Council Agenda # 6-A
Meeting of January 24, 2006

Staff Report

DISCUSSION AND DIRECTION REGARDING REVISIONS TO ANIMAL CONTROL ORDINANCE

Honorable Mayor and Council Members:

Summary

The animal control contract between Belmont and San Mateo County requires that Belmont adopt and maintain a substantially similar animal control ordinance and fee schedule as the County. The County, with participation and input from cities, has recently conducted a thorough review and update of its ordinance. That Ordinance as amended is attached as Attachment A.

At this time, Belmont and all other Cities in the County have been requested by the County to update their animal control ordinances to be consistent with what the County has adopted.

Belmont's current Ordinance is attached as Attachment B.

The Police Department and City Attorney have reviewed and compared the ordinance and the police chief has prepared a summary of the main differences and highlights. This is attached as Attachment C. Staff recommends that the Council review and discuss the current Ordinance and the proposed changes, and provide any additional direction to staff for ordinance amendments.

Background & Discussion

The County has contracted with the Peninsula Humane Society (PHS) to provide animal control services to all cities and the unincorporated areas of the County for over 45 years. The 20 Cities of the County have historically contracted with the County for animal control services. The contract between the County and Cities states that each City is responsible for adopting and maintaining a substantially similar animal control ordinance and fee schedule as the County.

In 2003, Belmont made major revisions to its Animal Control Ordinance, contained in Article I, Section 5-1 et seq. The only provisions of Belmont's Ordinance which would need to conform to the County Ordinance are those sections relating to dangerous or vicious animals. Through Belmont's contract with San Mateo County, the Peninsula Humane Society, and San Mateo County Environmental Services Agency are responsible for enforcing the provisions of Belmont's Ordinance that would become substantially similar to the County's provisions. Those provisions of Belmont's Ordinance that differ from the County's would be enforced by Belmont.

Attachment C details the main changes to the provisions of Belmont's Ordinance which would be required by adoption of the new County provisions. The main changes would be to clarify the definitions of dangerous animals, and add a new definition for "vicious" animals. These and the other highlighted changes would result in generally more stringent regulation of dangerous and vicious animals than was in the County's previous Ordinance or the City's Ordinance.

Fiscal Impact

It is expected that City Staff will continue to enforce the Belmont-specific provisions of its Animal Control Ordinance. Therefore, any costs incurred will be related the enforcement of these provisions.

Public Contact

Posting of the City Council Agenda.

Recommendation

Staff recommends that the Council provide direction regarding the issues raised in this report so the Ordinance can be revised and brought back for introduction at the next available meeting.

Alternatives

The City Council may wish to direct staff to pursue one of the following alternatives:

1. Make additional changes to their Animal Control Ordinance.

Attachments

A. County of San Mateo Animal Control Ordinance
B. City Belmont Animal Control Ordinance
C. Summary of the main differences and highlights

Respectfully submitted,

Marc L. Zafferano
City Attorney

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ATTACHMENT A

County of San Mateo Animal Control Ordinance

ORDINANCE NO._____
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * * *

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF SAN MATEO COUNTY AMENDING CERTAIN SECTIONS OF CHAPTER 6.04 OF TITLE 6 OF THE SAN MATEO COUNTY ORDINANCE CODE

The Board of Supervisors of the County of San Mateo, State of California, ORDAINS as follows

SECTION 1: Section 6.04.010 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to read as follows:

6.04.010 Definitions.

(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) "Director of Environmental Services Agency" means that person so designated by the governing body of the County of San Mateo.

(e) "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 of San Mateo.

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

(g) "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.

(h) "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.

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

(j) "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:

(1) Any animal previously designated as "dangerous," that after investigation by an Animal Control Officer and/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 and/or upon the sustaining of a conviction of the owner or caretaker under subdivision (a) of the 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.

(k) "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.

SECTION 2: Subsection (b) of Section 6.04.020 is hereby amended to read as follows:

(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.

SECTION 3: Section 6.04.100 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to be entitled and to read as follows:

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 and/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.

(4) Or 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 and/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 and/or Peace Officer within five (5) calendar days of written notification by the Animal Control Officer and/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 having jurisdiction. In that event, the County Director of the Environmental Services Agency or the City having jurisdiction 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 and/or Peace Officer.

SECTION 4: A new Section 6.04.105 is hereby added to Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code to be numbered and entitled and to read as follows:

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 and/or Peace Officer has investigated and determined that an animal is vicious, the Animal Control Officer and/or Peace Officer shall deliver to the owner of the animal written notice of that determination. The Animal Control Officer and/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 and/or Peace Officer (s)he may submit a written request for a hearing to the Animal Control Officer and/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 having jurisdiction.

(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.

(4) Or any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, Peace Officer or Hearing Officer.

SECTION 5: Section 6.04.110 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to be entitled and to read as follows:

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.

SECTION 6: A new section 6.04.115 is hereby added to Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code to be numbered and entitled and to read as follows:

6.04.115 Hearing procedures.

(a) The hearing pursuant to this section shall be conducted by a hearing officer or designated representative appointed by the Director of the Environmental Services Agency. Any city contracting with the County for animal control services may elect to utilize the services of any San Mateo County designated hearing officer to hold hearings under that 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 and/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 or designated representative 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;

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:

i) That the owner keep the animal muzzled at all times when the animal is off the owner's property;

ii) 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;

iii) 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, and/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;

iv) That the owner comply with any other permit requirement the Hearing Officer deems necessary to protect the public health or safety;

v) That the owner reimburse the victim for the victim's medical expenses or the victim animal's veterinary expenses;

vi) 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.

