

## **CHAPTER 6.24**

### **CONTROL PROVISIONS**

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#### **6.24.010 Enforcement Authority.**

(a) The Animal Control Authority, and each agent or deputy thereof who is assigned to duties which include the enforcement of Animal regulation laws, is responsible for enforcing the provisions of this Title, Section 148 of the California Penal Code and any other laws relating to or affecting Animals within the State of California, the County and this City. California Penal Code Section 597.1 shall be operative in and enforced by the Animal Control Authority, and California Penal Code Section 597(f) shall not be operative.

(b) For purposes of performing their duties under this Title, the Animal Control Authority shall have the authority to:

(1) Enter on or upon private property to investigate reports of dangerous Animals, rabies, or other contagious Animal diseases, and to investigate possible violations of and enforce the provisions of this Title and any other law relating to or affecting Animals for which they have a duty to enforce.

(2) Cooperate to attain compliance with and take appropriate action in the case of any violations of those provisions of this Title and any other law for which they have a duty to enforce, including, but not limited to, making arrests without warrant in the manner prescribed in Section 836.5 of the California Penal Code and issuing citations for such

violations. Any person so arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with Section 853.5) of Title 3, Part 2 of the California Penal Code.

(3) Upon the approval of the City Council, negotiate agreements and promulgate such rules and regulations as they may deem proper and necessary.

**6.24.020 Complaints.** Upon receiving a complaint from any person alleging a violation of this Chapter or any other law relating to or affecting Animals, an investigation to determine whether a violation exists may be made. If the investigation discloses a violation of this chapter, prosecution may be initiated against the Owner. Complainants' identities shall be kept confidential to the extent permitted by law.

**6.24.030 Presumption of Responsibility for Violation.**

(a) In any prosecution charging a violation of any provision referred to in Section 6.24.010 (Enforcement Authority) of this Chapter, proof by the People of the State of California that the particular Animal described in the complaint was found in violation of any provision of said section, together with proof that the defendant named in the complaint was at the time of the alleged violation, the Owner of the Animal, shall constitute prima facie evidence that the Owner of the Animal was the person responsible for the violation of said provisions involving said Animal. However, for the purpose of this Section, proof that a person is the Owner of said Animal is not prima facie evidence that he/she has violated any other provision of law.

(b) The presumption created by this Section shall be nullified when the person charged has made a bona fide sale or transfer and has complied with the requirements of Section 6.12.040 (Change of Ownership) of this Code and Section 6.24.170 (Possession of Guard Dog, Public Nuisance Animal or Dangerous Animal) of this Chapter prior to the date of the alleged violations and has advised the court of the name and address of the purchaser, and of the date of sale.

**6.24.040 Female Dogs in Season (Estrus).** Any person owning or having custody or control of a female Dog in season (estrus) shall securely confine such Dog within an enclosure in a manner that will prevent the attraction of other Dogs to the immediate vicinity.

**6.24.050 Injuries and Communicable Diseases.** No person shall knowingly harbor or keep any Animal with a serious injury or afflicted with mange, ringworm, distemper or any other contagious disease, unless such Animal is, in the opinion of the Animal Control Authority, being given adequate treatment for such disease. The Animal Control Authority may take immediate possession of any such Animal not being so treated or which is not responding to such treatment, and immediately dispose of the Animal unless the Owner shall forthwith place such Animal under the control and treatment of a licensed veterinarian. Any person who violates any provision of this Section is guilty of a misdemeanor.

**6.24.060 Epidemic.** The Health Officer may determine and declare that an epidemic or other unusually dangerous health situation exists among the Animals in the County of San Diego. Upon the making of such a declaration, the Health Officer shall prepare and promulgate such rules and regulations as are necessary for the conduct of all persons within the area where the epidemic or dangerous conditions exist. These rules and regulations may include, but are not limited to, quarantine, vaccination, and destruction of Stray, diseased or exposed Animals by humane methods. It shall be the duty of the Animal Control Authority to cooperate in the enforcement of such rules and regulations.

**6.24.070 Inhumane Treatment and Abandonment.** No person shall treat any Animal in a cruel

or inhumane manner or willingly or negligently cause or permit any Animal to suffer unnecessary torture or pain. No person shall abandon any domestic Animal without care on any public or private property. Any person who violates this Section is guilty of a misdemeanor.

