

§6.04.010 Definitions

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

A. "Animal Control Officer" means that person designated as the Animal Control Program Manager of the Division of Animal Control Services for the County and his or her duly authorized officers or deputies, as well as the President of the County's contract agent and his or her duly authorized officers or deputies.

B. "Animal Control Program" means that program within the Division of Animal Control Services of the Environmental Services Agency of the County, or the County's designated contract agent or both, which is specifically charged with regulating and enforcing laws dealing with animal control within its jurisdiction.

C. "Animal Control Shelter" means the facilities provided by the County or the County's designated contract agent for the impounding of animals.

D. "City" means the City of Millbrae, including all the territory and jurisdiction thereof as presently constituted, and any and all of the same which shall later come into existence by any manner or means whatsoever.

E. "County" means the County of San Mateo.

F. "Director of Environmental Services Agency" means that person so designated by the governing body of the County.

G. "Licensing Program" means that program within the Division of Revenue Services of the Employee and Public Services Agency which is specifically charged with regulating and selling animal licenses and registrations in the County.

H. "Impoundment" means the picking up and confining of an animal by the Animal Control Program.

I. "Owner" of an animal means that person 18 years of age or over who holds the license to the animal, or if the animal is not licensed, that person 18 years of age or over legally entitled to possession of the animal concerned and who has primary responsibility for the care of the animal.

J. "Dangerous Animal" means any animal, except a trained dog assisting a peace officer engaged in law enforcement duties, which because of its disposition, behavior, training or other characteristic constitutes a danger to persons or property, or which demonstrates any or all of the following behavior:

- (1) Any attack or other behavior which requires a defensive action by any person to prevent bodily injury or property damage or that results in an injury to a person or property.
- (2) Any aggressive attack or other behavior that constitutes a substantial threat of bodily harm to a person or animal, where such attack, injury or behaviors occurs in a place where such person or animal is conducting himself or herself peaceably and lawfully.
- (3) An attack on another animal or livestock which occurs off the property of the owner of the attacking animal.
- (4) Any animal that has been deemed by another governmental jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation.

K. "Wolf Hybrid" means any offspring of domestic dogs bred to wild canids (e.g., wolves or coyotes) and their subsequent generations.

L. "Vicious Animal" means any animal, except a trained dog assisting a peace officer engaged in law enforcement duties, which meets any or all of the following criteria:

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- (1) Any animal previously designated as "dangerous," that after investigation by an Animal Control Officer or Peace Officer is found under conditions which constitute a violation of this chapter or applicable dangerous animal permit and which demonstrates a significant danger to the public health or safety;
- (2) Any animal seized under section 599aa of the Penal Code or upon the sustaining of a conviction of the Owner or caretaker under subdivision (a) of Section 597.5 of the Penal Code;
- (3) Any animal which inflicts severe injury on or kills a human being or another animal;
- (4) Any animal which has engaged in any aggressive behavior which demonstrates that the animal represents a clear and present substantial danger to the public health or safety and that due to substantial risk to the public health or safety it is unlikely that the animal could be safely maintained under a dangerous animal permit.

M. "Severe injury" means any physical injury directly caused by an animal attack that consists of muscle tears, multiple punctures, broken bones or disfiguring lacerations, or which requires multiple sutures or corrective or cosmetic surgery.

§6.04.020 Animal control program

A. Responsibility. The Animal Control Program is responsible for the enforcement of this chapter, and the duties of the Director thereof and his officers, agents, and employees shall include, but not be limited to, the following:

- (1) To administer an animal control shelter and keep such records as may be required by law or contract.
- (2) To impound animals which are in violation of this chapter, or for the safekeeping of the animal to protect its health and welfare.
- (3) To remove and dispose of the carcass of any animal found on any public highway, street, alley, or other public place.
- (4) To quarantine animals under the direction of the County Health Officer.
- (5) To destroy and dispose of animals after due notice to the owner and pursuant to the procedures set forth herein.
- (6) To sell, when appropriate, impounded animals after due notice to the owner.
- (7) To enforce all provisions of this chapter.

B. Scope of Authority of Humane Officers and Animal Control Officers. Humane Officers qualified and appointed pursuant to California Corporations Code 14502, who are employees of

any public pound, society for prevention of cruelty to animals or humane society which has contracted with the County to provide animal control services, shall have the authority to issue notices to appear in court pursuant to chapter 5c (commencing with section 853.5 of title 3 of part 2 of the Penal Code of the State of California) for violations of state and local animal control laws. This authority is based on section 14503 of the Corporations Code. Animal Control Officers shall have the authority provided by state law including but not limited to that described by Penal Code Section 830.9.

C. Right to Contract for Animal Control Services. The governing body of the County may contract for animal control services to be performed County wide, including the City of Millbrae, provided agreement is made with the City.

§6.04.030 Rabies vaccinations

Every dog or cat owner, after his/her dog or cat attains the age of four (4) months of age and/or within ten working days of purchasing a license shall procure from a licensed veterinarian, an anti-rabies vaccination to be administered in the manner prescribed or approved by the State of California Department of Public Health. This vaccination shall be obtained prior to issuing a license for the dog or cat. In addition, proof of vaccination shall be provided to the licensing program.

§6.04.040 Dog and cat licenses

A. Requirements. An annual license fee shall be paid for every dog or cat over the age of four (4) months owned or harbored in the City. Said annual license fee shall be first due when the animal reaches four (4) months of age or within 60 days after the dog or cat is acquired, and due on the anniversary date of the original purchase date each year thereafter. New residents shall have sixty (60) days in which to acquire such license. Persons renewing their license shall have thirty (30) days following their due date before being delinquent and having to pay a late penalty. The fee for such license shall be as set forth in section 6.04.290. The fee paid for the licensing of spayed or neutered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of 60 shall be at a discount. For purposes of this section any surcharge on the license fee imposed under section 6.04.290 shall not be considered part of the license fee. Any person who shall fail to pay such license fee after said fee is due, or said dog or cat is required to be licensed, shall in addition to paying any past due license fee or fees, also pay a penalty in accordance with section 6.04.290. A license shall be obtained, but no license fee shall be payable for the licensing of any dog being raised, trained or used to assist handicapped persons (such as those provided by Canine Companions) including but not limited to any dog which is being trained for guide or hearing purposes by a resident of the City or used for guide or hearing purposes by a handicapped resident of the City and which has come from a guide or hearing dog training facility such as Canine Companions, or for dogs which have served as a member of the armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of crime prevention or control. Dog or cat licenses are not transferable between owners; however, if the dog or cat dies and the owner acquires a new dog or cat, the license is transferable to the new dog or cat. The license does not have to be renewed until the original purchase anniversary date. The fee paid for a dog or cat license is not refundable.

B. Exemptions. The licensing provisions in this ordinance are not applicable to the following:

- (1) Dogs or cats used for diagnostic purposes or research, the use having been approved by the California State Department of Health Services pursuant to section 1666 of the Health and Safety Code.
- (2) Dogs or cats used for teaching purposes in recognized educational institutions.
- (3) Dogs or cats owned by veterinarians which are licensed by the State and kept on the premises used by said veterinarians in their practice.
- (4) Dogs or cats kept by owners of pet shops for purposes of sale, for circuses, for animal exhibits, or for other enterprises for which a business license has been granted by a local government.

C. Tags. The Licensing Program shall procure plates or tags which bear the number of the license or registration. A record shall be kept with the name of the owner or possessor together with a description of the dog, cat, or wolf hybrid for which the license or registration is issued and the number of the license or registration, and a tag shall be provided to such person upon payment for such license or registration as provided by this chapter.

D. Duplicate Tags. Whenever a tag has been lost or stolen, the owner or possessor of the cat, dog, or wolf hybrid concerned may request a duplicate tag upon payment of the required fee and on making and subscribing to an affidavit of such loss and filing the same with the Licensing Program.

E. Wearing of Tag Required. The owner of a dog, cat or wolf hybrid for which a license or registration is required shall affix such tag to a suitable collar, which collar shall remain on the dog, cat or wolf hybrid at all times.

F. Alternative Identification/Implants. Animals with microchip implants or other permanent identification acceptable to Animal Control Services shall not be required to wear a tag or collar. All other licensing and registration requirements of this section shall apply to such cat, dog, or wolf hybrid.

G. Records. The owner or operator of any kennel, animal breeding facility, pet shop, or any place or establishment where animals are sold shall keep a permanent record of the name, address, and phone number of the purchaser of any dog, cat, or wolf hybrid along with the breed, color, sex, and age of each animal sold or given away and shall forward such information to the Animal Control Services within thirty (30) days thereafter. An Animal Control Officer shall have the right to inspect such records during normal business hours, with forty-eight (48) hours prior notice to the owner or operator.

H. Veterinarian Responsibilities. Every veterinarian who vaccinates or causes or directs to be vaccinated in the City any dog, cat, or wolf hybrid with anti-rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the County-approved anti-rabies vaccination form, within ten (10) days of the beginning

of each month, for any dog, cat or wolf hybrid which he/she vaccinates or directs to be vaccinated with anti-rabies during the previous month. An Animal Control Officer or Animal Licensing Officer shall have the right to inspect records of rabies vaccinations during normal business hours.