SECTION 7: Section 6.04.120 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to be entitled and to read as follows:

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 County 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. Transfer within San Mateo County may be denied by the Animal Control Officer for just cause.

(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 any other permit conditions or requirements imposed pursuant to section 6.04.115 or 6.04.100(a).

SECTION 8: Section 6.04.130 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to be entitled and to read as follows:

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.

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

SECTION 9: Existing Section 6.04.140 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby repealed and a new Section 6.04.140 is hereby added to be numbered and entitled and to read as follows:

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.

SECTION 10: Section 6.04.150 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby repealed and a new Section 6.04.150 is hereby added to be numbered and entitled and to read as follows:

6.04.150 Inspection fee.

A fee shall be charged for the costs incurred by County 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.

SECTION 11: Section 6.04.160 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to read as follows:

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 local animal ordinances, 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 his residence or his 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, it 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, (s)he 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 permittee'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.

SECTION 12: Section 6.04.170 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to read as follows:

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.

SECTION 13: Section 6.04.180 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to be entitled and to read as follows:

6.04.180 Notice of impounded animals.

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.

SECTION 14: Section 6.04.190 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby repealed.

SECTION 15: Section 6.04.200 of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code is hereby amended to read as follows:

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.

SECTION 16. Section 6.04.220 of Chapter 6.04 of Title 6 of the San Mateo County

Ordinance Code is hereby amended to read as follows:

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.

SECTION 17: Unless specifically amended herein, the remaining sections of Chapter 6.04 of Title 6 of the San Mateo County Ordinance Code shall remain in full force and effect.

SECTION 18: This Ordinance shall be effective thirty days (30) from the date of adoption by the last of the twenty cities which are parties to the Agreement for Animal Control Services, dated June 17, 2003, as amended.

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Revised July 21, 2005

ATTACHMENT B

City Belmont Animal Control Ordinance

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

(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 duly authorized officers or deputies, as well as the executive director of the county's contract agent and his 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 for the impounding of animals.

(d) *Director of Environmental Services Agency* means that person so designated by the governing body of the County of San Mateo.

(e) *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 of San Mateo.

(f) *Health officer* means that person who has been designated by the board of supervisors as the health officer of the county and any other person duly authorized by such health officer to act on his behalf.

(g) *Impoundment* means the picking up and confining of an animal by the animal control program.

(h) *Owner* means that person legally entitled to possession of the animal concerned or a member of the household or business where such animal is being kept or a designated agent of the person legally entitled to possession.

(i) *Person* includes corporations, estates, associations, partnerships, and trusts, as well as one (1) or more individuals.

(j) *Dangerous animal* means any animal, except a trained dog assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following behaviors:

(1) a. An attack, without provocation, 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; or

b. Any behavior, without provocation, that constitutes a physical threat of bodily harm to a person; where such attack, injury or behavior occurs in a place where such person is conducting himself peaceably and lawfully.

(2) An attack without provocation, on another animal or livestock, which occurs off the property of the owner of the attacking animal.

(3) A violation of running or being at large off the animal owner's property and harassment or molestation of person(s).

(4) An animal that creates a danger or constitutes a menace to the public's health and safety due to its training or the inherent nature of the animal.

(5) A dog which has scars or wounds which are attributable to fights or altercations with

another animal.

(k) *Peaceably* and *lawfully* means a person is upon the private property of an owner of the animal when he is on such property in the performance of any duty imposed upon him by the laws of this state or any city or county, or by the laws or postal regulations of the United States, or when he is on such property upon invitation by the owner or his/her designee, expressed or implied.

(l) *Kennels* means the keeping of or causing to be kept more than ten (10) dogs at any one (1) premises whether a commercial or noncommercial kennel.

(m) *Commercial kennels* means the breeding, raising or keeping of dogs for sale; or the boarding, racing or other commercial handling of dogs or any combination of the foregoing by any person, firm or corporation.

(n) *Catteries* means a place, either indoors or enclosed, for the commercial breeding, raising or keeping of more than ten (10) cats; or the boarding or other commercial handling of more than ten (10) cats or any combination of the foregoing by any person, firm or corporation.

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

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-2. 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 animal control officers.* Animal control officers appointed pursuant to California Civil Code, section 607f shall have the authority to issue notices to appear in court pursuant to chapter 5c (commencing with section 8953.5 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 607g of the California Civil Code.

(c) *Right to contract for animal control services.* The governing body may contract for animal control services to be performed county wide, including cities, provided agreement is made with other concerned jurisdictions.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-3. 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 (10) working days of purchasing a license shall procure from a licensed veterinarian, an antirabies vaccination to be administered in the manner prescribed or approved by the state 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-4. Dog and cat licenses and wolf hybrid registration.

(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 this county or any city that has adopted the provisions of this section. Said annual license fee shall be first due when the animal reaches four (4) months of age or within sixty (60) days after the dog or cat is acquired, and due on the anniversary 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 5-24. The fee paid for the licensing of spayed or neutered dogs and cats shall be less than said license fee for unaltered dogs or cats upon presentation of the proper certification. The license fee paid by persons over the age of sixty (60) shall be at a discount. For purposes of this section any surcharge on the license fee imposed under section 5-24 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 5-24. 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 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 animal control program manager shall procure plates or tags which bear the number of the license. 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 is issued and the number of the license, and a tag shall be provided to such person upon payment for such license as

provided by this chapter.