**6.24.080 Curbing an Animal.** No person shall allow an Animal in his/her custody to defecate or to urinate on any property other than that of the Owner or person having control of the Animal. It shall be the duty of all persons having control of an Animal to Curb such Animal and to immediately remove any feces to a proper receptacle. Disabled persons, while relying on a seeing eye, hearing, or service Animal shall be exempt from this Section. Any violation of this Section shall constitute a public nuisance.

**6.24.090 Disturbing the Peace Prohibited.** No person shall own or harbor an Animal in such a manner that the peace or quiet of the public is unreasonably disturbed. The keeping or maintenance, or the permitting to be kept or maintained, on any premises owned, occupied or controlled by any person of any Animal which, by any frequent or long continued noise, shall cause unreasonable annoyance or discomfort to any person of normal sensitivity in the vicinity, shall constitute a violation of this section; provided, however, that nothing contained herein shall be construed to apply to reasonable noises emanating from legally operated veterinary hospitals, humane societies, Animal shelters, farm and/or agricultural facilities, or areas where keeping of Animals or fowls are permitted. Any person who violates any provision of this Section is guilty of a misdemeanor.

**6.24.100 Relinquishing an Animal.** Any person who relinquishes an Animal to the Animal Control Authority shall give his/her name, address and, if he/she is not the Owner, the location where the Animal was found.

**6.24.110 Animals At Large.**

(a) An Owner of an Animal shall at all times prevent the Animal from being At Large, as defined in Section 6.04.020 of this Code. An Owner of an Animal that is lawfully on any private property shall at all times keep the Animal (i) on a Leash as defined by Section 6.04.020 of this Code; (ii) on tether; (iii) on electronic pet containment system; (iv) under direct and effective Voice Control/Command; and/or (v) in a building or enclosure that is adequate to ensure the physical confinement of the Animal and meets humane standards. Any person who violates any provision of this Section is guilty of a misdemeanor.

(b) The Animal Control Authority may attempt to capture any Animal found to be At Large, and may seize, Impound, abate and/or destroy the Animal if, in the Animal Control Authority's judgment, such action is necessary in the interest of the Animal or public health, safety or welfare. The Animal Control Authority shall not seize or Impound any Animal found to be At Large that has strayed from, but then has been returned to the private property of its Owner, but in such case, the Animal Control Authority may issue a citation against the Owner of the At Large Animal.

(c) If the Owner of an Animal found to be At Large is not home, the Animal may be Impounded, but the Animal Control Authority shall post a notice of such Impounding on the front door of the Owner's residence. Such notice shall include the following: (i) statement that the Animal has been Impounded; (ii) location where the Animal is being held; (iii) name, address, and telephone number of the agency or person to contact regarding the release of the Animal; and (iv) an indication of the ultimate disposition of the Animal, if no action to regain the Animal is taken by its Owner within a specified period of time.

(d) Any person who finds an At Large Animal may take it into his/her possession and must, as soon as possible, but no later than twenty-four (24) hours thereafter, notify the Animal Control

Authority. The Animal Control Authority may accept such Animal for Impoundment and the person who finds the Animal shall surrender the Animal to the Animal Control Authority upon demand. No such action shall result in a charge against the Animal Control Authority. The finder of the At Large Animal shall use reasonable care to preserve it from injury; however, he/she shall not be held liable if the Animal dies, escapes or injures itself while he/she is carrying out the provisions of this Section.

(e) This Section does not apply to the following:

(1) Dogs assisting peace officers while performing law enforcement duties; and

(2) Dogs effectively restrained by Voice Control/Command as defined in Section 6.04.020 of this Code when the Dog is At Large in any of the following capacities: (i) assistance Dogs or guide Dogs performing duties for impaired or handicapped persons; (ii) Guard Dogs, as defined in Section 6.04.020 of this Code, when assisting security guards with the performance of their duties; (iii) Dogs participating in field or obedience trials or exhibitions; (iv) Dogs assisting their Owner in lawful hunting or herding of livestock; (v) on public property that has been posted to permit Dogs to be At Large, subject to any conditions or restrictions set forth on such posting.