§6.04.045 Three year licenses for dogs and cats

Notwithstanding section 6.04.040, a three year license may be obtained for a cat or dog (excluding wolf-hybrids) by submitting to the licensing program adequate proof of a three year rabies vaccination of the animal to be licensed and payment of the applicable fees as set forth in section 6.04.290 of this Chapter.

§6.04.050 Wolf hybrid registration

An annual registration fee shall be paid for every wolf hybrid over the age of four (4) months owned or harbored in the City. Said registration fee shall be first due when the animal reaches four (4) months of age or within sixty (60) days after the animal is acquired, and due on the anniversary date of the original purchase date each year thereafter. All residents shall have sixty (60) days in which to register their wolf hybrid. Persons renewing their registration shall have thirty (30) days following their due date before being delinquent and having to pay a late penalty. The registration fee shall be as set forth in section 6.04.290. The registration fee for spayed or neutered wolf hybrids shall be less than said registration fee for unaltered wolf hybrids. At the time of registration, the wolf hybrid owner must show proof that the animal has been given anti-rabies vaccination by a licensed veterinarian to be administered in the manner prescribed or approved by the State of California Department of Public Health.

§6.04.060 Public protection from dogs

- A. Every owner or possessor of a dog shall at all times prevent such dog from biting or physically harassing any person engaged in a lawful act and from interfering with the lawful use of public or private property.
- B. Every owner or possessor of a dog shall at all times prevent such dog from causing substantial injury to another domestic animal while such domestic animal is lawfully upon public or private property. Substantial injury means any injury which results in veterinarian treatment or death.
- C. Every owner or possessor of a dog shall desist from commanding or provoking such dog to attack, sic or threaten a person when such person is peaceably and lawfully upon public or private property.
- D. A trained dog assisting a peace officer engaged in law enforcement duties is excluded from this section.
- E. Nothing in subsection (a) of this section shall authorize the bringing of a criminal action arising out of bite(s) upon or physical harassment of members of the dog owners or possessors household.

§6.04.070 Prohibited conduct

No owner or possessor of any animal shall cause or permit it to do any of the following:

- A. To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in this jurisdiction unless the animal is properly licensed, if such licensing is necessary hereunder, and under the control of the owner by being saddled, harnessed, haltered, or leashed by a substantial chain, lead rope, or leash, which chain, lead rope, or leash shall be continuously held by some competent person capable of controlling such animal.
- B. To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property or to habitually continue to trespass thereon.
- C. To suffer or permit such animal to habitually bark or meow or act in such a manner as to continuously disturb the peace of any citizen or to be a public nuisance.
- D. To be without proper and adequate food, water, shelter, care, and attention as described to in section 597(f) of the Penal Code.
- E. Subsection (a) of this section shall not be applicable to cats.

§6.04.080 Protection of animals in motor vehicles

- A. No person, other than an individual actually working a dog or other animal for ranching purposes, shall transport or carry on any public highway or public roadway, any dog or other animal in a motor vehicle unless the dog or other animal is safely enclosed within the vehicle or protected by a cap or container, cage, cross-tether, or other device to prevent the animal from falling from, being thrown from, or jumping from said motor vehicle. As used herein "motor vehicle" includes, without limitation, automobile, pickup truck and trailer.
- B. No person shall leave a dog or other animal in any unattended motor vehicle without adequate ventilation, sanitary conditions, or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or safety.
- C. Any animal control officer or law enforcement officer who witnesses such a violation shall have the right to impound the animal if, in his opinion, the animal's health or safety is or will be thereby endangered.

§6.04.090 Release for confinement

No person other than the owner or person authorized by the owner of the animal shall release any animal from any confinement, vehicle or restraint unless such release is necessary to the immediate health and safety of the animal. This section shall not apply to peace officers or animal control officers.

§6.04.100 Dangerous animal permit required

A. No person shall knowingly keep, have, maintain, sell, trade or let for hire an animal designated under the provisions of this chapter as dangerous without obtaining a Dangerous Animal Permit from the Animal Control Officer. The animal Owner shall comply with all conditions of the Dangerous Animal Permit including but not limited to all requirements of Section 6.04.120 of this Chapter. Any animal which is determined to be dangerous under this Chapter and for which a permit has not been obtained shall be surrendered to an Animal Control Officer for appropriate disposition including humane destruction.

B. If an Animal Control Officer or Peace Officer has investigated and determined that an animal is dangerous, the Animal Control Officer or Peace Officer shall deliver written notice of such determination to the Owner of the animal. Should the animal pose a threat to the public health and safety, an Animal Control Officer may immediately impound the animal.

C. If, after investigation by an Animal Control Officer or Peace Officer, that officer determines that probable cause does not exist to believe the animal is dangerous, any interested person may appeal that determination by submitting within five (5) calendar days of the decision a written request to the Animal Control Officer or Peace Officer for a hearing and paying the required fee. The hearing shall be conducted according to the procedures set forth in Section 6.04.115 of this Chapter.

D. In determining whether or not an animal shall be declared dangerous, the Animal Control Officer, Peace Officer or Hearing Officer appointed pursuant to section 6.04.115, may consider, as a mitigating factor or factors, whether, at the time of the injury, attack or molestation, the person or animal suffering the injury, attack or molestation:

- (1) Provoked, tormented, teased, abused or assaulted the animal thereby causing or contributing to the alleged behavior;
- (2) Committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal;
- (3) Threatened or committed an unjustified attack or assault against the Owner, caretaker or person in control of the animal; or
- (4) Any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, Peace Officer or Hearing Officer.

E. Upon receipt of written or oral notification by the Animal Control Officer or Peace Officer that an animal is dangerous as defined in this Chapter, the Owner shall submit an application for a Dangerous Animal Permit to the Animal Control Officer within five (5) calendar days. The application for a permit shall contain the name of the applicant, applicant's address, the applicant's home and business phone numbers, the address and description of the proposed location of where the animal will be kept, if different from applicant's, a complete description and a photograph of the animal. The permit shall contain all of the requirements of Section 6.04.120 and any additional conditions or requirements deemed necessary by the Animal Control Officer or Peace Officer to protect the public health or safety.

F. Should the Owner of the animal wish to contest the dangerous animal designation, the Owner may request a hearing, to be conducted according to the procedures set forth in Section 6.04.115 of this Chapter. The Owner shall submit a written request for a Dangerous Animal Hearing to the Animal Control Officer or Peace Officer within five (5) calendar days of written notification by the Animal Control Officer or Peace Officer that the animal has been declared dangerous. Should the Owner not submit a request for a hearing within five (5) calendar days of notification, the hearing process shall be deemed waived by the Owner, and the dangerous animal declaration will be considered final by the County Director of the Environmental Services Agency, or the City. In that event, the County Director of the Environmental Services Agency or the City may allow the dangerous animal permit to be issued without a hearing. Unless a dangerous animal permit is immediately obtained, the animal shall be impounded at the Owner's expense pending appropriate disposition as determined by the Animal Control Officer or Peace Officer.

§6.04.105 Declaration of vicious animals

A. No person shall keep, have, maintain, sell, trade or let for hire an animal which has been designated as vicious pursuant to this Chapter.

B. If an Animal Control Officer or Peace Officer has investigated and determined that an animal is vicious, the Animal Control Officer or Peace Officer shall deliver to the Owner of the animal written notice of that determination. The Animal Control Officer or Peace Officer shall immediately impound or cause to be impounded the animal and shall cause the animal to be humanely destroyed unless the Owner requests a hearing under subsection C of this section.

C. If the Owner of the animal disputes the designation of an animal as a vicious animal by the Animal Control Officer or Peace Officer he or she may submit a written request for a hearing to the Animal Control Officer or Peace Officer within five (5) calendar days of notification. Such hearing shall be conducted according to the procedures set forth in Section 6.04.115 of this Chapter. Failure of the Owner to request a hearing shall result in the animal being declared vicious and humanely destroyed. The vicious animal declaration will be considered final by the County Director of the Environmental Services Agency or the City.

D. If, after investigation by an Animal Control Officer or Peace Officer, that officer determines that probable cause does not exist to believe that the animal is vicious, any interested person may appeal that determination by submitting within five (5) calendar days of the decision a written request to the Animal Control Officer or Peace Officer for a hearing and paying the required fee.

E. In determining whether or not an animal shall be declared vicious, the Animal Control Officer, Peace Officer or Hearing Officer may consider, as a mitigating factor or factors, whether at the time of the injury, attack or behavior, the person or animal suffering the injury, attack or behavior for which the animal is being determined vicious:

- (1) Provoked, tormented, teased, abused or assaulted the animal thereby causing or contributing to the alleged behavior;

- (2) Committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal;
- (3) Threatened or committed an unjustified attack or assault against the Owner, caretaker or person in control of the animal; or
- (4) Any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, Peace Officer or Hearing Officer.

§6.04.110 Issuance of permit for dangerous animal

A. No permit obtained under this section is transferable. If the Owner's address or the location where the animal is kept changes or the Owner transfers ownership of the animal, the permit shall become null and void and an application for a new permit must be submitted to the Animal Control Officer.

