

## CHAPTER EIGHT: ANIMALS

### Subchapter One: Animal Control

#### 8.01.010 Definitions.

(a) *Animal Control Officer* means that person designated as the Animal Control Program Manager of the Division of Animal Control Services for San Mateo County and his or her duly authorized officers or deputies, as well as the President 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 San Mateo County Health System, 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) *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 behavior occurs in a place where such person is conducting himself or herself peaceably and lawfully;

(3) Any attack on another animal or livestock which occurs off the property of the Owner of the attacking animal; or

(4) Any animal that has been deemed by another governmental jurisdiction as "potentially dangerous," "dangerous," "vicious," or any other similar designation.

(e) *Director of Health System* means that person so designated by the governing body of the County of San Mateo.

(f) *Health Officer* means that person who has been designated by the San Mateo County Board of Supervisors as the Health Officer of the County and any other person duly authorized by such Health Officer to act on his or her behalf.

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

(h) *Licensing Program* means that program within the San Mateo County Health System which is specifically charged with regulating and selling animal licenses and registrations in San Mateo County.

(i) *Master Fee Schedule* means the Town of Colma Master Fee Schedule set forth in Subchapter 10 of Chapter 1 of the Colma Administrative Code, as amended from time to time by the City Council.

(j) *Owner* of an animal means that person 18 years of age or older who holds the license to the animal, or if the animal is not licensed, that person 18 years or older legally entitled to possession of the animal concerned, and who has primary responsibility for the care of the 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, express or implied.

(l) "Person: [See, section 1.01.100]".

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

(n) *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 subsection (a) of section 597.5 of the Penal Code;

(3) Any animal which inflicts severe injury on or kills a human being or another animal;

(4) Any animal which has engaged in any aggressive behavior which demonstrates that the animal represents a clear and present substantial danger to the public health or safety and that, due to substantial risk to the public health or safety, it is unlikely that the animal could be safely maintained under a Dangerous Animal permit.

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

[*History:* ORD. 606, 9/10/03; ORD. 635, 10/12/05, ORD. 643, 4/12/06; ORD. 740, 4/8/15]

### **8.01.020 Animal Control Program.**

(a) *Responsibility.* The Animal Control Program is responsible for the enforcement of this ordinance, 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 ordinance, 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 San Mateo 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 ordinance.

(b) *Scope of Authority of Humane Officers and Animal Control Officers.* Humane Officers qualified and appointed pursuant to California Corporations Code section 14502, who are employees of any public pound, society for prevention of cruelty to animals or humane society which has contracted with the County to provide animal control services, shall have the authority to issue notices to appear in court pursuant to chapter 5c (commencing with section 853.5 of title 3 of part 2 of the Penal Code of the State of California) for violations of state and local animal control laws. This authority is based on section 14503 of the Corporations Code. Animal Control Officers shall have the authority provided by state law including but not limited to that described by Penal Code section 830.9.

(c) *Right to Contract for Animal Control Services.* The City Council may contract for animal control services to be performed by San Mateo County.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

### **8.01.030 Rabies Vaccinations.**

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

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.040 Dog Licenses.**

(a) *Requirements.* An annual license fee shall be paid for every dog or cat over the age of four (4) months owned or harbored in the Town of Colma. Said annual license fee shall be first due when the animal reaches four (4) months of age or within 60 days after the dog or cat is acquired, and due on the anniversary date of the original purchase date each year thereafter. New residents shall have sixty (60) days in which to acquire such license. Persons renewing their license shall have thirty (30) days following their due date before being delinquent and having to pay a late penalty. The fee for such license shall be as set forth in the Master Fee Schedule. The fee paid for the licensing of spayed or neutered dogs and cats shall be less than said license fee for unaltered cats or dogs upon presentation of the proper certification. The license fee paid by persons over the age of 60 shall be at a discount. For purposes of this section any surcharge on the license fee imposed under the Master Fee Schedule 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 the Master Fee Schedule. 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 Town or used for guide or hearing purposes by a handicapped resident of the Town and which has come from a guide or hearing dog training facility such as Canine Companions, or for dogs which have served as a member of the armed forces of the United States of America, or any dog used by a local law enforcement agency for the purposes of crime prevention or control. Dog or cat licenses are not transferable between Owners; however, if the dog dies and the Owner acquires a new dog, the license is transferable to the new dog. 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 the Town of Colma.