#### **6.24.120 Impoundment and Abatement.**

(a) If the Animal Control Authority has cause to believe that grounds exist for the Impoundment and/or abatement of any Animal, the Animal Control Authority may commence proceedings as to the legality of the Impoundment, and to determine whether to relocate or dispose of the Animal in a humane manner or impose specific reasonable conditions and restrictions for the maintenance of the Animal pursuant to the hearing procedures under Section 6.24.220 of this Chapter. If a hearing is requested, the Animal shall not be disposed of prior to satisfaction of the hearing requirements.

(b) If, at the conclusion of the hearing, the Impoundment and/or abatement is found to be unjustified, the Animal shall be returned to the Owner without charge. If an Impoundment is found to be unjustified and the Animal is returned to the Owner prior to the hearing, any fees other than vaccination or licensing fees paid by the Owner to the Animal Control Authority as a result of the unjustified Impoundment shall be refunded to the Owner.

(c) If, in the opinion of the Animal Control Authority, immediate Impoundment is necessary for the preservation of the Animal or public health, safety or welfare, or if the Animal has been Impounded under any other provisions of law, the pre-Impoundment hearing shall be waived.

#### **6.24.130 Return of Animals to Their Owners; Altering Deposit, Microchip Fee Required.**

(a) The Owner of an Impounded Animal not subject to abatement action may claim it prior to other legal disposition by providing proper identification, meeting all requirements, and paying the applicable redemption fees.

(b) Upon redemption of any lawfully Impounded Unaltered Dog or Cat found At Large, the Owner shall pay an Altering deposit in addition to other redemption fees as established by resolution.

(c) Such Altering deposit shall be refundable upon proof that the Animal has been Altered by a licensed veterinarian within thirty (30) days of the redemption or deposit payment date unless the Animal is under four (4) months of age at the time of redemption or deposit payment. In such

cases, the deposit shall be refundable upon proof that the Animal has been Altered by a licensed veterinarian by the time the Animal is five (5) months of age. Such altering deposit shall also be refundable if the Owner submits, within the specified period, a written certification from a licensed veterinarian stating that, due to health considerations, the Animal should not be Altered, or that, in the professional judgement of the veterinarian, the Animal has previously been Altered.

The deposit shall be forfeited to the County if such proof of altering or written certification has not been presented to the Animal Control Authority within the specified period. All such forfeited deposits shall be used to offset the costs of Animal control services.

(d) Upon redemption of any lawfully Impounded Animal found At Large and without identification, the Animal Control Authority may require the Owner to pay for the implantation of microchip identification in addition to other redemption fees as established by resolution, unless the Owner objects to the implantation of microchip identification.

**6.24.140 Holding Periods and Availability for Redemption, Adoption, or Release of Impounded Stray or Relinquished Animals.**

(a) The holding period and availability for redemption, adoption, or release of an Impounded Stray or relinquished Animal shall conform with applicable provisions of this Code, Sections 17006, 31108, 31752, 31752.5, 31753, and 31754 of the California Food and Agricultural Code, and Section 597.1 of the California Penal Code.

(b) The Animal Control Authority may determine the Animal holding period and disposition not specified in subsection (a) or other provisions of law.

(c) The adoption or transfer to a new Owner of any Impounded Animal shall conform with applicable provisions of Sections 30503, 30504, 31751, and 31751.3 of the California Food and Agricultural Code.

**6.24.150 Wild Animals.**

(a) Venomous Reptiles. It shall be unlawful for any person to own, possess, or maintain any venomous reptile.

(b) General Provisions. It shall be unlawful for any person to own, possess or maintain any other Wild Animal unless he/she complies with all Federal, State and local laws, regulations, and permit requirements affecting such Wild Animal. The Owner shall also:

(1) Keep the Wild Animal at all times in a cage or enclosure of such size and construction or confined in such a manner as to preclude the possibility of escape. Such cage, enclosure, or confinement shall be of such size as to permit the Wild Animal reasonable freedom of movement;

(2) Keep the cage or enclosure in a clean and sanitary condition at all times;

(3) Provide the Wild Animal with adequate food, water, shelter and veterinary care;

(4) Keep the Wild Animal in a manner so as not to threaten or annoy any person of normal sensitivity.