B. A permit issued under this chapter is subject to renewal and approval each year and is subject to conditions and requirements existing as of the date of renewal. The permittee shall pay an annual fee for this permit pursuant to the procedures established by the Division of Animal Control Services. If permittee fails to file an application for renewal or pay the permit fee prior to the permit anniversary date the permit shall automatically become void. The fee for such permit shall be as set forth in section 6.04.290. This fee shall not be refundable.

C. If the Owner or permittee has a history of multiple violations of this Chapter 6.04 or of the conditions of any previously issued dangerous animal permit, the Animal Control Officer or Hearing Officer may deny the permit and impound the animal for appropriate disposition as determined by the Animal Control Officer or Hearing Officer.

§6.04.115 Hearing procedures

A. Hearings held under this Chapter shall be conducted by a hearing officer or designated representative appointed by the Director of the Environmental Services Agency. The City may elect to utilize the services of any San Mateo County designated hearing officer to hold hearings under the City's animal control ordinances. The hearings shall be scheduled no less than five (5) working days and no more than fifteen (15) working days from the receipt of the request for the hearing unless agreed upon by the involved Animal Control Officer or Peace Officer and the animal Owner. A hearing may be continued if the Hearing Officer deems it necessary and proper or if the Owner, or Animal Control Officer and/or Peace Officer shows good cause.

B. The hearing shall be conducted in an informal manner consistent with due process of law. Both the Owner of the animal and Animal Control Officer or Peace Officer may be represented by counsel. The parties may present relevant evidence and call and cross-examine witnesses. The strict rules of evidence shall not be applicable. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing shall be tape-recorded and all documentary evidence submitted at the hearing shall be preserved. Any party may arrange for a court reporter to be present. Any party desiring the presence of a court reporter shall make all necessary arrangements and shall be responsible for payment of all costs.

C. The Hearing Officer may exclude disorderly or disruptive persons from the hearing or make other orders as necessary to ensure the fair and orderly conduct of the hearing.

D. The Hearing Officer may decide all issues for or against the Owner of the animal should the Owner fail to appear at the hearing.

E. Within five (5) working days of the hearing, the Hearing Officer shall render a brief written decision, which decision shall be final at the administrative level. The written decision shall be mailed to the parties by certified mail and include a declaration or proof of mailing which includes the date on which the decision was mailed to the parties.

F. Unless the hearing officer for good cause otherwise determines, the Owner of the animal is liable for all costs related to such hearing not to exceed three-hundred and fifty dollars (\$350).

G. The failure to conduct a hearing required by this section shall have no bearing on any criminal prosecution for violation of any provisions of this chapter.

H. In the case of animals determined by an Animal Control Officer or Peace Officer to be dangerous or vicious, the hearing officer may decide any or all of the following:

- (1) That the animal be designated "vicious" and the Owner of the animal lose all rights of ownership and control of the animal and the animal shall be humanely destroyed. An animal designated as vicious will be held at the animal shelter for a minimum of five (5) calendar days from the date of the hearing officer's decision, after which time it may be humanely destroyed without further notice to the Owner;
- (2) That the animal be designated "dangerous" and the Owner must apply for and obtain a dangerous animal permit as provided by this chapter within five calendar days of receipt of the decision letter in order to maintain the animal and the Owner must comply with all mandatory dangerous animal permit rules and regulations as defined in Section 6.04.120;
- (3) That the dangerous animal permit shall contain additional permit conditions to supplement the mandatory dangerous animal permit rules and regulations as defined in Section 6.04.120, including, but not limited to, the following:
 - (a) That the Owner keep the animal muzzled at all times when the animal is off the Owner's property;
 - (b) That the Owner prove financial responsibility by posting a bond or certificate of insurance for an amount of \$1,000,000 per animal as determined by the Hearing Officer;
 - (c) That the Owner provide private behavioral and obedience training to the animal, at the Owner's expense and within the time set forth by the Hearing Officer following the issuance of a dangerous animal permit. Proof of participation, a report of behavioral assessment, or a certificate of

satisfactory completion from an animal behaviorist or organization approved by the Hearing Officer shall be provided to the Animal Control Officer within seven calendar days following any required training;

- (d) That the Owner comply with any other permit requirement the Hearing Officer deems necessary to protect the public health or safety;
- (e) That the Owner reimburse the victim for the victim's medical expenses or the victim animal's veterinary expenses;
- (f) Pursuant to section 6.04.160 of this Chapter, that the dangerous animal permit be modified as ordered by the Hearing Officer, or revoked and the animal humanely destroyed.

§6.04.120 Mandatory dangerous animal permit requirements

Any Owner of a dangerous animal shall insure compliance with the following rules and regulations which shall be mandatory requirements for any dangerous animal permit:

A. When the animal is off the property of its Owner, the Owner must ensure that the animal is restrained with a leash not to exceed four (4) feet in length and having a minimum tensile strength of 300 pounds and shall be under the direct control and supervision of the Owner or a person of such age, size and strength as can easily control such animal. Extraordinary care shall be taken by the Owner to ensure that such restraint is sufficient to control the animal in a manner which it will not endanger other persons or animals.

B. The Owner shall maintain the animal so that it is not a threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property.

C. The Owner shall ensure that the animal is not kept upon any unenclosed premise unless it is leashed and controlled by a person capable of controlling such animal. The Owner shall ensure that the animal is not tethered, tied or staked at any unenclosed premise. The Owner shall ensure that the animal is not kept in a house or structure when the windows or doors are open or screen doors are the only obstacle preventing the animal from exiting the structure.

D. The Owner shall ensure that the animal is kept in a fenced yard, kennel, run or enclosure approved by the Animal Control Officer or Peace Officer. The Owner shall ensure that all structures used to confine the animals are locked with a key or combination lock when such animals are within the structure. The Owner shall regularly inspect the fenced yard, kennel, run or enclosure to ensure that it is secure to maintain the animal.

E. The Owner shall open premises upon which an animal is maintained at any reasonable hour for inspection by the Animal Control Officer or Peace Officer and said premises shall be surrendered for inspection by the Owner upon the request of the Animal Control Officer or Peace Officer. The Owner shall pay a fee for the costs incurred by the County or the City for the inspection or reinspection of property. Such fee shall be set forth in section 6.04.290.

F. The Owner of the dangerous animal shall post the entrances to the property where the animal is kept with a legible sign conspicuous to the public warning persons of the presence of a dangerous animal. The Owner of the dangerous animal shall obtain an approved sign from the Animal Control Program for a non-refundable fee and shall surrender such sign in the event of the revocation of the permit, death of animal, or approved relocation of the animal, or upon any other reasonable demand by an Animal Control Officer.

G. The Owner of any dangerous animal must advise all members who reside in the same household and on the same premises of the conditions established by the permit for keeping or maintaining said dangerous animal.

H. The Owner shall strictly comply with all local and state laws regarding the care, use, control and maintenance of animals.

I. In addition to a license, the Owner shall ensure that the animal shall at all times wear a separate tag issued by the Division of Animal Control Services which designates it as a dangerous animal. The Owner shall ensure that the dangerous animal be microchipped and registered with the Animal Control Program for a fee specified by Section 6.04.290 within thirty (30) calendar days from the date the permit was issued. The animal Owner shall be responsible for payment of said fee which shall be utilized by the Animal Control Program to offset the cost of the chip and to maintain the registration program.

J. The Owner shall have the animal spayed or neutered by a licensed veterinarian, at the Owner's expense, within fifteen (15) calendar days from the date the permit was issued. The Owner shall present written proof to the Animal Control Officer that the surgery was performed. In the event an animal cannot be safely spayed or neutered due to medical reasons, the Owner shall present written proof from a licensed practicing veterinarian to the Animal Control Officer that said animal cannot be spayed or neutered.

K. The Owner may not sell, transfer or otherwise dispose of such animal to another County or City without notifying Animal Control at least twenty-four (24) hours before such sale, transfer or disposal. Animal Control will notify the proper authorities of the jurisdiction to which the dangerous animal is transferred. Should the Owner of a dangerous animal wish to transfer ownership of the animal to another individual within San Mateo County, the new Owner must submit to a property inspection, apply for and obtain a new dangerous animal permit, pay all requisite fees, and comply with all provisions of this chapter and the requirements of the permit.

L. No more than two dangerous animals may be kept at any one household.

M. The Owner shall not allow any animal designated "dangerous" as the result of aggression against human(s) to be kept on property or within a household in which a juvenile person under the age of eighteen resides.

N. The Owner of a dangerous animal must notify the Animal Control Officer of the animal's death within twenty-four (24) hours and shall produce the animal's body for verification upon request. The Owner of a dangerous animal must notify the Animal Control Officer immediately in the event the animal becomes lost or stolen.

O. The Owner must pay all permit and property inspection fees as described in section 6.04.290 of this chapter.

P. The Owner shall comply with all other permit conditions or requirements imposed pursuant to section 6.04.115 or 6.04.100(a).

§6.04.130 Misdemeanor violations

A. A person violating any provision of this Chapter shall be guilty of an infraction except as otherwise specifically provided in subsection (b), below.

B. A person violating any provision of subsection (a) of section 6.04.100, subsection (a) of section 6.04.105, subsection (a), (b), or (c) of section 6.04.060, or subsection (a) or (b) of section 6.04.080 of this Chapter shall be guilty of a misdemeanor.