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

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

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

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

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

(h) *Veterinarian Responsibilities.* Every veterinarian who vaccinates or causes or directs to be vaccinated in the Town any dog, cat, or wolf hybrid with anti-rabies vaccine shall certify that such animal has been vaccinated. Every veterinarian shall submit to the licensing authority a copy of the County-approved anti-rabies vaccination form, within ten (10) days of the beginning of each month, for any dog, cat, or wolf hybrid which he/she vaccinates or directs to be vaccinated with anti-rabies during the previous month. An Animal Control Officer or Animal Licensing Officer shall have the right to inspect records of rabies vaccinations during normal business hours.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.045 Three-Year Licensing for Dogs and Cats.**

Notwithstanding section 8.01.040, a three-year license may be obtained for a cat or dog (excluding wolf hybrids) by submitting to the Licensing Program adequate proof of a three-year rabies vaccination of the animal to be licensed and payment of the applicable fees as set forth in the Master Fee Schedule.

[History: ORD. 740, 4/8/15]

#### **8.01.050 Wolf Hybrid Registration.**

(a) *Requirements.* An annual registration fee shall be paid for every wolf hybrid over the age of four (4) months owned or harbored in the Town of Colma. 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 the Master Fee Schedule. 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.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.060 Public Protection From Dogs.**

(a) Every Owner or possessor of a dog shall at all times prevent such dog from biting or physically harassing any person engaged in a lawful act and from interfering with the lawful use of public or private property.

(b) Every Owner or possessor of a dog shall at all times prevent such dog from causing substantial injury to another domestic animal while such domestic animal is lawfully upon public or private property. Substantial injury means any injury which results in veterinarian treatment or death.

(c) Every Owner or possessor of a dog shall desist from commanding or provoking such dog to attack, sic or threaten a person when such person is peaceably and lawfully upon public or private property.

(d) Any person who violates any provision of subsections (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.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.070 Prohibited Conduct.**

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

(a) To be upon any public street, sidewalk, park, school ground, any public property, or upon any unenclosed premises in the Town of Colma unless the animal is properly licensed, if such licensing is necessary hereunder, and under the control of the Owner by being saddled, harnessed, haltered, or leashed by a substantial chain, lead rope, or leash, which chain, lead rope, or leash shall be continuously held by some competent person capable of controlling such animal.

(b) To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property or to habitually continue to trespass thereon.

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

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

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

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.072. Feeding Birds and Wild Animals Prohibited.**

(a) It shall be unlawful for any person to feed or offer food to any bird or wild animal in or on any sidewalk, street, highway or public property of the Town of Colma.

(b) It shall be unlawful for any person to feed or offer to any bird or wild animal in or on any private property in the Town of Colma, except for the following:

(1) Unintentional feeding of any wild animal as a result of leaving food at an individual gravesite within a cemetery.

(2) Use of a bird or hummingbird feeders on detached single-family residentially developed properties. Feeders shall be in such numbers that feeding does not create an unreasonable disturbance that affects the rights of surrounding property owners or creates a nuisance, does not create an accumulation of droppings on the property or surrounding properties, and does not become an attractant for rodents or other wild animals. Feeders are required to be suspended off the ground by a chain or other method to prevent potential feeding of wild animals and rodents and shall be filled only with bird seed and feed.

[History: ORD. 637, 11/09/05; ORD. 636, 12/14/05; ORD. 637, 11/9/05; ORD. 740, 4/8/15; ORD. 798, 1/8/20]

### **8.01.075 Animal Waste.**

(a) It is unlawful for the Owner or person having custody of any animal to fail to immediately remove and dispose of in a sanitary manner, by placing in a closed or sealed container and depositing in a trash receptacle, any feces deposited by such dog animal upon private or public property not owned or controlled by the Owner or person having custody of such dog animal.