(c) Additional Provisions. The Owner shall, in addition:

- (1) Take adequate safeguards to prevent unauthorized access to the Wild Animal and to preserve Animal and public health, safety, and welfare. In the event of an escape, immediately notify the Animal Control Authority and make every reasonable effort to recapture the Wild Animal;
  - (2) Upon request by the Animal Control Authority, make the Wild Animal, premises, facilities, equipment and any necessary permit(s) available for inspection for the purpose of ascertaining compliance with the provisions of this Section;
  - (3) Reimburse the Animal Control Authority for all costs incurred in enforcing the provisions of this Section when a violation is found; and
  - (4) Be responsible for any injury, or any damage to private or public property caused by the Wild Animal.
- (d) Location and Transportation. Such Wild Animals shall be kept upon or transported in escape proof enclosures to private property which the Owner owns or has a right to possess or use. All other transportation is prohibited unless authorized by the Animal Control Authority.
- (e) Exceptions. Subsections (a), (c) and (d) of this section do not apply to:
- (1) Small birds that attain an adult weight under fifteen (15) pounds, small rodents that attain an adult weight under ten (10) pounds, fish, invertebrates, amphibians or reptiles, except for the following reptiles: all crocodilians (Order Crocodilia); all boa and python species (Family Boidae) that attain an adult weight over fifteen (15) pounds or an adult length over three and one half (3.5 feet); and all monitor lizard species (Family Varanidae) that attain an adult weight over ten (10) pounds or an adult overall length over three (3) feet.
  - (2) Legally operated zoos or circuses or to recognized institutions of learning or scientific research unless by reason of inadequate caging or other means of protection of the public from such Animals, or by the ineffectiveness of sanitation measures, or by a particular hazard connected with the Animals involved, Animal or public health, safety or welfare will be endangered.
- (f) Impoundment and/or Abatement. The Animal Control Authority may Impound and/or abate any Animal held in violation of this Section pursuant to Section 6.24.120 (Impoundment and Abatement of Animals) of this Chapter.
- (g) Violation. Any person who violates any provision of this Section is guilty of a misdemeanor.

#### **6.24.160 Public Protection from Animals.**

- (a) An Owner shall at all times prevent an Animal from Attacking, biting or otherwise causing injury to any person engaged in a lawful act or other Animal; from interfering with the lawful use of public or private property; or from damaging personal property which is lawfully upon public property, or upon private property with the permission of the person who owns or has the right to possess or use the private property.
- (b) The Owner of any Unaltered Animal which bites a person engaged in a lawful act shall pay an altering deposit in addition to other applicable fees as established by resolution. Such altering deposit shall be refunded or forfeited in the manner described in Section 6.24.130(c) of this

Chapter. Nothing in this Subsection shall be construed to prevent the Animal Control Authority from abating or requiring the altering of any Dangerous Animal or public nuisance Animal.

(c) Any person who violates any provision of this Section is guilty of a misdemeanor.

#### **6.24.170 Possession of Guard Dog, Public Nuisance Animal or Dangerous Animal.**

(a) General Provisions. It is unlawful to have custody of, own or possess any public nuisance Animal, Dangerous Animal, or Guard Dog, unless the Animal is restrained, confined, or muzzled to prevent it from being At Large and/or from causing damage to any property or injury to any person. An Owner who violates this provision is guilty of a misdemeanor if, as a result of that Owner's failure to exercise ordinary care, the Animal Attacks, bites, or otherwise causes injury to a person engaged in lawful activity and the Owner knew or should have known of the Animal's vicious or dangerous nature. This Section does not apply to Animals assisting the military or peace officers while performing in that capacity.

(b) Change of Ownership, Custody and/or Residence.

(1) The Owner of any public nuisance Animal, Dangerous Animal, or Guard Dog who moves or sells the Animal, or otherwise transfers the ownership, custody or residence of the Animal, shall at least ten (10) days prior to the sale or transfer, inform the Animal Control Authority in writing of the name, address and telephone number of the proposed new Owner and/or the proposed new residence, and the name and description of the Animal. The Animal Control Authority may prohibit the proposed sale or transfer for cause.

The Owner shall, in addition, notify any new Owner in writing regarding the details of the Animal's record, and the terms and conditions for maintenance of the Animal. The Owner shall also provide the Animal Control Authority with a copy thereof containing an acknowledgement by the new Owner of his/her receipt of the original and acceptance of the terms or conditions. The Animal Control Authority may impose different or additional restrictions or conditions upon the new Owner.

(2) In the event of the Animal's death, the Owner shall notify the Animal Control Authority no later than twenty-four (24) hours thereafter and, upon request, produce the Animal for verification.