§6.04.140 Possession of animals after revocation of dangerous animal permit or vicious declaration

No person who has been determined to be in possession or ownership of a vicious animal or a dangerous animal for which a permit has been revoked under this Chapter shall be granted any dangerous animal permit for a period of three years following such determination or revocation.

§6.04.150 Inspection fee

A fee shall be charged for the costs incurred by the County or the City for the inspection or reinspection of property. The fee charged shall be paid by the Owner or person who has custody of the animal. Such fee shall be set forth in section 6.04.290.

§6.04.160 Revocation or modification of permit

A. Subject to the provision of subsection B, any permit issued pursuant to this section may be revoked or modified by the inclusion of additional requirements or otherwise, if the Animal Control Officer has reasonable cause to believe any of the following to be true:

- (1) The dangerous animal Owner or any person the Owner has allowed to have possession of the animal has violated any applicable animal control ordinance, or is in violation of any zoning, health and safety or building ordinance or Penal Code section relating to the keeping, care or use of any animals;
- (2) The Owner or any person the Owner has allowed to have possession of the animal has violated any rules, regulations or conditions of this Chapter including but not limited to dangerous animal permit conditions, or any requirement imposed by the Animal Control Officer, Peace Officer or Hearing Officer as necessary to insure the animal will not endanger the peace, health or safety of any person or property;
or

- (3) The Owner has changed the location of the Owner's residence or the Owner's place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the animal for which the permit was issued.

B. In the event that it is reasonably necessary to protect against a threat to the health or safety of the public, or of any animal, the Animal Control Officer or Peace Officer may impound or cause to be impounded the animal while an investigation is taking place.

C. If, after investigation, the Animal Control Officer or Peace Officer concludes that it is probable that one or more of the above grounds for revocation or modification of the permit has occurred, the Officer shall cause written notice thereof to be transmitted to the Owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the Owner of the animal wish to contest the revocation or modification of the permit, the Owner may request a hearing to be held before a hearing officer not previously involved with the permit issuance or investigation, as designated by the Director of the Environmental Services Agency within five (5) calendar days of receiving the notice of intent to modify or revoke permit. Said hearing date shall be not less than five (5) working days or more than 15 working days subsequent to the date the request for hearing is received. The hearing shall be conducted as set forth in section 6.04.115 of this Chapter. After the hearing, the Officer conducting the hearing may modify the terms of the permit or revoke the permit depending upon the Owner's ability to comply with the requirements of this Chapter and to control the animal so that the health, safety and property of the public are protected.

D. Upon written or oral notification by the Animal Control Officer, or Hearing Officer if a hearing was held, of any modifications to a dangerous animal permit, the Owner shall immediately comply with such modified permit requirements.

E. Upon written or oral notification by the Animal Control Officer, or Hearing Officer if a hearing was held, of the revocation of a permit for a dangerous animal, the Owner of such animal shall within two (2) calendar days of such notification surrender said animal to an Animal Control Officer to be humanely destroyed or provide written proof to an Animal Control Officer in the form of declaration(s) under penalty of perjury that such animal has been permanently removed from the County of San Mateo and declaring the new location or new address where the animal is to be kept.

§6.04.170 Animals to be impounded

A. Every animal kept or found by an Animal Control Officer or Peace Officer under conditions which constitute a violation of this Chapter or other state or local law may be impounded or caused to be impounded by an Animal Control Officer or Peace Officer. The animal's Owner shall be charged with all costs incurred or fees applicable with respect to such impoundment.

B. When the Animal Control Officer or Peace Officer has reasonable cause to believe that any animal is dangerous or vicious the Animal Control Officer or Peace Officer may also impound or cause to be impounded the animal and keep it for such period not to exceed fifteen

(15) days in order to observe, examine and determine whether or not such animal is dangerous or vicious.

C. Any animal subject to dangerous or vicious animal proceedings may be impounded at the discretion of the Animal Control Officer or Peace Officer pending notice, hearings and determinations hereunder and until any required permit is obtained.

D. Except as otherwise provided in this Chapter or state law, an impounded animal may be redeemed by the Owner, after payment of the required fees and charges and compliance with licensing requirements. In the event such animal is not so redeemed within the time set forth by state law, it may be disposed of in the manner determined by an Animal Control Officer.

§6.04.180 Notice of animals impounded

Within twenty-four (24) hours of the impoundment of any animal, the Animal Control Officer shall mail a written notice thereof to the place of business or residence of the Owner of the animal if known. In the event the animal may not be redeemed as provided by subsection D of section 6.04.170, the Owner may request a hearing under section 6.04.115, subsections A – G of this Chapter or applicable state law. The Animal Control Officer shall maintain records of said impoundment pursuant to section 6.04.200.

§6.04.200 Record of impounded animals

The Animal Control Program shall keep a record of all animals impounded, which record shall include a description of the animal, the date of its receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees and charges and proceeds of sales received on account thereof, and such additional matters as may be necessary and incidental to implementing this ordinance. Said records shall be kept for four years.

§6.04.210 Field return fee

A fee shall be charged for any animal impounded by an Animal Control Officer and returned by the officer in the field to the owner or person who has custody of the animal. The fee charged shall be paid by the owner or person who has custody of the animal. Such fee shall be set forth in section 6.04.290.

§6.04.220 Redemption

Except as otherwise provided by this ordinance or by any other law, the Owner or person entitled to the control or custody of any animal impounded may, at any time before the sale or other disposition thereof, redeem the same by paying all proper fees assessed by Animal Control Services. Animal Control Services shall issue to the Owner duplicate receipts for the amount of the fee paid.

§6.04.230 Redemption fees

Fees for animal shelter services shall be as set forth in section 6.04.290. No animal shall be released to its owner or possessor unless and until such fees are paid in full.

§6.04.240 License fee to be paid upon redemption

No impounded dog may be redeemed unless and until its license fee, and applicable penalty has been paid.

§6.04.250 Epidemics

The County Department of Health Services may determine and declare that rabies or other contagious diseases are epidemic or that other health and safety hazards exist among dogs or other animals within the County. Upon the making of such a declaration, the County Health Officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within the County. Said rules and regulations of the County Health Officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of Animal Control Officers to assist the County Health Officer in carrying out such rules and regulations.

§6.04.260 Bite reporting requirements

It is the duty of every person having knowledge that any animal has bitten a human being to report that fact immediately to the County Department of Health Services, Animal Control Program or to the local law enforcement agency having jurisdiction.

§6.04.270 Quarantine fee

A fee shall be charged for the costs incurred by County for the quarantine of animals including but not limited to investigation, inspection of property, confinement, examination and release of the animal from quarantine. The fee charged shall be paid by the owner or person who has custody of the animal. Such fee shall be in addition to the actual costs of the Health Officer or his/her designee in housing, feeding and otherwise caring for a quarantined animal. Such fee shall be set forth in section 6.04.290.

§6.04.280 Service fees

Animal Control Service fees for redemption of impounded animals, relinquishment, adoption, disposal, abatement, rescue, veterinary treatment or other services not specified in section 6.04.290 shall be reviewed by the Director of Environmental Services Agency or his/her designee for reimbursement of costs. The Director of the Environmental Services Agency or his/her designee shall have the authority to determine the fee charged for said services. The fee charged shall be paid by the owner or person who has custody of animal(s) for which said services have been provided.

§6.04.290 Schedule of fees and charges

Animal Control fees and charges established by this code are as follows:

A. License Fees

(1) Dog License Fees:

Unaltered dog \$30.00 (which includes a \$1 surcharge on all licenses for the Animal Population Trust Fund)

Unaltered dog 3 year license	\$87.00
Altered dog	\$12.00
Altered dog 3 year license	\$33.00
Late penalty	\$15.00
Duplicate tag	\$5.00
Senior discount (with proof of age 60 or older):	
Unaltered dog	\$11.00
Unaltered dog 3 year license	\$33.00
Altered dog	\$6.00
Altered dog 3 year license	\$15.00

(2) **Cat License Fees:**

Unaltered cat	\$11.00
Unaltered cat 3 year license	\$33.00
Altered cat	\$6.00
Altered cat 3 year license	\$15.00
Late penalty	\$5.00
Duplicate tag	\$3.00
Senior discount (with proof of age 60 or older):	
Unaltered cat	\$6.00
Unaltered cat 3 year license	\$18.00
Altered cat	\$4.00
Altered cat 3 year license	\$9.00

(3) **Wolf Hybrid Registration Fees:**

Unaltered	\$21.00
Altered	\$11.00
Duplicate tag	\$5.00

B. **Redemption Charges**

(1) **Type A** (large size animals, e.g. horses, cows, etc)

Impound cost	\$100.00
Board cost	\$20.00 per day
Transportation cost	\$50.00 per animal

(2) **Type B** (medium size animals, e.g. hogs, sheep, etc)

Impound cost	\$70.00
Board cost	\$20.00 per day
Trailer cost	\$50.00 per use

(3) **Type C** (dogs, cats, and wolf hybrids)

