

ORDINANCE NO. 2018-1467

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, AMENDING SAN MARCOS MUNICIPAL CODE CHAPTERS 6.04, 6.08, 6.12, 6.16, 6.20, 6.28 AND 6.32 AND REPEALING AND REPLACING CHAPTER 6.24 RELATING TO ANIMAL CONTROL

WHEREAS, Title 6 of the San Marcos Municipal Code (SMMC) regulates animal control in the City of San Marcos (City); and

WHEREAS, the City desires to amend certain provisions under SMMC Chapter 6.04 to update existing definitions, and clarify that a violation of Title 6 is an infraction, unless otherwise specified as a misdemeanor; and

WHEREAS, the City desires to amend certain provisions under SMMC Chapter 6.08 to require dog owners to retain rabies vaccination certificates for the period of time which the vaccination is effective and produce the certificate to any person responsible for enforcing the SMMC or to any person bitten by the dog. The City further desires to require physicians treating animal bites to notify animal control or the County Health Officer as soon as possible; and

WHEREAS, the City desires to amend certain provisions under SMMC Chapter 6.12 to provide for violations relating to dog licenses to appear under the Chapter governing dog licenses; and

WHEREAS, the City desires to amend certain provisions under SMMC Chapter 6.16 to specify that the animal control authority shall establish a humane procedure for euthanasia of animals without limiting the euthanasia services to County animal shelters as those services may also legally occur at other establishments, including, but not limited to, animal shelters and certain veterinarian clinics and hospitals; and

WHEREAS, the City desires to amend certain provisions under SMMC Chapter 6.20 to clarify that kennel licenses are issued by the animal control authority and procedures for kennel license applications, renewals, denials, suspensions, revocations, hearings and appeals are established by the animal control authority. The City further desires to permit the animal control authority to deny the issuance of a City business license to operate a kennel facility if the proposed kennel would not meet the requirements for a kennel, as well as to require shelter from wind for those animals kept outdoor at a kennel facility; and

WHEREAS, the City desires to amend certain provisions under SMMC Chapters 6.28 and 6.32 to capitalize any terms defined by that Chapter so it is clear the terms are defined terms; and

WHEREAS, the City further desires to repeal and replace SMMC Chapter 6.24 in its entirety to consolidate references to impoundment/abatement procedures into one section and combine references to hearing proceedings for impounding/abating an animal, declaring an owner to be an irresponsible owner and/or declaring an animal to be a dangerous animal into one section so that those procedures are consistent and uniform. The City also desires to add provisions relating to the animal control authority's right to declare an animal owner to be an irresponsible owner if the owner has received three or more citations for violations relating to animals at large; possession of wild animals; public protection from animals; compliance with requirements for possession of a guard dog, public nuisance animal or dangerous animal; public nuisance; or declaration of dangerous animal, in the past two years or to declare that the owner of a dangerous animal constitutes an irresponsible owner, which would subject the owner to a hearing to determine whether to impound/abate any animal(s) in possession of the owner and/or prohibit the owner from owning, possessing, caring for, keeping, harboring, controlling or having custody of any animal for up to three years. The City desires to delete any references to protection dogs, which the City does not currently regulate separate and apart from guard dogs, and to further update provisions relating to responsibilities of guard dog operators consistent with current State law provisions relating to the maintenance of guard dog premises and care and control of guard dogs.

NOW, THEREFORE, the City Council of the City of San Marcos, California, in accordance with the freedom afforded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. The foregoing recitals are true and correct.

Section 2. Existing Chapters 6.04, 6.08, 6.12, 6.16, 6.20, 6.28 and 6.32 of the San Marcos Municipal Code are hereby amended to read as shown in redlined, underlined additions and strikeouts, in the attached Exhibit A.

Section 3. Existing Chapter 6.24 of the San Marcos Municipal Code is hereby repealed and replaced as shown in the attached Exhibit B.

Section 4. This is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Ordinance is

found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

Section 5. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, whether any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 6. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following the adoption of this Ordinance, the City Clerk shall certify to the passage of this Ordinance and cause the same, or the title thereof as a summary, to be published in a newspaper of general circulation designated for the publication of legal notices in the City of San Marcos in accordance with the provisions of State law.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 25<sup>th</sup> day of September, 2018; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos, California, on the 9<sup>th</sup> day of October, 2018, by the following roll call vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:

APPROVED:

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James M. Desmond, Mayor  
City of San Marcos

ATTEST:

APPROVED AS TO FORM:

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Phillip Scollick, City Clerk  
City of San Marcos

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Helen Holmes Peak, City Attorney  
City of San Marcos

**ATTACHMENTS:**

Exhibit A – Revised SMMC Chapters 6.04, 6.08, 6.12, 6.16, 6.20, 6.28 and 6.32

Exhibit B – Replaced SMMC Chapter 6.24