(3) If the Animal escapes, the Owner shall notify the Animal Control Authority and make every reasonable effort to recapture it.

(c) Surrender of Animal. The Owner of any public nuisance Animal, Dangerous Animal, Guard Dog shall surrender such Animal to the Animal Control Authority upon demand.

#### **6.24.180 Guard Dogs.**

(a) In addition to the requirements of Section 6.24.170 (Possession of Guard Dog, Public Nuisance Animal or Dangerous Animal) of this Chapter, The Dog Act of 1969 and the health and safety measures included under California Health and Safety Code section 121918, as that section may be amended from time to time, a Guard Dog Operator shall:

(1) Comply with all applicable Federal, State and local laws, regulations, and permit requirements affecting the keeping of a Guard Dog and the operation of a Guard Dog Premises, and demonstrate such compliance to the Animal Control Authority upon

demand.

(2) Obtain and maintain liability insurance issued by an insurance company authorized to transact business in the State of California which provides minimum limits of insurance of five hundred thousand dollars (\$500,000.00) for any one loss due to bodily injury or death and five hundred thousand dollars (\$500,000.00) for any one loss due to injury or destruction of property, and furnish a certificate or proof of insurance to the Animal Control Authority. The Animal Control Authority shall be notified at least ten (10) days prior to any cancellation or non-renewal of such policy.

(3) Notify the Animal Control Authority in writing of the location of the Guard Dog Premises.

(4) Ensure that each Guard Dog is wearing a License Tag. Notwithstanding the provisions of Section 6.20.170 of this Code, an Owner or Guard Dog Operator shall obtain individual Dog Licenses for each Guard Dog, as applicable, whether or not the Guard Dog is kept in a Kennel as defined by this Section 6.04.020 of this Code, and shall ensure that each Guard Dog is wearing a License Tag before being furnished or assigned to any Guard Dog Premises.

(5) Ensure that each Guard Dog is wearing a durable identification tag, in addition to a License Tag. The identification tag provided by the Owner or Guard Dog Operator shall contain the name, address, and telephone number of the Owner, Guard Dog Operator. The telephone number provided on the identification tag must be answered by a person 24 hours per day, each day of the year. A Guard Dog handler shall also be available at all times to respond in a timely manner to reports regarding a Guard Dog that has escaped, is injured, or presents a risk of harm to Animal or public health, safety, or welfare.

(6) Provide positive identification for each Guard Dog by implantation of a microchip in the Dog of a type and in a manner approved by the Animal Control Authority. The Owner or Guard Dog Operator shall also provide the Animal Control Authority with a written list of Guard Dogs to be assigned to any Guard Dog Premises within the City, which shall include the name and description of each Guard Dog, together with the Dog License and microchip number and any other identification numbers.

(7) Notify the Animal Control Authority in writing at least five (5) days before a Guard Dog is sent on an assignment, of the location and duration of such assignment. The notification shall include the name and description of the Dog, together with the Dog License and microchip numbers and any other identification numbers.

(8) Ensure that Guard Dogs working with supervision in an unfenced area, yard, or premises, be controlled on a handheld Leash. Guard Dogs working without supervision shall be confined within a fenced or otherwise enclosed facility not open to the public. The fence or other enclosure shall be of sufficient structural strength and height with locked gates and/or doors to ensure the strict confinement of the Guard Dog and to prevent unauthorized access. The fence or other enclosure is subject to inspection and approval by the Animal Control Authority, and the Owner or Guard Dog Operator may be required to pay a reasonable fee to cover the costs associated with such an inspection.

(9) Ensure that each Guard Dog, whether or not on duty, is visited at least once every twelve (12) hours and that each Guard Dog has adequate food, water and shelter. Any Guard Dog which is sick or injured shall be provided proper care and attention and, if on duty, shall be removed from the site. Guard Dogs shall not be kept or maintained on a

chain or tether. When not on a handheld Leash, Guard Dogs shall, at all times, be kept or maintained in an enclosure which meets the minimum space requirements as provided by Section 6.20.090 and 6.20.100 of this Code, unless the Guard Dogs are kept in a Kennel.

(10) Ensure that each Guard Dog is not knowingly overworked; tortured; tormented; neglected; abandoned; deprived of necessary sustenance or care, drink or shelter; beaten; mutilated; or unjustifiably killed. The words "torment" and "torture" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted to, on or upon the Guard Dog.