(d) *Duplicate tags.* Whenever a tag has been lost or stolen, the owner or possessor of the dog, cat 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 or cat for which a license 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.* Dogs and cats with microchip implants or other permanent identification acceptable to the animal control services shall not be required to wear a tag or collar. All other licensing requirements of the part 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 dog or cat 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 county any dog or cat with antirabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the county-approved antirabies vaccination form, within ten (10) days of the beginning of each month, for any dog or cat which he/she vaccinates or directs to be vaccinated with antirabies 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.

(i) *Wolf hybrid registration; requirements.* An annual registration fee shall be paid for every wolf hybrid over the age of four (4) months owned or harbored in the City of Belmont. 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 5-24. 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-5. 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) Any person who violates any provision of this subsection (a), (b) or (c) of this section is guilty of a misdemeanor. 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 owner's or possessor's household.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-6. Prohibited conduct.

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

(1) 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.

(2) 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.

(3) To suffer or permit such animal to habitually bark or meow or act in such manner as to continuously disturb the peace of any citizen or to be a public nuisance.

(4) To be without proper and adequate food, water, shelter, care and attention as described in section 597f of the Penal Code.

Subsection (1) of this section shall not be applicable to cats.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-7. Transportation of and unattended animals/motor vehicle.

(a) No person, other than the individual actually working a dog or other animal for ranching purposes, shall transport or carry on any 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 devise to prevent the animal from falling down, being thrown from, or jumping from the 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 or 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) Notwithstanding any other provision of this chapter, a violation of subsection (a) or (b) of this section shall be an infraction. 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-8. Permit for dangerous animals.

(a) No person shall knowingly keep, have, maintain, sell, trade or let for hire an animal previously identified as dangerous without obtaining a dangerous animal permit from the animal control officer. Violation of this requirement shall constitute a misdemeanor.

(b) Upon receipt of written or oral notification by the animal control officer than an animal is dangerous as defined by this chapter, the owner and/or possessor shall submit an application for a dangerous animal permit to the animal control officer within five (5) days. The application for a permit shall contain the name of the applicant, the applicant's address, the applicant's home and business telephone numbers, the address and description of the proposed location of where the animal will be kept, if different from the applicant's, a complete description, and a photograph of the animal.

(c) If the owner/possessor of an animal disputes identification of an animal as a dangerous animal by the animal control officer, he may submit a written request for a hearing to the animal control officer within five (5) working days of notification. Failure of the owner and/or possessor to request a hearing shall result in the animal's being declared dangerous, and the owner and/or possessor shall be subject to compliance with this section.

(d) The hearing pursuant to this section shall be conducted by the director of community services or a designated representative. Hearings shall be held not more than fifteen (15) days from the receipt of the request for the hearing and shall be conducted in an informal manner consistent with due process of law. A hearing may be continued if the hearing officer deems it necessary and proper or if the owner, custodian or animal control officer shows good cause. Both the owner of the animal and animal control services may present relevant evidence and call and cross-examine witnesses, but the strict rules of evidence shall not be applicable. The director or designated representative shall render a brief written decision which shall be final within ten (10) days of the hearing. Unless the hearing officer otherwise determines, the owner or possessor is liable for all costs related to such hearing, not to exceed two hundred fifty dollars ($250.00). 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.

(e) A permit obtained under this section is not transferable. When a permittee's address or the location where the animal is kept changes, the permit automatically becomes void and a new application must be submitted to the animal control officer. Violation of this subsection shall be a misdemeanor.

(f) This permit is subject to renewal ad approval every year. The permittee shall pay an annual fee for this permit, pursuant to the procedures established by the division of animal control services. If the permittee fails to file application for renewal or pay the permit fee prior to the permit anniversary date, the permit automatically becomes void. The fee for such permit shall be as set forth in section 5-24. This fee shall not be refundable.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-9. Issuance of permit for dangerous animal.

(a) The issuance of a permit shall be conditioned upon the animal owner, possessor or permittee promising to adhere to the rules and regulations specified in section 5-10 and to any reasonable criteria related to the proper care, control, maintenance and use of the animal which the animal control officer shall establish.

(b) The approval of the application can be conditioned upon whether or not the owner, possessor or permittee has a history of complaints filed with the animal control officer for

violation of any sections of this chapter relating to the care and control of animals and/or the owner's possessor's, or permittee's ability to conform to the provisions of this section.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-10. Rules and regulations.

The division of animal control services hereby establishes that any owner and/or possessor of a dangerous animal shall adhere to the following rules and regulations:

(1) When the animal is off its property, it must be restrained with a lease not to exceed four (4) feet in length and shall be under the direct control and supervision of the owner or possessor of such animal. Extraordinary care shall be taken by the owner or possessor to ensure that such lease is sufficient to control the animal in a manner in which it will not endanger other persons or animals.

(2) The animal must be maintained so that it is no threat to any mail carrier, sanitation worker, meter person, or other person who has the lawful right to enter the property, either by expressed or implied consent where the animal is maintained.

(3) The animal is not allowed to be upon any unenclosed premises unless it is leashed and controlled by a person capable of controlling such animal. The animal is not allowed to be tethered, tied or staked on any unenclosed premises.

(4) The animal must be kept in a fenced yard, kennel, run or enclosure approved by the animal control officer. The owner shall inspect the fenced yard, kennel, run or enclosure periodically to ensure that it is secure to maintain the animal.

(5) 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.

(6) The permittee, owner or possessor of a dangerous animal must advise all members that reside in the same household and on the same premises such conditions as established by the permit for keeping or maintaining the dangerous animal.

(7) The owner shall strictly comply with all local and state laws regarding the care, use, control and maintenance of animals.