(b) No person having the care, custody, charge or control of any animal shall permit or allow that animal on any public sidewalk, public park or on any other public property, or on any private property owned by someone other than the Owner or person who has custody or control of the animal, unless that person has, in his or her possession, an implement or device capable of removing any feces deposited by the animal.

(c) The provisions of this section shall not be applicable to:

- (1) Any animal enrolled and participating in obedience classes or in any show for which the Town has issued a special event permit;
- (2) Any guide dog while being used by a blind person; or
- (3) Any domestic feline.

[History: ORD. 625, 12/8/04; ORD. 740, 4/8/15]

#### **8.01.080 Protection of Animals in Motor Vehicles.**

(a) No person, other than an individual actually working a dog or other animal for ranching purposes, shall transport or carry on any public highway or public roadway, any dog or other animal in a motor vehicle unless the dog or other animal is safely enclosed within the vehicle or protected by a cap or container, cage, cross-tether, or other device to prevent the animal from falling from, being thrown from, or jumping from said motor vehicle. As used herein "motor vehicle" includes, without limitation, automobile, pickup truck and trailer.

(b) No person shall leave a dog or other animal in any unattended motor vehicle without adequate ventilation, sanitary conditions, or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or safety.

(c) Notwithstanding any other provision of this ordinance, a violation of subsections (a) or (b) of this section shall be an infraction. Any Animal Control Officer or peace officer who witnesses such a violation shall have the right to impound the animal if, in his or her opinion, the animal's health or safety is or will be thereby endangered.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.090 Release for Confinement.**

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

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.100 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 8.01.120 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 8.01.115 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 8.01.115, 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 8.01.120 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 8.01.115 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 Health System, or the Town. In that event, the County Director of the Health System or the Town 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.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

### **8.01.105 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 he or she 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 8.01.115 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 Health System, or the Town.

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

(e) In determining whether or not an animal shall be declared vicious, the Animal Control Officer, peace officer or hearing officer may consider, as a mitigating factor or factors, whether at the time of the injury, attack or behavior, the person or animal suffering the injury, attack or behavior for which the animal is being determined vicious:

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

(2) Committed a willful trespass or other tort upon the private property of the Owner or caretaker of the animal;

(3) Threatened or committed an unjustified attack or assault against the Owner, caretaker or person in control of the animal; or

(4) Any other mitigating factors deemed appropriate for consideration by the Animal Control Officer, peace officer or hearing officer.

[History: ORD. 635, 10/12/05; ORD. 740, 4/8/15]

### **8.01.110 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) The issuance of the permit shall be conditioned upon the animal Owner, possessor or permittee promising to adhere to the rules and regulations of this chapter specified in section 8.01.120 and to any reasonable criteria related to the proper care, control, maintenance and use of the animal which the peace officer or Animal Control Officer shall establish.

(c) 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 of the County Health System. 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 the Master Fee Schedule. This fee shall not be refundable.

(d) If the Owner or permittee has a history of multiple violations of this chapter 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.

*[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]*

### **8.01.115 Hearing Procedures**

(a) Hearings held under this chapter shall be conducted by a hearing officer or designated representative appointed by the Director of the San Mateo County Health System. Alternatively, the Town may elect to utilize the services of any San Mateo County designated hearing officer to hold hearings under this chapter, and may appoint any such hearing officer in its discretion. 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 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 office for good cause otherwise determines, the Owner of the animal is liable for all costs as set forth in the Master Fee Schedule.