(11) Ensure that durable signage of sufficient size containing both a clear pictorial depiction of a Guard Dog and a legible written warning of the presence of a Guard Dog are conspicuously posted and maintained at every entrance and at reasonable intervals of not more than fifty (50) feet on the fence or other enclosure where the Guard Dog is to be assigned so as to be clearly visible. Any such sign that is initially posted or replaced on or after the effective date of this Ordinance shall measure a minimum of 11 x 8.5 inches with lettering of a minimum of 1.25 x .5 inch (91 point) and of contrasting color with the background. Signs shall also include the name and telephone number of the Owner or Guard Dog Operator. The telephone number provided on the sign must be answered by a person 24 hours per day, each day of the year. A Guard Dog handler shall also be available at all times to respond in a timely manner to reports regarding a Guard Dog that has escaped, is injured, or presents a risk of harm to Animal or public health, safety, or welfare.

(12) Provide a written statement to any person who obtains a Guard Dog on hire, prior to a Guard Dog being sent on assignment, which contains the following language:

"In addition to other provisions of law, any person or business entity with custody of a Guard Dog is responsible for preventing the Guard Dog from being At Large within the meaning of the San Marcos Municipal Code, and from attacking or injuring a person engaged in a lawful act. Any person who obtains a Guard Dog on hire shall immediately notify the Guard Dog Operator and the Animal Control Authority in the event an escaped Guard Dog is not immediately recaptured and/or if the Guard Dog bites a person."

A copy thereof shall also be provided to the Animal Control Authority, with an acknowledgment of receipt, signed and dated by the person who obtained the Guard Dog on hire. Such acknowledgement shall also include the printed name, address, and telephone number of the Owner, Guard Dog Operator and the person who obtained the Guard Dog on hire.

(13) Transport the Guard Dog in a secure, humane manner that will reasonably prevent its possible escape.

(14) Make every reasonable effort to recapture an escaped Guard Dog and, if not immediately recaptured, notify the Animal Control Authority.

(15) Prevent a Guard Dog from constituting a nuisance, causing a hazard or being a menace to the public health, safety, welfare or peace.

(15) Reimburse the Animal Control Authority for all costs incurred in enforcement of the provisions of this Section.

(b) The sale, transfer, or use of any Dangerous Animal as a "Guard Dog" is prohibited.

(c) Guard Dog Operator and Guard Dog Premises Permits. It shall be unlawful for any person to operate or maintain a Guard Dog Premises without a Guard Dog Operator permit issued by the Animal Control Authority. It shall be unlawful for any Guard Dog Operator to maintain a Guard Dog Premises without a Guard Dog Premises permit for each Guard Dog Premises. Guard Dog Operator and Guard Dog Premises permits shall be administered as follows:

(1) Procedures for permit applications, renewals, denials, suspensions, revocations, hearings, and appeals, except as otherwise herein provided, shall be the same as those set forth in the Uniform Licensing Procedures of this Code.

(2) Application for a Guard Dog Premises permit shall be granted or denied within five (5) Business Days after the Animal Control Authority receives a completed application, including applicable fees, from the holder of a Guard Dog Operator permit.

(3) Failure of a Guard Dog Operator to comply with any requirement listed in this Title or The Dog Act of 1969 (Health and Safety Code Section 121875 et seq.) in connection with operating a Guard Dog Premises may result in the denial, suspension, or revocation of a Guard Dog Premises permit.

(4) The expiration, denial, suspension, or revocation of a Guard Dog Operator permit shall have the same effect on any and every Guard Dog Premises permit issued to the Guard Dog Operator.

(5) The Animal Control Authority may inspect a Guard Dog Premises to verify compliance with this Title prior to the issuance of a Guard Dog Premises permit.

(d) Any person who violates any provision of this Section is guilty of a misdemeanor.

#### **6.24.190 Public Nuisance.**

(a) General Provisions. The introduction, possession or maintenance of any Animal, or the allowing of any Animal or Animal premises to be in contravention of this Code or any other law relating to or affecting animals is in addition to being a violation of this Code, hereby declared to be a public nuisance.