(8) In addition to a dog license, 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. All "dangerous animals" shall also be microchipped and registered at the Peninsula Humane Society for a fee not to exceed twenty dollars ($20.00). Payment of said fee is the responsibility of the animal owner(s), and shall be utilized by Peninsula Humane Society to offset the cost of the chip and to maintain the registration program. The owner of any animal designated as "dangerous" prior to adoption of this subsection shall have ninety (90) days from its onset to have the animal "microchipped" at the Peninsula Humane Society.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-11. Violation a misdemeanor.

Notwithstanding any other provision of this chapter, a permittee in violation of section 5-10 shall be guilty of a misdemeanor.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-12. Inspection.

Permits issued pursuant to this chapter shall provide that, as a condition for issuance, the premises upon which an animal is maintained shall be opened at any reasonable hour for inspection by the animal control officer and that the premises shall be surrendered for inspection by the permittee upon the request of the animal control officer.

A fee shall be charged for the costs incurred by county 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 5-24.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-13. Revocation of permit.

(a) Subject to the provisions of subsection (b), any permit issued pursuant to this section may be revoked if the animal control officer has reasonable cause to believe any of the following to be true:

(1) The permittee, or the person caring for or having control, or his agent has violated any local animal 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 permittee has violated any rules, regulations or conditions adopted by the division of animal control services or any reasonable criteria established by the animal control officer as necessary to ensure the animal will not endanger the peace, health or safety of any person or property; or

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

(b) If, after investigation, the animal control program concludes that it is probable that one (1) or more of the above grounds for revocation has occurred, it shall cause written notice thereof to be transmitted by mail to the address of the permittee. The 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. The date shall be not less than five (5) 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 depending upon the permittee's ability to comply with the requirements of this chapter.

(c) In the event that it is reasonably necessary to protect against a potential or immediate threat or danger to the public or to an animal's health or safety, the animal control program may revoke any permit and impound the animal without a hearing, for a period of not to exceed thirty (30) days.

(d) Upon written or oral notification or the revocation of a permit for a dangerous animal, the owner or possessor of such animal shall within ten (10) calendar days of such notification surrender the animal to the animal control program or provide written proof to the animal control program in the from of declaration(s) under penalty of perjury that such animal has been permanently removed from the County of San Mateo. Failure to surrender such animal or provide the required proof of removal shall be a misdemeanor.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-14. Animals to be impounded.

Every animal kept or found under conditions which constitute a violation of this chapter may be impounded by an animal control officer. With respect to diseased or dangerous animals, the animal control officer or his designee shall have the authority to enter the premises in a lawful manner, and to take up, impound and safely keep an animal. Upon denial, or revocation of a permit when an owner refuses to apply for a permit or when the animal control officer has reasonable cause to believe that any animal is dangerous, the animal control officer may also impound the animal and keep it for such period not to exceed ten (10) days in order to observe, examine and determine whether or not such animal is dangerous. Except as otherwise provided hereunder, an impounded animal may be redeemed by the owner or person entitled to its possession, after payment of the required fees and charges. In the event such animal is not so redeemed within ninety-six (96) hours, it may either be sold or destroyed, at the discretion of the animal control officer.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-15. Notice to owner of animals impounded.

Within twenty-four (24) hours of the impoundment of any animal, the animal control program shall mail a written notice thereof to the place of business or residence of the owner of the animal if known. The animal control officer shall maintain records of such impoundment pursuant to section 5-17.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-16. Hearing following impoundment.

Except as otherwise provided, any owner or possessor of any animal impounded pursuant to this chapter is entitled to a hearing conducted by the health officer or by his designee (the "hearing officer") within ten (10) days following such impoundment provided such owner or possessor (the "petitioner") files a written petition therefor with the animal control program within three (3) days following written notice of such impoundment. Unless the hearing officer otherwise determines such petition is liable for all costs related to such impoundment. At the hearing, the petitioner and the animal control program may be represented by counsel, may present oral and written evidence, and may cross-examine witnesses. Strict rules of evidence need not apply. 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 decision of the hearing officer or his designee shall be supported by the weight of the evidence. The petitioner shall be given written notice of the decision within fifteen (15) days of the hearing. The hearing officer or his designee according to this chapter may rule that the owner or possessor of the animal will lose all rights of ownership and control of the animal; may order that the animal will be destroyed if the animal has bitten or injured a person or domestic animal; may declare an animal to be a dangerous animal as defined in this chapter; and may require the owner or possessor, before the animal is released to his custody, to obtain a permit under section 5-9 and sign an agreement which contains conditions, such as, but not limited to, the following:

(1) To keep the animal confined on his premises in an enclosure approved by the health officer or his designee;

(2) To keep the animal securely muzzled, leashed and under the control of a person eighteen (18) years of age or older, and who is physically capable of restraining the animal when the animal is off his property;

(3) To prove financial responsibility by posting a bond or certificate of insurance for an amount not to exceed one hundred thousand dollars ($100,000.00);

(4) To inform, along with the animal control program, an city, county or postal service employee, utility company meter readers, and anyone else who comes onto the property with implied consent or peaceably and lawfully, of the animal's viciousness if the animal is moved.

A violation of any of the terms or conditions of this agreement shall result in the animal's being impounded.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-16.1. Release from confinement.

No person other than the owner or person authorized by the owner of the animal shall release any animal from 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-17. Record of impounded animals and field return fee.

The animal control shelter 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 chapter. Such records shall be kept for five (5) years.

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 5-24.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-18. Redemption.

(a) Except as otherwise provided by this chapter 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 the animal control services. Animal control services shall issue to the owner duplicate receipts for the amount of the fee paid.