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

(h) In the case of animals determined by an Animal Control Officer or peace officer to be dangerous or vicious, the hearing officer may decide any or all of the following:

(1) That the animal be designated "vicious" and the Owner of the animal lose all rights of ownership and control of the animal and the animal shall be humanely destroyed. An animal designated as vicious will be held at the animal shelter for a minimum of five (5) calendar days from the date of the hearing officer's decision, after which time it may be humanely destroyed without further notice to the Owner;

(2) That the animal be designated "dangerous" and the Owner must apply for and obtain a Dangerous Animal permit as provided by this chapter within five (5) 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 8.01.120;

(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 8.01.120, including, but not limited to, the following:

(A) That the Owner keep the animal muzzled at all times when the animal is off the Owner's property;

(B) That the Owner prove financial responsibility by posting a bond or certificate of insurance for an amount of \$1,000,000 per animal as determined by the hearing officer;

(C) That the Owner provide private behavioral and obedience training to the animal, at the Owner's expense and within the time set forth by the hearing officer following the issuance of a Dangerous Animal permit. Proof of participation, a report of behavioral assessment, 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 (7) calendar days following any required training;

(D) That the Owner comply with any other permit requirement the hearing officer deems necessary to protect the public health or safety;

(E) That the Owner reimburse the victim for the victim's medical expenses or the victim animal's veterinary expenses; and

(F) Pursuant to section 8.01.160 of this chapter, that the Dangerous Animal permit be modified as ordered by the hearing officer, or revoked and the animal humanely destroyed.

[History: ORD. 635, 10/12/05; ORD. 740, 4/8/15; ORD. 793, 5/22/19]

### **8.01.120 Mandatory Dangerous Animal Permit Requirements.**

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

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

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

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

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

(e) The Owner shall open premises upon which an animal is maintained at any reasonable hour for inspection by the Animal Control Officer or peace officer and said premises shall be surrendered for inspection by the Owner upon the request of the Animal Control Officer or peace officer. The Owner shall pay a fee for the costs incurred by the County or the Town for the inspection or re-inspection of property. Such fee shall be set forth in the Master Fee Schedule.

(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, rules and regulations 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 the Master Fee Schedule 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 the Animal Control Program at least twenty-four (24) hours before such sale, transfer or disposal. The Animal Control Program will notify the proper authorities of the jurisdiction to which the Dangerous Animal is transferred. Should the Owner of a Dangerous Animal wish to transfer ownership of the animal to another individual within San Mateo County, the new Owner must submit to a property inspection, apply for and obtain a new Dangerous Animal permit, pay all requisite fees, and comply with all provisions of this chapter and the requirements of the permit.

(l) No more than two Dangerous Animals may be kept at any one household.

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

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

(o) The Owner must pay all permit and property inspection fees as described in the Master Fee Schedule.

(p) The Owner shall comply with all other permit conditions or requirements imposed pursuant to section 8.01.115 or 8.01.100(a).

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

**8.01.130 Repealed.**

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05, ORD. 643, 4/12/06; ORD. 740, 4/8/15]

**8.01.140 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.

[History: ORD. 606, 9/10/03, ORD. 635, 10/12/05; ORD. 740, 4/8/15]

**8.01.150 Inspection fee.**

A fee shall be charged for the costs incurred by the County or the Town for the inspection or re-inspection 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 the Master Fee Schedule.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

**8.01.160 Revocation or Modification of Permit.**

(a) Subject to the provision of subsection (b), any permit issued pursuant to this subchapter 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, the Officer shall cause written notice thereof to be transmitted to the Owner. Said notice shall specify the grounds of revocation or modification of the permit. Should the Owner of the animal wish to contest the revocation or modification of the permit, he or she 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 Health System, or the Town, 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 8.01.115 of this chapter. After the hearing, the hearing officer conducting the hearing may modify the terms of the permit or revoke the permit depending upon the Owner's ability to comply with the requirements of this chapter and to control the animal so that the health, safety and property of the public are protected.

(d) Upon written or oral notification by the Animal Control Officer, or hearing officer if a hearing was held, of any modifications to a Dangerous Animal permit, the Owner shall immediately comply with such modified permit requirements.