(b) Abatement of Public Nuisance. The Animal Control Authority may summarily abate any such public nuisance independently of any criminal prosecution or the results thereof by any means reasonably necessary, including but not limited to, the Impoundment of the Animal, destruction of the Animal and/or by the imposition of specific reasonable conditions and restrictions for the maintenance of the Animal and/or the Animal premises, including, but not limited to:

(1) Obtain and maintain liability insurance issued by an insurance company authorized to transact business in the State of California which provides minimum limits of insurance in the amount of one hundred thousand dollars (\$100,000.00), and furnish a certificate or proof of insurance to the Animal Control Authority. The Animal Control Authority shall be notified at least ten (10) days prior to any cancellation or non-renewal of such policy;

(2) Alter the Animal;

- (3) Register the Animal as a "Public Nuisance Animal", "Dangerous Animal" or "Guard Dog", as applicable, in addition to obtaining any other license required for the Animal under Section 6.12.010 of this Code;
- (4) Provide a photo identification or permanent marking of the Animal for purposes of identification;
- (5) Provide the location of the Animal's residence to the Animal Control Authority;
- (6) Allow the Animal Control Authority to inspect the Animal premises and/or the Animal enclosure;
- (7) Comply with requirements as to size, construction and design of the Animal enclosure;
- (8) Comply with requirements as to type and method of restraints of the Animal;
- (9) Provide proof of compliance with all requirements of this Section upon demand;
- (9) Pay a reasonable fee to cover the costs associated with the Animal Control Authority's verification of compliance and enforcement of the provisions of this Section.

Failure to comply with the conditions and restrictions listed in this Section within the proscribed time for compliance and failure to maintain compliance with such conditions and restrictions shall constitute a misdemeanor.

#### **6.24.200 Declaration of Irresponsible Owner.**

- (a) If the Animal Control Authority has cause to believe that an Owner is an Irresponsible Owner as that term is defined in Section 6.04.020 of this Code, the Animal Control Authority may commence hearing proceedings pursuant to Section 6.24.220 of this Chapter to declare the Owner to be an Irresponsible Owner.
- (b) Upon the issuance of an Irresponsible Owner declaration, the Animal Control Authority is hereby authorized and empowered to Impound and/or abate any Animal(s) in possession of the Irresponsible Owner pursuant to Section 6.24.120 of this Chapter.
- (c) In addition to any other remedies authorized by law, the Animal Control Authority may also order that the Irresponsible Owner be prohibited from owning, possessing, caring for, keeping, harboring, controlling, or having custody of any Animal for a period of up to three (3) years, if the Animal Control Authority deems such action reasonably necessary to ensure the protection of the Animal or public health, safety and welfare.

#### **6.24.210 Declaration of Dangerous Animal.**

- (a) If the Animal Control Authority has cause to believe that an Animal is a Dangerous Animal as that term is defined in Section 6.04.020 of this Code, the Animal Control Authority may commence hearing proceedings pursuant to Section 6.24.220 of this Chapter to declare the Animal to be a Dangerous Animal.
- (b) Upon the issuance of a Dangerous Animal declaration, the Animal Control Authority is hereby authorized and empowered to Impound and/or abate any Animal(s) pursuant to Section 6.24.120 of this Chapter, declare that the Owner of the Dangerous Animal constitutes an

Irresponsible Owner pursuant to Section 6.24.200 of this Chapter and/or impose specific reasonable conditions and restrictions for the maintenance of the Animal and/or the Animal premises, including, but not limited to:

- (1) Obtain and maintain liability insurance issued by an insurance company authorized to transact business in the State of California which provides minimum limits of insurance in the amount of one hundred thousand dollars (\$100,000.00), and furnish a certificate or proof of insurance to the Animal Control Authority. The Animal Control Authority shall be notified at least ten (10) days prior to any cancellation or non-renewal of such policy;
- (2) Alter the Animal;
- (3) Register the Animal as a "Public Nuisance Animal", "Dangerous Animal", or "Guard Dog", as applicable, in addition to obtaining any other license required for the Animal under Section 6.12.010 of this Code;
- (4) Provide a photo identification or permanent marking of the Animal for purposes of identification;
- (5) Provide the location of the Animal's residence to the Animal Control Authority;
- (6) Allow the Animal Control Authority to inspect the Animal premises and/or the Animal enclosure;
- (7) Comply with requirements as to size, construction and design of the Animal enclosure;
- (8) Comply with requirements as to type and method of restraints of the Animal;
- (9) Provide proof of compliance with all requirements of this Section upon demand;
- (9) Pay a reasonable fee to cover the costs associated with the Animal Control Authority's verification of compliance and enforcement of the provisions of this Section.