(b) Upon redemption of any impounded unaltered animal, the owner will be required to pay a spay/neuter fee in the amount of thirty-five dollars ($35.00) in addition to the impound fees imposed under section 5-24. Such fee shall be refundable upon proof of spay/neuter of the animal within thirty (30) days of the redemption date. Any unaltered animal impounded twice or more within a three-year period shall be altered at the owner's expense prior to redemption. At the option of the owner, required spaying or neutering may be performed by a private veterinarian.

(c) Any owner of an impounded animal subject to mandatory spay/neuter under subsection (b) may petition, in writing, for a hearing conducted by the animal control program manager or his or her designee within three (3) days following notice of the second impoundment. The hearing shall be held within (4) working days of receipt of such petition. After the hearing, the hearing officer may require that the animal be spayed or neutered at the owner's expense, unless the hearing officer determines that good cause exists for not requiring that the animal be spayed or

neutered.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-19. Redemption fees.

Fees for animal shelter services shall be as set forth in section 5-24. No animal shall be released to its owner or possessor unless and until such fees are paid in full.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-20. 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-21. 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 the appropriate control of all the animals concerned within the county. Such 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-22. 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-23. Quarantine and service fees.

(a) *Quarantine fee* : A fee shall be charged for the costs incurred by the 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 designee in housing, feeding and otherwise caring for a quarantined animal. Such fee shall be set forth in section 5-24.

(b) *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 5-24 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-23.1. Keeping of dogs and/or cats.

It shall be unlawful for any person to keep or cause to be kept to cause to be kept or to assist in keeping more than four (4) dogs or four (4) cats or any combination of dogs and cats totaling more than four (4) at any one (1) premises within one-half (1/2) mile of any adjoining residence in the county, unless in conformance with this chapter or unless in conformance with the fancier's permit issued under Article IB of this chapter.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-24. Schedule of fees and charges.

Fees and charges referred to in this chapter are as follows:

(a) *Dog license fee* :

Unaltered dog, which includes a fifty-cent ($0.50) surcharge for the Animal Population Trust Fund . . . $21.00

Altered dog . . . 11.00

Senior discount (with proof citizen is sixty (60) years of age or older:

Unaltered . . . 11.00

Altered . . . 6.00

Late penalty . . . 5.00

Duplicate tag . . . 3.00

Cat license fee :

Unaltered cat, which includes a fifty-cent ($0.50) surcharge for the Animal Population Trust Fund . . . 11.00

Altered cat . . . 6.00

Senior discount (with proof citizen is sixty (60) years of age or older):

Unaltered . . . 7.00

Altered . . . 4.00

Late penalty . . . 5.00

Duplicate tag . . . 3.00

Wolf hybrid registration :

Unaltered . . . 21.00

Altered . . . 11.00

Duplicate tag . . . 3.00

(b) *Redemption charges* :

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

Impound cost . . . 50.00

Board cost, per day . . . 16.00

Trailering fee, per use . . . 50.00

(2) *Type B (medium-size animals, i.e., hogs, sheep, etc.)* :

Impound cost . . . 30.00

Board cost, per day . . . 12.00

Trailering fee, per use . . . 50.00

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

TABLE INSET:

Impound Cost	*Altered*	*Unaltered*
First offense - Licensed or registered hybrid wearing tag	$20.00	$40.00
-Unlicensed, no tag	30.00	60.00
Second offense	60.00	80.00
Third offense	90.00	100.00
Fourth offense	120.00	140.00
Fifth offense and up and up	150.00	170.00

TABLE INSET:

Board cost	Per Day

Dogs/wolf hybrids . . . $10.00

Cats . . . 7.00

(4) *Type D (small-size animals, i.e., birds, hamsters)* :

Impound cost . . . 5.00

Board cost, per day . . . 2.00

(c) Quarantine fee . . . 35.00

(d) Dangerous animal permit fee . . . 100.00

(e) Field return fee . . . 25.00

(f) Property inspection fee . . . 25.00

(g) Breeding permit fee . . . 25.00

(h) Fancier's permit fee, per household . . . 10.00

(i) The animal control program may establish license discounts for recognized rescue organizations.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-25. Penalty for violation.

Except as specifically stated elsewhere, any violation of the provisions of this chapter, including those provisions relating to required fees, shall be punishable as an infraction, the penalty for which shall be as follows:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation.

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation of the same ordinance within one (1) year.

(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation of the same ordinance within one (1) year.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-26. 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27. Canine feces.

(a) No owner or possessor, or person having control of any dog, shall do any of the following:

(1) Permit or allow the dog to defecate upon the public property of the city or upon the private property of another person without the consent of the occupant or owner of that property unless the owner or the person having control or custody of the dog immediately removes the feces and properly disposes of it;

(2) Walk a dog on public property of the city or upon the private property of a person without carrying at all times a suitable container or other suitable instrument for the removal and disposal of canine feces;

(3) Fail to dispose of the container of the feces in a sanitary manner.

(b) Notwithstanding any other provision of this chapter, a violation of this section shall be an infraction, punishable as follows:

(1) For the first violation, a fine of fifty dollars ($50.00).

(2) For the second violation, a fine of one hundred dollars ($100.00).

(3) For the third and subsequent violation, a fine of two hundred dollars ($200.00).

(Ord. No. 983, § 1, 2-11-03)

ARTICLE IA. SPAYING/NEUTERING OF CERTAIN DOGS AND CATS AND BREEDING PERMIT PROGRAM

Sec. 5-27.5. Spaying/neutering.