Impound costs:	Altered	Unaltered
First offense:		
Licensed dog, cat or registered Hybrid, wearing tag	\$30.00	\$50.00
Unlicensed / unregistered, no tag	\$40.00	\$70.00
Second offense	\$60.00	\$80.00
Third offense	\$90.00	\$100.00
Fourth offense	\$120.00	\$140.00
Fifth offense and up	\$150.00	\$170.00
Board cost – dogs, wolf hybrids	\$15.00 per day	\$15.00 per day
Board cost – cats	\$13.00 per day	\$13.00 per day

(4) **Type D** (small size animals, e.g. birds, hamsters)

Impound cost	\$15.00
Board cost	\$5.00 per day

C. Adoption fees

	Adoption Fee
Dogs	\$70.00
Cats	\$70.00

Rabbits	\$40.00
Mice	\$4.00
Rats	\$5.00
Guinea pig	\$12.00
Hamster	\$8.00
Pigeon / dove	\$3.00
Duck / goose / chicken	\$5.00
Turtle	\$5.00
Exotic snake	\$25.00
Goats / pigs / sheep	\$35.00
Horses	To be set on an individual basis

D. Surrender, euthanasia, and dead on arrival disposal fees

	Surrender	Euthanasia	DOA Disposal
Dog / cat	\$20.00	\$40.00	\$20.00
Rabbit / small animal	\$20.00	\$15.00	\$20.00
Litter of 3 or more	\$30.00	\$30.00	\$20.00
Bird / fowl	\$20.00	\$10.00	\$20.00
All exotic animals	\$20.00	\$20.00	\$20.00
Farm animal	\$35.00	\$50 - \$100 (to be determined individually)	\$50 - \$100 (to be determined individually)

- E. Quarantine fee \$35.00
- F. Dangerous animal permit fee \$200.00
- G. Field return fee \$35.00
- H. Property inspection fee \$25.00
- I. Breeding permit fee \$50.00
- J. Fanciers permit fee \$50.00 per household

K. The Division of Animal Control may establish license discounts for recognized animal rescue organizations and adoption discounts for senior citizens.

§6.04.300 Penalty for violation

Except as specifically provided for in section 6.04.130, any violation of the provisions of this ordinance, including those provisions relating to required fees, shall be punishable as an infraction, the penalty for which shall be as follows:

- A. A fine not exceeding one hundred (\$100) dollars for a first violation
- B. A fine not exceeding two hundred (\$200) dollars for a second violation of the same ordinance within one year.
- C. A fine not exceeding five hundred (\$500) dollars of each additional violation of the same ordinance within one year.

§6.04.310 Use of license and other revenue

All revenue derived from the fee schedule and from fines, forfeitures, and penalties related to the enforcement of this chapter shall be used to offset the cost of enforcement and administration of this chapter.

SECTION 3. ADDITION OF CHAPTER 6.08 OF TITLE 6 OF THE MILLBRAE MUNICIPAL CODE.

A new chapter 6.08 is added to the Millbrae Municipal Code to read as follows:

Chapter 6.08
EXOTIC ANIMALS

Sections:

- 6.08.010 Declaration of Intent
- 6.08.020 Definitions
- 6.08.030 Permit required
- 6.08.040 Health department permit renewal
- 6.08.050 Approval of application
- 6.08.060 Revocation and suspension
- 6.08.070 Inspection
- 6.08.080 Impoundment
- 6.08.090 Rules and Regulations
- 6.08.100 Exemptions
- 6.08.110 Appeals

§6.08.010 Declaration of intent

A. The City Council of the City of Millbrae hereby finds and declares that it intends to provide for the public health, safety and welfare through the regulation and control of exotic animals not otherwise regulated and controlled by Federal, State or local laws as hereinafter provided. These animals are considered to be dangerous animals. Total confinement facilities are necessary to protect the public health and safety and to assure proper animal welfare.

B. Full compliance with both Federal and State regulations is necessary before any permit is considered. Inquiries as to Federal and State regulations in regard to specific animal species shall be made to appropriate government bureaus or departments.

§6.08.020 Definitions

For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them in this Section:

- A. "Exotic animal" shall mean any of the following:
- (1) Following members of the Class Aves: Order Falconiformes (such as, but not limited to, hawks, eagles and vultures which are not kept pursuant to Federal or State permit), and Subdivision Ratitae (such as, but not limited to, ostriches, rheas, cassowaries and emus).
 - (2) Following members of the Class Mammalia: Order Carnivora, expressly excepting the domestic dog (*Canis familiaris*) and the domestic cat (*Felis catus*) and including, but not limited to, the Family Felidae (such as ocelots, margays, lions, tigers, jaguars, leopards and cougars), the Family Canidae (such as wolves, dingos, coyotes and jackals), and Order Marsupialia (such as kangaroos and common opossums, *Didelphis marsupialia*) and Order Chiroptera (bats) and Order Edentata (such as sloths, anteaters and armadillos), and Order Proboscidea (elephants) and Order Primata (including, but not limited to, monkeys, chimpanzees and gorillas) and Order Ungulata (including, but not limited to, antelope, deer, bison and camels).
 - (3) Any species of animal when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to the animals themselves, to human beings or to the property of human beings.
 - (4) Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means, except honey producing bees.
- B. "Venomous" shall mean having a gland for the secretion of venom able to inflict a poisoned bite, sting, or wound.
- C. "Owner" shall mean any person, firm or corporation owning, having an interest in, or having control, custody or possession of any exotic animal.
- D. "Person" shall include any person, partnership, corporation, trust, and association of persons.
- E. "Director" shall mean the San Mateo County Director of Health Services or his/her authorized deputy or representative.
- F. "Impound" shall mean to take possession of and hold in the custody of the director.

§6.08.030 Permit required

A. No person shall own or keep any exotic animal without first applying to and receiving from the Health Department a permit to do so.

B. The application for a Health Department permit shall contain the name and address of the applicant, the address of the proposed location of the exotic animal, (if different from the applicant's) and a brief description of the applicant's plan for keeping the exotic animal which shall include the species of animal, the number of individuals of each species and a description of the housing facilities, for the exotic animal, and the reason for the keeping of such animal.

C. Health Department Permit fees for keeping of exotic animals shall be established by resolution of the Board of Supervisors. The initial Health Department fee shall be a filing fee for the issuance of each Health Department permit. Each permit shall be valid for a period of one year from the date of issuance unless revoked or suspended. The fee may cover either one exotic animal or a collection, and the maximum number of specimens permitted to be kept shall be specified in the permit. Whenever a new exotic animal or collection is added so as to exceed the maximum number permitted, a new Health Department permit must be secured and a new fee shall be due and payable at the time of issuance of the permit.

D. Whenever, in any given Health Department permit year, there are new exotic animals in a collection due to the reproduction of members of the collection or due to trade, exchange, or replacement in the same number and of the same zoological order as the members of the collection traded, exchanged or replaced, the new exotic animals do not require an additional permit during that year, provided the director is notified in writing of the new exotic animals within thirty days of acquisition.

§6.08.040 Health department permit renewal

A. Each succeeding year a renewal permit shall be obtained by a holder of a permit to keep exotic animals. The fee for the issuance of a renewal permit shall be the same as that fee currently chargeable for an initial permit, and it is due and payable each year on the anniversary of the date of the issuance of the initial permit. If during the preceding year or years, more than one initial permit has been issued an applicant, the former permits may be consolidated so that only one renewal permit is required; provided, however, that the renewal date for the consolidated permit shall be the date of the issuance of the earliest initial permit.

B. A renewal fee for an exotic animal Health Department permit shall become delinquent ninety days after it becomes due and payable, and upon delinquency, an additional delinquent fee established by resolution of the Board of Supervisors shall be added to the regular fee. An unpaid delinquent fee shall be added to a succeeding year's renewal fee.

§6.08.050 Approval of application

A. Upon receipt of an application for an initial Health Department permit, the director shall make any investigation he deems proper. The director shall approve the application if he makes all of the findings specified in Subsection C below. Alternatively, the application may initially be forwarded to the City's Department of Community Development or any other appropriate

agency if the director, in his discretion, concludes that the assistance of such departments/agencies is necessary in order for him to approve the application. Designated employees of those departments shall ascertain whether or not the applicant's plan is in conformity with the law administered by these departments.

B. If the applicant's plan is in conformity with the law administered by said departments, their approval shall be indicated on the face of the application. If the applicant's plan is not in conformity with the law administered by said departments, the face of the application shall be marked "Not Approved" and the reason for non-approval noted thereon, along with any revisions or changes in the applicant's plan which if made would result in approval by the department in question.

C. Upon approval by said departments of the application for an initial Health Department permit or upon the receipt of an application for a renewal permit, the director shall make any investigation he deems proper. He shall approve an application if he finds all of the following:

- (1) The keeping of the exotic animal at the location specified in the application will not violate any ordinance or other regulation of the City or the County or any law of the State;
- (2) The keeping and maintenance of the exotic animal will not endanger the peace, health, or safety of persons in the immediate vicinity, or in the City as a whole;
- (3) The premises and housing where the exotic animal is to be kept are in clean and sanitary condition, and any exotic animal will not be subject to suffering, cruelty or abuse;
- (4) The applicant has not had a Health Department permit, issued pursuant to this chapter, revoked within a year prior to the date of application.
- (5) The keeping and maintenance of the exotic animal does not constitute a public nuisance.