Failure to comply with the conditions and restrictions listed in this Section within the proscribed time for compliance and failure to maintain compliance with such conditions and restrictions shall constitute a misdemeanor.

#### **6.24.220 Hearings.**

(a) Hearing Officer. All hearings required pursuant to this Chapter shall be conducted by an employee designated by the Director who shall not have been directly involved in the subject action.

(b) Notification of Right to Hearing. The Animal Control Authority shall first serve, upon the Owner of the Animal, a notice of intent to take action to impound and/or abate any Animal pursuant to Section 6.24.120; declare the Owner of any Animal to be an Irresponsible Owner pursuant to Section 6.24.200; and/or declare the Animal to be a Dangerous Animal pursuant to Section 6.24.210. The notice shall inform the Owner of the basis for the Animal Control Authority's action and shall specify that the Owner has the right to request a hearing to determine whether grounds exist for such action and the potential consequences if a decision is issued upholding the Animals Control Authority's action. The hearing request shall be in writing and must be received by the Animal Control Authority within the specified time period.

(c) Failure to Request or Attend a Hearing. Failure of the Owner to request a hearing pursuant to subsection (b) or the failure to attend or be represented at a scheduled hearing shall satisfy the hearing requirements and shall result in the issuance of a decision by the hearing officer upholding the Animal Control Authority's action.

(d) Hearing Procedures.

- (1) A hearing shall be held not more than thirty (30) days from the date of receipt of the request from the Owner
- (2) A hearing shall be conducted in an informal manner consistent with due process of law, and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
- (3) Each party shall have these rights at the hearing: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify; and to rebut the evidence against the party. If the Owner does not testify in his/her own behalf, the Owner may be called and examined as if under cross-examination.
- (4) A determination by the hearing officer that grounds exist for the Animal Control Authority's action shall result in the issuance of a decision upholding such action.
- (5) A hearing may be continued if the hearing officer deems it necessary and proper or if the Owner shows good cause.
- (6) The hearing officer shall render a brief written decision to the Owner within ten (10) days following the hearing that shall be final except as otherwise provided herein.

(e) Request for Administrative Review of Record. If the hearing officer upholds the Animal Control Authority's action, the hearing officer's written decision shall provide that the Owner has the right to apply for an Animal Control Authority administrative review of the record. The request for administrative review shall be in writing, shall briefly set forth the reasons why the Owner believes that the decision is not proper, and must be received by the Animal Control Authority within the specified time period.

(f) Administrative Review of Record Procedures.

- (1) An administrative review of the record shall be conducted by the Director personally or by a designated employee who shall not have been directly involved in the subject action and who shall not be junior in rank to the hearing officer.

- (2) The effect of a hearing officer's decision to abate an Animal by destruction shall be stayed while an administrative review of record is pending or until the time period for applying for such administrative review has expired. There shall be no stay of the effect of a hearing officer's decision to issue a Dangerous Animal declaration and/or to impose any conditions upon the Owner for continued ownership of the Animal.
- (3) An administrative review of the record shall extend to questions, including, but not limited to, whether the Animal Control Authority has proceeded without or in excess of its authority; whether there was a fair hearing; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the Animal Control Authority did not proceed in the manner required by law, the hearing officer's decision is not supported by the findings, or the findings are not supported by substantial evidence in light of the whole record.
- (4) At the conclusion of the administrative review of the record, the individual reviewing the record may uphold, modify, or rescind the decision of the hearing officer, or may order the reconsideration of the case. The individual reviewing the record shall prepare a brief written report concerning the administrative review of the case.

(g) Appeal to Superior Court. If the individual reviewing the record upholds a decision by the hearing officer, the administrative review written report shall provide that the Owner has the right to contest the decision by applying for a writ of mandate or other order from the Superior Court within five (5) Business Days. The request for appeal to the Superior Court shall be in writing and must be received by the Animal Control Authority within the specified time period. The disposition of the Animal and/or the Owner shall be stayed while an appeal is pending or until the time for filing such appeal has expired.

(h) Criminal Prosecution. 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.