(a) No person shall own or harbor within, unincorporated San Mateo County or any city that has adopted the provisions of this chapter, any cat or dog over the age of six (6) months which has not been spayed or neutered, unless such person holds either a license to keep an unaltered dog or cat or license and permit for breeding cats or dogs issued by San Mateo County Animal Control Services under section 5-27.6 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 5-27.6 of this Code.

(c) Any person providing care or sustenance for a period of thirty (30) 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 colony, 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.6. Breeding permits; administration.

(a) No person shall cause or allow any dog or cat owned or harbored, in unincorporated San Mateo County or any city that has adopted the provisions of this chapter, 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 5-24 of this Code.

(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 animal control services. Such breeding permit is required in addition to any license required under section 5-4 of this Code. Breeding permits shall be

valid for twelve (12) months, renewable on an annual basis. Fees for such permit shall be as set forth in section 5-24. 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 (1) 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 number in any publications in which they advertise. Further, the permit number must be provided to any person adopting or purchasing any 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.7. Sale or adoption of cats or dogs.

(a) Any person who provides or offers to the public, whether or not for compensation, any pet or pet related goods or services shall provide to their clients, free of charge, information relating to pet care and ownership, including information on county laws pertaining to animal control. This required information will be prepared and provided by the San Mateo County Animal Control Services.

(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 or permit requirements of San Mateo County 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.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.8. Revocation of permit.

(a) Any permit issued pursuant to section 5-27.6 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 state or local ordinances relating to the keeping, care or use of any animal including, but not limited to, those contained in chapter 5 of

this Code;

(2) The permittee is in violation of any state health or safety 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 (48) 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 (1) or more of the above grounds for revocation has occurred, it 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 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 (5) 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 (5) working days of the decision.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.9. 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:

(1) A fine not to exceed one hundred dollars ($100.00) for a first violation.

(2) A fine not exceeding two hundred dollars ($200.00) for a second violation within one (1) year.

(3) A fine not to exceed five hundred dollars ($500.00) for each additional violation within the same year.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.10. Responsibility for enforcement.

The animal control program shall be responsible for the enforcement and administration of this chapter.

(Ord. No. 983, § 1, 2-11-03)

Secs. 5-27.11--5-27.14. Reserved.

ARTICLE IB. ANIMAL FANCIERS' PERMITS

Sec. 5-27.15. Animal fancier permit program.

(a) The division of animal control shall administer an animal fancier permit program as described by this chapter to allow the keeping of dogs and/or cats up to a total of ten (10) animals.

(b) Up to a total of ten (10) animals (dogs and/or cats) may be kept at any one (1) premises provided that a fancier's permit issued by the animal control program manager in accordance with this chapter in first obtained by the person keeping such animals.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.16. Application for animal fancier permit.

Any application for an animal fancier permit shall be made to the division of animal control on a form provided by the division. The application shall include the name of the applicant, his or her residence address and telephone number, the address of the proposed location where the animals are to be kept if different from applicant's address, and a description of the housing facilities for the keeping of the animals. The application shall also state the number of dogs and/or cats to be kept and include the current license numbers issued under section 5-4 of this Code for each animal to be kept. The animal control program manager may require the applicant to provide any other information he/she deems necessary to properly evaluate the application.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.17. Issuance of a permit.

(a) An application for fancier's permit shall include a statement from the applicant that:

(1) Keeping of the animals at the proposed location will not violate any federal, state or local law.

(2) Appropriate facilities of sufficient size exist at the proposed location to safely and adequately secure, feed, house, exercise and maintain the animals.

(3) The proposed location consists of a lot or lots of sufficient size to safely and adequately house, maintain and exercise the animals without disturbance to adjacent property owners or the public.

(4) Possession and maintenance of the animals at the proposed location will not result in the animals being subject to neglect, cruelty, or abuse.

(5) The applicant has neither had any animal license or permit revoked, nor has been convicted of any violation of chapter 5 of this Code or any other state or local animal control law, within the past year.

(6) The keeping and maintenance of the animal will not create a public or private nuisance or endanger the public health, safety or welfare.

(7) The keeping of the animals at the proposed location complies with all local zoning regulations.

(b) The animal control program manager may investigate or require any further information or documentation which would assist in determining whether the statements made by the applicant are correct and whether the permit should be issued.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.18. Permit conditions.

(a) Any permit issued under this chapter shall be made expressly subject to the following conditions:

(1) The permit holder shall provide veterinary care as needed and make every effort to keep all animals free of disease and parasites.

(2) The permit holder shall keep the animals' living quarters clean and sanitary.

(3) Any cages or structures housing animals shall be of a sufficient size to insure the health, safety and comfort of the animals and shall be placed at least three (3) feet from any lot line in residential areas.

(4) Any other conditions which the division determines is reasonably necessary to protect the welfare of the animals kept or the public, health, safety or welfare.

(b) The fancier permit fee established under section 5-24 of this Code shall be paid by the applicant prior to issuance of the permit. Such fee shall be paid each time a permit is issued or renewed.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.19. Inspections.

(a) The animal control program manager may require any permit holder to produce for inspection any required animal license, permit or certificate of vaccination.

(b) The animal control program manager may, with forty-eight (48) hours' notice to the permit holder, conduct such inspections of the premises upon which animals are kept under a fancier's permit, as necessary to insure compliance with the conditions of the permit.

(c) Such inspections of the premises shall be based on the direct observations of an animal control officer or upon a nonanonymous compliant.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.20. Expiration and renewal of permits.

(a) Permits issued under this chapter shall expire one (1) year after issuance.