§6.08.060 Revocation and suspension

A. Any Health Department permit issued pursuant to this chapter may be revoked, if, after investigation and a duly noticed hearing, the director finds any of the following to be true:

- (1) The permittee, his agent or employee has been convicted of any offense involving the violation of sections 596 to 599 inclusive, of the Penal Code or is in violation of any zoning, health and safety or building ordinance relating to the keeping of exotic animals; or
- (2) The permittee has failed to keep and maintain the premises or housing for the exotic animals in a clean and sanitary condition; or
- (3) The permittee has at the place for which the permit is issued, failed to provide any exotic animal with proper food, water, shelter or attention; or

- (4) The permittee has violated any rules, regulations or conditions adopted by the director as necessary to insure the exotic animal will not endanger the peace, health or safety of any person or property; or,
- (5) The permittee has changed the location of his or her residence or his or her place of business or sells, assigns, transfers, donates, leases, or otherwise disposes of the exotic animal for which the permit was issued.

B. If, after investigation, the director concludes that it is probable that one or more of grounds for revocation set forth in Subsection A above has occurred, he shall cause written notice thereof to be transmitted by registered mail to the address of the permittee. Said notice shall specify the grounds of possible revocation of the Health Department permit and shall specify a date and time for an informal hearing to be held before the director thereon. Said date shall be not less than five days subsequent to the date of deposit of the notice in the mail.

C. After the informal hearing, the director may modify the terms thereof or revoke the Health Department permit depending upon the permittee's ability and/or willingness to comply with the requirements of this chapter.

D. In the event that it is reasonably necessary to protect against an immediate threat or danger to the public and/or animals' health or safety, the director may suspend any Health Department permit summarily, without a hearing, for a period not to exceed thirty days.

§6.08.070 Inspection

A. Health Department permits issued pursuant to the provisions of this chapter shall be surrendered for inspection by the permittee upon the request of the director.

B. The Health Department permit shall provide that as a condition for issuance, the premises on which an exotic animal is maintained shall be opened at any reasonable hour for inspection by the director or his Designee.

§6.08.080 Impoundment

The director or his Designee shall have the authority to enter the premises at any reasonable hour in a lawful manner, and to take up, impound, and safely keep an exotic animal upon denial, revocation, or suspension of a Health Department permit or when any owner refuses to apply for a permit.

§6.08.090 Rules and regulations

The director may formulate rules and regulations in conformity with, and for the purpose of carrying out the intent of this chapter. Compliance with such rules and regulations shall be a prerequisite to the issuance and continued validity of Health Department any permit provided for in this chapter.

§6.08.100 Exemptions

The provisions of this chapter are not applicable to the following:

- A. Owners who use animals for diagnostic purposes or research, and who have a valid permit issued by an appropriate State and/or Federal agency and whose animals are kept on the premises specified in the permit.
- B. Owners of establishments which treat or board animals on the premises and which are owned or operated by veterinarians licensed by the State of California.
- C. Owners of establishments licensed to keep animals for the purpose of resale whose animals are kept on the premises of such establishment or other authorized place.

§6.08.110 Appeals

Any person aggrieved by any decision or action resulting from the application of this ordinance may appeal to the City Council within 5 days from the date of Health Department permit denial. The filing of an appeal shall stay the decision or action appealed from; provided, that the filing of an appeal shall not stay any order of suspension or revocation.

SECTION 4. ADDITION OF CHAPTER 6.12 OF TITLE 6 OF THE MILLBRAE MUNICIPAL CODE.

A new chapter 6.12 is added to the Millbrae Municipal Code to read as follows:

Chapter 6.12
SPAYING, NEUTERING AND BREEDING

Sections:

- 6.12.010 Definitions.
- 6.12.020 Spaying/neutering.
- 6.12.030 Breeding permits; administration.
- 6.12.040 Sale or adoption of cats, dogs or wolf hybrids.
- 6.12.050 Revocation of permit.
- 6.12.060 Penalty for violation.
- 6.12.070 Responsibility for enforcement.

§6.12.010 Definitions

For the purposes of this chapter, the definitions contained in chapter 6.04 and chapter 6.08 shall apply.

§6.12.020 Spaying/neutering

- A. Any person who owns or harbors within the City any cat or dog over the age of six months which has not been spayed or neutered, shall procure either a license to keep an unaltered

dog or cat or a license and permit for breeding cats or dogs issued by the San Mateo County Animal Control Program under section 6.12.030 of this chapter.

B. A license shall be issued for an unaltered dog or cat if the owner signs a written statement that such animal will not be allowed to breed unless the owner has first obtained a breeding permit under section 6.12.030 of this chapter.

C. Any person providing care or sustenance for a period of thirty days or longer shall be deemed the owner of such animal and shall adhere to the provision of this section.

D. Subsection C above shall not be interpreted to apply to a person caring for barn cats or a colony of feral cats if such person:

- (1) Registers (at no charge) with the Peninsula Humane Society or San Mateo County Animal Control Services as a caretaker for barn cats or feral cats.;
- (2) Regularly feeds or arranges for the feeding of the cats, including on weekends and holidays;
- (3) Traps or makes a reasonable effort to trap all barn or feral cats over the age of eight (8) weeks in his/her care, and has them spayed or neutered;
- (4) Has all trapped cats tested for feline leukemia and has those who test positive humanely euthanized or isolated indoors;
- (5) Identifies barn or feral cats that have been spayed or neutered by means of ear notching, ear tipping, or ear tagging;
- (6) Has all trapped cats vaccinated according to state and local laws.

§6.12.030 Breeding permits; administration

A. No person shall cause or allow any dog or cat owned or harbored, in the City to breed without first obtaining a breeding permit under this section.

B. San Mateo County Animal Control Services shall administer a permit program to allow breeding of cats and dogs consistent with criteria and according to procedures contained in this chapter.

C. Each applicant who is issued a permit to breed cats or dogs under this section shall pay a breeding permit fee according to the fee schedule contained in section 6.04.290 of this Title.

D. No person shall cause or allow the breeding of a male or female dog or cat without first obtaining a breeding permit issued by the Animal Control Services. Such breeding permit is required in addition to any license required under section 6.04.040 of this title. Breeding permits shall be valid for twelve months, renewable on an annual basis. Fees for such permit shall be as set forth in section 6.04.290. All breeding permits shall contain the following terms and conditions and be subject to all of the following requirements:

- (1) No offspring may be sold or adopted and permanently placed until reaching an age of at least eight (8) weeks.
- (2) No offspring may be sold or adopted until immunized against common diseases, or until they have begun a course of disease prevention under the direction of a State of California licensed veterinarian.
- (3) If within one year of placement a new owner becomes unable or unwilling to continue ownership and responsibility for an animal, the permit holder shall assist in placement of the animal. If no suitable placement can be found within six (6) months, the permit holder shall accept return of the animal if healthy and shall become fully responsible for its care.
- (4) Any permit holder advertising to the public the availability of any animal for adoption or sale must prominently display the permit numbers in any publications in which they advertise. Further, the permit number must be provided to any person adopting or purchasing an animal bred by the permit holder.
- (5) The breeding permit holder shall adhere to minimum standards regarding the care and keeping of animals developed and approved by the Animal Control Services.

§6.12.040 Sale or adoption of cats, dogs or wolf hybrids

- A. Any person who provides or offers to the public, whether or not for compensation, any cat, dog, or wolf hybrid shall provide to their clients, free of charge, information, relating to pet care and ownership, including information where applicable, on City and County laws pertaining to animal control. This required information will be prepared and provided by San Mateo County Animal Control Services upon request.
- B. Any person offering cats, dogs, or wolf hybrids for sale or adoption shall disclose to any purchaser or adoptive owner information regarding the licensing, registration or permit requirements applicable to such animal.
- C. No person shall offer for sale or adoption any cat, dog, or wolf hybrid on any public street, sidewalk or public park unless such person first obtains a business license to sell pets or is a recognized pet rescue/adoption agency such as Pets in Need and the Peninsula Humane Society.
- D. Prior to release for adoption, any animal adopted from any animal welfare agency shall be spayed or neutered as early as is medically appropriate, unless the adoptive owner obtains a certificate from a licensed veterinarian certifying as to the health reasons for failing to alter such animal.

§6.12.050 Revocation of permit

- A. Any permit issued pursuant to section 6.12.030 may be revoked if the Animal Control Officer has reasonable cause to believe any of the following to be true:

- (1) The permittee has violated any City or County ordinances relating to the keeping, care or use of any animal including, but not limited to, those contained in chapters 6.04, 6.12 and 6.14 of this title;
- (2) The permittee is in violation of any State health or safety law or regulation regarding animal care or control;
- (3) The permittee has failed to comply with any condition or requirement of the permit or has failed to pay any fee imposed under this code;
- (4) The permittee refused to allow inspection, upon forty-eight hours written notice, of any animal covered by the permit or the premises on which the animal is kept; or
- (5) The permittee has transferred, sold or otherwise disposed of the animal for which the permit was issued.

B. If, after inspection, the Animal Control Officer concludes that it is probable that one or more of the above grounds for revocation has occurred, the Animal Control Officer shall cause written notice thereof to be transmitted by mail to the address of the permittee. Said notice shall specify the grounds of possible revocation of the permit and shall specify a date and time for an informal hearing to be held before an Animal Control Officer. Said date shall be not less than five days subsequent to the date the notice is mailed. After the informal hearing, the Animal Control Officer may modify the terms of the permit or revoke the permit.