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

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

### **8.01.170 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.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

#### **8.01.180 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 8.01.170, the Owner may request a hearing under section 8.01.115, subsections (a) – (g) of this chapter or applicable state law. The Animal Control Officer shall maintain records of said impoundment pursuant to section 8.01.200 of this chapter.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

#### **8.01.190 Repealed.**

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.200 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.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15]

#### **8.01.210 Field Return Fee.**

A fee shall be charged for any animal impounded by an Animal Control Officer or peace 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 the Master Fee Schedule.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.220 Redemption/Spay Neuter Fee.**

(a) 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. The 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 addition to all applicable impound and redemption fees imposed under the Master Fee Schedule. Such fee shall be refundable upon proof of the 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 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) of this section may petition, in writing, for a hearing conducted by the Animal Control Program Manager or his or her designee within three days following notice of the second impoundment. The hearing shall be held within four working days of such petition and shall be subject to the provisions of section 8.01.115, subsections (a) through (g) of this chapter. 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.

[History: ORD. 606, 9/10/03; ORD. 635, 10/12/05; ORD. 740, 4/8/15; ORD. 793, 5/22/19]

#### **8.01.230 Redemption Fees.**

Fees for animal shelter services shall be as set forth in the Master Fee Schedule. No animal shall be released to its Owner or possessor unless and until such fees are paid in full.

[History: ORD. 606, 9/10/03]

#### **8.01.240 License Fee To Be Paid Upon Redemption.**

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

[History: ORD. 606, 9/10/03]

#### **8.01.250 Epidemics.**

The San Mateo County Health System 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 Town. Upon the making of such a declaration, the County Health Officer shall prepare and promulgate such orders, rules, and regulations as are necessary for appropriate control of all the animals concerned within the Town. Said rules and regulations of the County Health Officer may include, but are not limited to, impoundment, quarantine, vaccination, or destruction. It shall be the duty of Animal Control Officers to assist the County Health Officer in carrying out such rules and regulations.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

#### **8.01.260 Bite Reporting Requirements.**

It is the duty of every person having knowledge that any animal has bitten a human being to report that fact immediately to the County Health System, the Animal Control Program or to the Colma Police Department.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.270 Quarantine Fee.**

A fee shall be charged for the costs incurred by the County or the Town 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 the Master Fee Schedule.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.280 Service Fees.**

Animal Control Service fees for redemption of impounded animals, relinquishment, adoption, disposal, abatement, rescue, veterinary treatment or other services pursuant to this chapter, shall be set forth in the Town of Colma Master Fee Schedule, Subchapter 10 of Chapter 1 of the Colma Administrative Code, as amended from time to time by the City Council, which is hereby incorporated into this chapter by this reference. Fees for costs incurred in the provision of services by the Animal Control Program that are not specified in the Master Fee Schedule shall be reviewed by the Director of Health System or his/her designee and established based on the Director's evaluation of what fee is necessary to reimburse the Animal Control Program for its costs incurred in providing the service. In the event the cost is incurred by the Town, the City Manager or his/her designee shall review the fee and determine if the fee is necessary to reimburse the Town for costs incurred in providing services. The Director of Health System or his/her designee or the City Manager 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.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.290 Repealed.**

Fees and charges shall be set forth in the Town of Colma Master Fee Schedule, which may be amended from time to time by resolution of the City Council.

[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]

### **8.01.300 Penalties for Violations.**

(a) Except as specifically stated elsewhere, any violation of the provisions of this ordinance, including those provisions relating to required fees, shall be punishable as an infraction, the penalty for which is set forth in section 1.05.020, et seq. of this Code.

(b) Notwithstanding subsection (a), any person violating any provision of sections 8.01.100(a) or 8.01.105(a) shall be guilty of a misdemeanor.

[History: ORD. 606, 9/10/03, ORD. 643, 4/12/06; ORD. 740, 4/8/15]

**8.01.310 Use of License and Other Revenue.**

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

*[History: ORD. 606, 9/10/03; ORD. 740, 4/8/15]*