(b) Permits may be renewed on an annual basis upon filing of a new application containing updated information and payment of the annual fancier's permit fee established by section 5-24.

(c) No permit shall be renewed if the animal control program manager has received two (2) or more substantiated complaints concerning the location or manner of keeping of the animals or if the animal control program manager has determined that the findings set forth in section 5-27.17 cannot be made or that any of the grounds for revocation described by section 5-27.21 of this chapter exist.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.21. Permit revocation.

Any permit issued under this chapter may be revoked by the animal control program manager if, after investigation, the animal control program manager finds reasonable cause to believe any of the following grounds exist:

(1) The permittee has violated any animal control laws or regulations, any zoning or health and safety laws or any regulations relating to the keeping of animals.

(2) The permittee has failed to keep and maintain in a clean and sanitary condition the premises on which the animals are kept.

(3) The permittee has acted in an inhumane or cruel manner in the treatment of the animals.

(4) The permittee has failed to provide any animal with proper food, water, exercise, shelter or veterinary care.

(5) The permittee has failed to comply with all conditions of the permit.

(6) The permittee has failed to pay any fee or obtain any license imposed under chapter 5 of this Code.

(7) The permittee has provided false information in the permit application or has failed to cooperate in allowing inspection of the premises by the animal control program manager.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.22. Appeal of revocation of permit.

(a) Prior to revocation of a permit, the animal control program manager shall provide written notice to the permittee of its intention to revoke the permit. Such notice shall contain a statement of the grounds supporting permit revocation and shall advise the permittee that the permit will be revoked unless a hearing before the director of the environmental services agency or his designee is requested in writing to the animal control program manager within ten (10) days of the mailing of the notice. Any request for a hearing must specify the reasons the license should not be revoked and why the grounds cited in the notice do not exist.

(b) Upon receipt of a request for hearing, the animal control program manager shall schedule a hearing before the director of the environmental services agency or his designee and shall provide the permittee with reasonable written notice of the date, time and place of the hearing.

(c) After the hearing, the petitioner and the animal control program manager [may] be represented by counsel, present oral and written evidence and cross-examine witnesses. The strict rules of evidence need not apply. 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. In this regard, written statements, records or reports by a state or county officer employee, or any law enforcement or fire protection officer or employee, or the animal control program or its agents, acting in the course and scope of their official duties, or written statements by any person made under penalty of perjury, may be admitted as evidence that the facts or conditions expressed therein do or do not exist.

(d) After the hearing, the hearing officer may revoke the permit or may impose additional conditions in order to allow continuation of the permit if he or she finds that substantial evidence supports the decision by the animal control program manager to revoke the permit. Alternatively, the hearing officer may determine that the permit should not be revoked.

(e) After a permit is revoked, the animal control program manager shall allow the permit holder reasonable time, not to exceed ninety (90) days, to relocate those cats and dogs which may not be kept without a fancier's permit; except that if the cause of revocation involves health or safety concerns or violations or animal neglect or cruelty the animal control program may immediately impound all of the animals.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.23. New application after denial or revocation.

If a license has been denied or revoked, the animal control program manager shall not accept a new application by the same person or member of the person's household less than twelve (12) months after such denial or revocation unless the applicant shows and animal control program manager determines that the grounds upon which the first license or application was denied or revoked no longer exists. Upon revocation, no part of the permit fee shall be refunded.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.24. Administrative guidelines.

The animal control program manager may formulate administrative guidelines in conformity with, and for the purpose of implementing, this chapter.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-27.25. Mediation.

Upon receipt of a nuisance complaint regarding the holder of an animal fancier permit, the animal control program manager may require the complainant(s) to mediate with the animal fancier permit holder as a precondition of investigation, citation and abatement of the nuisance. Such cases may be referred to the county mediation program. If the animal control program manager determines mediation is appropriate and the complainants agree to mediate but the alleged violator refuses, the animal control program manager may proceed with investigation and any appropriate enforcement.

(Ord. No. 983, § 1, 2-11-03)

ARTICLE II. KEEPING DOMESTIC FOWL OR LIVESTOCK

Sec. 5-28. Animals covered by article.

The animals and fowl coming under the provisions of this article are any chicken, goose, duck, turkey, pigeon (except homing pigeon), dove, squab, or similar fowl, or hare, rabbit, monkey, cow, sheep, llama, horse or goat.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-29. Keeping in violation of this article deemed nuisance.

It is hereby declared unlawful and a nuisance for any person or persons to keep and maintain animals and fowl unless said animals and fowl are kept and maintained pursuant to the provisions of this Article. Nothing in this Article shall prohibit a property owner from temporarily maintaining goats to clear vegetation for fire safety purposes provided the goats remain on the property no more than thirty (30) days within a one (1) year period, and are confined within a fenced area which does not extend beyond the property line. If the fence is electrified, signs shall be posted to advise the public that the fence is electrified.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-30. Reserved.

Sec. 5-31. Reserved.

Sec. 5-32. General maintenance requirement.

It is hereby unlawful and a public nuisance for any person or persons to possess, keep or control within the city any animal or fowl mentioned in this article or permit or suffer any such animal or fowl to be kept or maintained unless the following requirements are complied with:

(1) Under no circumstances shall the animals and fowl hereinabove mentioned be permitted to run at large or to suffer or permit such animals and fowl to habitually create noise so as to continuously disturb the peace of any citizen. They shall be at all times confined within a suitable enclosure, coop, cage, stable, barn or shed, with enclosed runway. Such enclosure shall be of sufficient size to safely and adequately house, maintain and exercise the animals and fowl, and provide adequate shelter from the elements and from other animals.