C. The permittee may appeal the decision of the Animal Control Officer to the County Environmental Health Officer if the permittee gives written notice of such appeal within five working days of the decision.

§6.12.060 Penalty for violation

Except as otherwise provided by this chapter, any violation of the provisions of this chapter shall be punishable as an infraction, the penalty of which shall be as follows:

- A. A fine not to exceed one hundred (\$100.00) dollars for a first violation.
- B. A fine not exceeding two hundred (\$200.00) dollars for a second violation within one year.
- C. A fine not to exceed five hundred (\$500.00) dollars for each additional violation within the same year.

§6.12.070 Responsibility for enforcement

The Animal Control Program shall be responsible for the enforcement and administration of this chapter.

SECTION 5. ADDITION OF CHAPTER 6.14 OF TITLE 6 OF THE MILLBRAE MUNICIPAL CODE.

A new chapter 6.14 is added to the Millbrae Municipal Code to read as follows:

Chapter 6.14
MISCELLANEOUS ANIMAL CONTROL REGULATIONS

Sections:

- 6.14.010 Definitions
- 6.14.020 Owner responsibilities
- 6.14.030 Special permit for multiple animals
- 6.14.040 Revocation of permits
- 6.14.050 Recording of animal complaints
- 6.14.060 Adoption of animals

For the purpose of this Chapter and to the extent not superseded by definitions set forth below, the definitions contained in Chapter 6.04 and Chapter 6.08 shall apply and the following additional definitions shall also apply to this Chapter:

- A. "Abandon" means to cease providing care, sustenance and shelter for an animal with the intent of never again providing such care, sustenance and shelter. It implies an intent on the part of the owner, harborer or keeper to relinquish responsibility for the welfare and physical condition of the animal in a manner that does not provide for the animal's best interests.
- B. "Animal" means and includes but is not limited to birds, fishes, reptiles and non-human mammals.
- C. "Cat" means a Felis Catus of either sex, altered or unaltered; or any member of the Felis genus if owned, kept or harbored.
- D. "Dog" means Canis Familiaris of either sex, altered or unaltered; or any member of the Canis genus if owned, kept or harbored.
- E. "Animal control officer" means the Chief of Police and officers of the Millbrae Police Department or such other person or persons as the City Manager may designate.

§6.14.020 Owner responsibilities

- A. Vaccinations. Every cat owner shall have his or her cat receive a rabies vaccination in a manner prescribed or approved by the State Department of Public Health. Each dog owner and/or cat owner shall have his or her dog(s) and/or cat(s) receive DHLPP and FVRCP vaccination respectively, in accordance with standard veterinary procedure.
- B. Destruction of Property. No person having charge, care or custody of any animal shall permit such animal to damage or destroy the property of any person other than that of the owner of such animal. Parkways comprising the area between the street and sidewalk shall be included as private property for the purpose of this chapter.

C. It is unlawful for the owner or person having custody of any dog to fail to immediately remove and dispose of in a sanitary manner, by placing in a closed or sealed container and depositing in a trash receptacle, any feces deposited by such dog upon private or public property not owned or controlled by the owner or person having custody of such dog. The provisions of this subsection shall not apply to any blind person accompanied by a guide dog.

D. No person owning or having charge, care or custody of any unspayed female dog shall permit such a dog to be at large, be led on a leash in a public place, or tied or maintained at any public place that is not securely fenced in a manner to keep out all other dogs while such female dog is in heat or breeding condition. Every female dog kept in violation hereof is declared to be a public nuisance and may be taken up and impounded.

E. It is unlawful for any person to abandon any animal, of any age or for any reason, within the city limits of Millbrae.

F. It is unlawful for any person to tease, torment or otherwise provoke into barking or howling any dog within the city limits of Millbrae.

G. No person shall keep or permit to remain on any premises within the city any animal that disturbs the peace and quiet of any neighborhood, or person residing therein, by barking, crying, baying or making any other noise sufficient in volume to so disturb the neighborhood or its residents. Any such animal so disturbing the peace is hereby declared to be a public nuisance.

H. Notwithstanding any contrary provision contained in this title, dogs are not required to be leashed while located within the fenced area of a publicly operated dog park and under the direct supervision of dog's owner or other person responsible for the dog. The owner or custodian of the dog shall comply with all posted rules of the dog park and shall not leave the dog unattended therein.

I. It is unlawful for the owner or person having custody of any dog to bring or allow such dog to remain, with or without a leash, upon any city property where signs have been posted by the city indicating that dogs are not permitted upon such property. It shall also be unlawful for the owner or person having custody of any dog to bring or allow such dog to remain, with or without a leash, upon the property of any school district in the city where signs have been posted by the school district indicating that dogs are not permitted upon such property and the school district has furnished to the city's chief of police a written request to enforce such restriction pursuant to this subsection.

J. Police dogs, while under the supervision and control of the officer responsible for the custody of such dog, shall be exempt from all provisions of this chapter.

§6.14.030 Permit required for multiple animals exceeding specified number

A. Dogs and Cats. No person shall keep, harbor, maintain, or allow to be kept, harbored or maintained, on one premises more than three (3) dogs and three (3) cats over the age of four (4) months without obtaining a permit. Licensed pet stores, veterinarian clinics, kennels or pet grooming facilities are exempt from this section. A permit may be obtained from the animal control

officer for the keeping of more than three (3) dogs and three (3) cats per premises. Issuance of such permit may be conditioned upon:

- (1) Whether or not the owner or possessor has a history of complaints filed with animal control services for violation(s) of any provision(s) of this chapter or zoning, health and safety, or building chapters or state code(s) relating to the keeping, care or possession of animals;
- (2) The owner or possessor's ability to conform to the other provisions of this chapter;
- (3) That the issuance of a permit will not be detrimental to the public's health, safety, or welfare or create a public nuisance;
- (4) Any reasonable criteria related to the proper care and maintenance of such animal(s) that the animal control officer may impose.

B. **Fowl and Other Animals.** No person shall keep, harbor or maintain, or allow to be kept, harbored or maintained, on one premises more than four (4) in number of any fowl, bird, rabbit, rodent, or combination thereof, unless a special permit shall be issued subject to the rules and regulations provided in this section and only on approval of the animal control officer. Any person keeping, harboring, or maintaining more than four (4) in number of fowl, birds, rabbits, rodents or combination thereof, on any one premises within the city shall be subject to the following regulations:

- (1) All buildings, pens, runs, or other places where such fowl or animals are kept shall be located at least one hundred (100) feet from any residence, the owner's excepted.
- (2) The floors of every such building shall be smooth and tight and maintained so as to prevent accumulation of filth and water.
- (3) The floor area of every such building where fowl are given free run shall be sufficient area so as to allow at least two and one-half (2 1/2) square feet per fowl.
- (4) All dead animals, manure, refuse, feathers, and other waste matter shall be removed within a reasonable time, not to exceed forty-eight (48) hours, or kept in fly-tight containers until such removal.
- (5) Rabbits and rodents must be kept in hutches so constructed as not to allow urine to pollute the ground, and provided with floors that are removable for the purpose of cleaning and disinfecting. No box hutches will be permitted.

§6.14.040 Revocation of permits

A. Any permit issued pursuant to Section 6.14.030 of this chapter is valid for the animal's life or until the expiration date specified in the permit, if any, unless it is sooner revoked by the animal control officer. Any permit may be suspended or revoked if, after investigation, the animal control officer finds any of the following to be true:

- (1) The permittee has violated any of the conditions or requirements set forth in the permit and has failed to correct such violation after receipt of written notice to do so from the animal control officer.
- (2) The permittee is convicted of any offense involving violation of any provision of this chapter or zoning, health and safety, or building chapters or any state code relating to the keeping, care or possession of animals.
- (3) The permittee has failed to keep and maintain the premises for the animal(s) in a clean and sanitary manner.
- (4) The permittee has failed to provide any animal with proper food, water, shelter, attention or veterinarian care.
- (5) The permittee has violated any criteria which the animal control officer has imposed for keeping the animal(s) for which the permit was issued.

B. Any permittee whose permit has been suspended or revoked may appeal the animal control officer's decision to the city council.

§6.14.050 Recording of animal complaints

Animal complaints handled by the city's public safety department shall be recorded, and shall include the date(s), animal and owner name and address, and measures taken in response to complaint. Public safety records on animal complaints shall be provided to animal control services in order to ensure completeness of their records regarding complaints. In addition, provision will be made to receive records from the department of animal control services regarding complaints handled by its officers, on a periodic basis, including the date(s), animal and owner name and address, and measures taken in response to complaint.

§6.14.060 Adoption of animals

Any person adopting an unspayed or unneutered dog or cat from any humane society, S.P.C.A., animal control shelter, or any other animal-welfare organization 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 is inappropriate for the animal in question. On submission of such written statement to the person at such organization responsible for ensuring compliance with this section, the adoption agreement will be modified accordingly.

SECTION 7. SEVERABILITY.

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

SECTION 8. EFFECTIVE DATE; PUBLICATION.