(2) Such house, coop, cage, stable, barn, shed or runway shall at all times be maintained in a clean and sanitary condition; shall be cleaned once a week or more often if necessary; and shall at all times be free from offensive odors.

(3) Every such house, coop, cage, stable, barn, shed or enclosed runway shall at all times be kept in such condition as to comply with all sanitary rules and regulations of the city and the county health department.

(4) On any property housing 5 or more adult animals, no part of any such house, coop, cage, stable, barn, shed or runway for such animals or fowl shall be placed within the required front, side or rear setbacks as delineated in the city zoning code.

(5) No more than twenty (20) adult animals shall be permitted upon any property.

(6) No rooster over four (4) months old shall be permitted within the city.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-33. Special requirements for keeping horses, cows, sheep, llamas or goats.

Notwithstanding anything herein contained to the contrary, it is hereby declared unlawful and a public nuisance for any person or persons to keep, maintain or possess a horse, cow, sheep, llama or goat within the city unless, in addition to all other conditions of this chapter, the following requirements are met:

(1) The minimum lot area upon which any horse, cow, sheep, llama or goat may be kept shall be one (1) acre; and two (2) of such animals may be kept on such a parcel.

(2) The minimum distance of the stable from any neighboring house existing at the time of issuance of the permit shall be one hundred (100) feet.

(3) The minimum distance of the stable building from any neighboring property line shall be forty (40) feet.

(4) The minimum distance of the corral from the neighboring property line or street line shall be twenty-five (25) feet.

(5) The minimum distance of the stable from the residence on the same lot shall be forty (40) feet.

(6) One (1) additional horse, cow, sheep, llama or goat may be kept on each one-half (1/2) acre in addition to the one-acre minimum.

(7) Minimum distance of stable from street or front property line shall be seventy-five (75) feet.

(8) Subject to the approval of the planning commission, horses, cows, sheep, llamas or goats may be kept in a pasture containing two (2) or more acres.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-34. Reserved.

Sec. 5-35. Stallions, swine, bulls, male goats prohibited in city.

It is hereby declared unlawful and a public nuisance for any person or persons to keep within the limits of the city any stallion, swine, bull, ram or billy goat.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-36. Reserved.

Sec. 5-37. Raising for commercial purposes.

It shall be unlawful and a public nuisance to keep any of the foregoing animals or fowl to be hatched, raised, bred or used for commercial purposes.

(Ord. No. 983, § 1, 2-11-03)

Sec. 5-38. Reserved.

Sec. 5-39. Enclosures.

All horses, cows, sheep, llamas and goats within the city when not in use must be kept inside the enclosures at night. No person shall stake or tie or leave staked or tied within one hundred (100) feet of any inhabited residence any horse, cow, sheep, llama or goat in a vacant lot without the written consent of the occupant of such residence. All enclosures, barns and sheds in which there is kept any horse, cow, sheep, llama or goat shall be kept in a sanitary condition to comply with all sanitary rules and regulations. The manure shall be removed daily.

(Ord. No. 983, § 1, 2-11-03)

ARTICLE III. NUISANCES

Sec. 5-40. Nuisances.

(a) It is unlawful for any owner or person entrusted with the care, custody or control of any dog, cat or any other animal or fowl, whether licensed or not, to fail to exercise proper care or control of such animal so that the animal becomes a public nuisance.

(b) Excessive, continuous or untimely barking, molesting of passerby, chasing vehicles, habitually attacking other domestic animals, trespassing upon school grounds, or trespassing upon private property in such manner as to damage property is a nuisance.

(c) A female dog in heat running at large is a public nuisance; and the animal control officer is directed to abate all such nuisances as soon as reported by impounding such dog or dogs, whether licensed or not.

(d) In addition to the penalties provided herein, any condition caused or permitted to exist in violation of a provision of this chapter is a public nuisance and may be summarily abated as such. Each day that the condition continues it is a new and separate offense. Pursuant to Section 38773.5 of the California Government Code, in any action, administrative proceeding, or special proceeding brought by the City of Belmont to abate a public nuisance, the prevailing party shall be entitled to reasonable attorneys' fees. Recovery of attorneys' fees shall be limited as follows:

(1) To those actions or proceedings where the city has elected to recover attorney's fees at the initiation of such actions or proceedings.

(2) The amount of attorneys' fees in any action, administrative action, or special proceeding awarded to a prevailing party shall not exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

(e) Notwithstanding any other provision of this Code, whenever violation of any section contained in this section is punishable as a misdemeanor, the prosecuting attorney, having jurisdiction to prosecute said misdemeanor may specify that the offense is an infraction and proceed with prosecution as an infraction unless the defendant, at the time of his arraignment or plea, objects to the offense being made an infraction, in which event the complaint shall be amended to charge a misdemeanor and the case shall proceed on a misdemeanor complaint.

(f) In addition to the penalties provided, any condition caused or permitted to exist in violation of the provision of this chapter is a public nuisance and may be summarily abated as such. Each day that the condition continues it is a new and separate offense.

(Ord. No. 983, § 1, 2-11-03)

ATTACHMENT C

Summary of the main differences and highlights

Dangerous Animal Ordinance
Highlights of Ordinance Revision
Compared to Current Ordinance

- Clarify definitions of "dangerous" (allow animal 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 County, between cities and out of 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 hearing officer to modify dangerous animal permits, i.e. place additional restrictions on repeat offenders
- Clarify impoundment procedures
- Increase permit fees and hearing fees to recover costs
- 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 "clean-up" revisions