This Ordinance shall be in full force and effect thirty (30) days from and after its passage. At least five days prior to its adoption and within fifteen days after its adoption, a summary of this Ordinance shall be published once in a newspaper of general circulation printed and published in the County of San Mateo and circulated in the City of Millbrae.

INTRODUCED at a regular meeting of the City Council of the City of Millbrae held on the _____.

ENACTED at a regular meeting of the City Council of the City of Millbrae held on _____ by the following roll call vote:

AYES:

NOES:

ABSENT:

MAYOR

ATTEST:

CITY CLERK



COUNTY OF SAN MATEO
Inter-Departmental Correspondence

Environmental Services Agency

DATE: August 4, 2005
BOARD MEETING DATE: September 13,
2005

SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors
FROM: Marcia Raines, Environmental Services Agency Director
SUBJECT: Dangerous Animal Ordinance Revisions

RECOMMENDATION:

Adopt an ordinance amending certain sections of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code regarding Animal Control and Dangerous Animal Proceedings

VISION ALIGNMENT:

Commitment: Ensure basic health and safety for all.

Goal(s): Maintain and enhance the public safety of all residents and visitors.

This ordinance amendment contributes to the goal of maintaining the public safety of all by tightening local authority over animals that may be a threat to the public safety.

BACKGROUND:

The County has contracted with the Peninsula Humane Society (PHS) for Animal Control Services to all cities and the unincorporated areas of the County for over 45 years. The twenty cities of the County have historically contracted with the County for Animal Control Services. The contract between the County and cities states each city is responsible to adopt and maintain a substantially same animal control ordinance and fee schedule as the County. Enforcement of city ordinances which differ substantially from the County ordinance and which result in an increase to PHS' costs shall be reimbursed directly from the city requiring special services to PHS, as negotiated between the city and PHS. Under the existing ordinance, all cities maintain a substantially similar animal control ordinance that does not require

additional services from PHS. After approval from the Board of Supervisors, each city will be required to adopt the revised ordinance within 60 days. The ordinance will become effective Countywide thirty days from the date of adoption by the last of the twenty cities.

While the existing dangerous animal ordinance provides vigorous controls over animals posing a threat to public safety, County, city and PHS staff sought to tighten existing regulations. Through a series of meetings with the Animal Control Task Force, which included representatives from all cities and PHS, a revised ordinance was developed. Under both the existing and revised ordinances, animal control staff has the latitude to declare an animal "dangerous," which means the animal owner may maintain the animal under a set of strict conditions under the jurisdiction of a dangerous animal permit. The dangerous animal designation generally follows an incident involving an attack to another animal or a relatively minor bite to a human. Animal control staff also has the authority to impound and euthanize an animal that has committed an attack of an egregious nature. Should an animal owner disagree with the dangerous animal declaration or intent to impound and euthanize an animal, they may request a hearing to dispute the charge. The revised ordinance follows this existing system, yet allows for more stringent regulations on dangerous animals, clarifies the hearing procedure, and cleans up various provisions of the ordinance.

Current state laws prohibit cities and counties from passing breed specific ordinances. There is currently a bill pending at the state level which would allow local jurisdictions to adopt an ordinance mandating spay/neuter and breeding permits for certain breeds of dogs. Should this state legislation be enacted, the County and cities may opt to pass additional revisions regarding spay/neuter and breeding permits on a breed specific basis. As of the writing of this memo, the bill had passed the Assembly and will now move on to the Senate.

DISCUSSION:

The following is a summary of changes contained in the revised ordinance:

6.04.010 Definitions

- Clarify the definition of animal "owner" as the person over 18 years of age who holds the license to the animal, or if animal is unlicensed, the person who has primary responsibility to care for the animal.
- Clarify the definition of "dangerous animal" including automatically defining any animal declared dangerous, potentially dangerous, vicious or any other similar term in another jurisdiction as dangerous in San Mateo County. These animals may be maintained in the County with a Dangerous Animal Permit.
- Add the definition of a "vicious animal:" any animal previously designated as dangerous found violating the dangerous animal permit; any animal seized under state laws prohibiting dog fighting; any animal which inflicts severe injury on or kills a human being or another animal; or any animal which represents a clear and present substantial threat to public safety and is

unlikely to be safely maintained under a dangerous animal permit. These animals are to be euthanized unless a hearing is requested and the vicious animal declaration overturned.

- Add a definition of "severe injury"

6.04.020 Animal Control Program

- Update references to state penal codes regarding the scope of authority of Humane Officers and Animal Control Officers.

6.04.100 Permit for Dangerous Animals

- Clarify any animal declared dangerous for which a permit has not been obtained shall be surrendered to Animal Control.
- Add language allowing any interested person to request a hearing should Animal Control investigate an incident and determine an animal is not dangerous.
- Add language stating the Animal Control Officer or Hearing Officer may take into account any mitigating factors such as provocation, willful trespass of the victim or threatening actions on the part of the victim into account in making a dangerous animal declaration.
- Add language stating should the animal owner not request a hearing within five days of the Animal Control Officer's dangerous animal designation, the hearing process is deemed waived by the owner and the decision considered final by the County and/or city having jurisdiction.

6.04.105 Declaration of vicious animals

- Add a new section in its entirety regulating the declaration of animals as vicious. An animal declared vicious cannot be maintained in San Mateo County. The investigation and hearing process for vicious animals mirrors the process for dangerous animals.

6.04.110 Issuance of permit for dangerous animal

- Move language to this section stating dangerous animal permits are not transferable and are subject to renewal and approval each year

6.04.115 Hearing Procedures

- Add a new section in its entirety regulating the hearing procedures for both dangerous and vicious animal hearings, including: timeframes for scheduling hearings; city use of County hearing officers; hearing procedures; exclusion of disruptive persons; issuance of a decision in the absence of the animal owner; timeframes of hearing decisions; costs of hearing made billable to animal owner; and decision options available to the hearing officer.
- Add language stating the hearing officer may find an animal vicious and the owner shall lose possession of the animal or dangerous and a mandatory permit must be obtained. The hearing officer may also require a permit be obtained containing all or several of the following additional restrictions: the animal must be muzzled when off the owner's property; the owner must

provide a certificate of insurance; the owner must provide behavioral training to the animal; the owner must reimburse the victim for medical or veterinary expenses; or any other permit requirement the Hearing Officer deems necessary to protect public safety.

6.04.120 Mandatory dangerous animal permit requirements

- Add the owner shall not keep a dangerous animal in a house or structure when windows or doors are open or screen doors are the only obstacles preventing the animal from exiting the structure.
- Move language to this section stating the owner shall open the premises where the animal is maintained for inspection upon request.
- Add the owner must have a dangerous animal spay/neutered within 15 days of permit issuance, unless a licensed and practicing veterinarian proves the animal cannot endure the surgery for medical reasons.
- Move language to this section stating the owner may not transfer a dangerous animal without 24-hour notice before transfer. Should the owner wish to transfer the animal to another individual in San Mateo County, the new owner must submit to a property inspection and comply with the permit requirements.
- Add no more than two dangerous animals may be kept at any one household
- Add no animal declared dangerous due to aggression to humans may be maintained in a household in which a juvenile person under the age of 18 resides.
- Move language to this section stating the owner must notify Animal Control within 24-hours of the animal's death, and produce the body if requested. The owner must also notify Animal Control if the animal is lost or stolen.
- Add the owner must pay all permit and property inspection fees

6.04.130 Misdemeanor violations

- Add language stating that any person violating any provision of the Chapter is guilty of an infraction, with the exception of the following misdemeanors: maintaining a dangerous animal without a permit or harboring a vicious animal. This allows Animal Control to process minor violations (e.g. not having a warning sign posted on a gate) without needing the assistance of the city attorney or district attorney.

6.04.140 Possession of animals after revocation of dangerous animal permit or vicious declaration

- Add an owner determined in possession of a vicious animal or a dangerous animal with a revoked permit may not be granted any dangerous animal permit for three years.

6.04.150 Inspection fee

- Move language stating a fee will be charged to the animal owner for costs associated with inspection of property

6.04.160 Revocation or modification of permit

- Clarify the process for revocation or modification of dangerous animal permits due to a violation of the permit's requirements, including clarification of the hearing procedure and timeframe
- Allow the Animal Control Officer or Hearing Officer to modify a permit by adding additional requirements
- Clarify owner must surrender an animal within two days if a permit is revoked, or provide written proof the animal has been removed from the County

6.04.170 Animals to be impounded

- Clarify any animal suspected of being dangerous or vicious may be impounded for up to fifteen days or pending a hearing

6.04.180 Notice of impounded animals

- Clarify upon impoundment of an animal, written notice shall be provided to the owner, and the owner may request a hearing

6.04.190 Record of impounded animals

- Clarify Animal Control shall keep records of all impounded animals

6.04.220 Redemption

- Clarify the owner of an impounded animal may redeem the animal by paying any requisite fees

The ordinance revision also contains numerous clerical "clean-ups" throughout.

County Counsel has reviewed the ordinance and finds it in order.

FISCAL IMPACT:

The ordinance raises the limit on hearing fees from \$250 to \$350. Since the number and cost of hearings varies, this change may result in approximately \$1,500 in additional revenue that will be used to offset the County and cities' Animal Control costs.