

## Chapter 210

## ANIMAL REGULATION

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## Section 1 Purpose and Intent

## V-210-1.01 Purpose and Intent

The purpose and intent of this Chapter is to protect the public health, safety and welfare by imposing regulations on owners and other caretakers of animals and to reduce the cost of providing animal control services by regulating the uncontrolled breeding of dogs and cats. (Ord. 54.20 (part), 7/18/95)

## Section 2 Definitions

## V-210-2.00 Definitions

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this Section shall govern the construction, meaning, and application of words and phrases used in this Chapter.

2.01 Administrator. The "Administrator" shall be the City Manager, or his or her designee(s), and shall

be charged with the administration of this Chapter, including presiding over administrative hearings pursuant to Section V-210-13.

2.02 Animal. "Animal" shall mean any live vertebrate creature, domestic or wild, with the exception of fish.

2.03 Animal Adoption Organization. "Animal adoption organization" shall mean a nonprofit organization that consists of citizens who volunteer to provide shelter in their own homes to stray or homeless animals, provide animals with proper veterinary care, sterilize all pets or take spay or neuter deposits, and place animals into permanent homes.

2.04 Animal Shelter. "Animal shelter" shall mean a facility operated by a public agency or by an accredited, tax exempt humane organization for the purpose of impounding, harboring, selling, placing or destroying seized, stray, distressed, homeless, abandoned or unwanted animals.

2.05 Cat. "Cat" shall mean a tame and domesticated cat (*felis catus*).

2.06 Commercial Kennel. "Commercial kennel" shall mean any person engaged in the commercial breeding of dogs or cats, or both, for sale individually or in litter lots, or in the boarding, training, sale or hire of dogs and/or cats for compensation, with the exception of animal shelters or animal hospitals maintained by a veterinarian licensed by the State of California as part of the practice of veterinary medicine.

2.07 Dangerous Animal. "Dangerous animal" shall mean any animal which, because of its size, disposition or other characteristics, would constitute a danger to humans, including any dog classified as a Level 3, 4, or 5 potentially dangerous dog as defined in this Section.

2.08 Dog. "Dog" shall mean a domestic dog (*canis familiaris*).

2.09 Feral Cat. "Feral cat" shall mean an untamed, domesticated cat.

2.10 Horse Establishment. "Horse establishment" shall mean the keeping of three (3) or more horses, donkeys, mules, jacks, hinnys, jerny burros, or ponies for any or all of the following purposes: for

hire, for giving riding instructions, or for boarding with compensation.

2.10.5 Menace. "Menace" shall mean any aggressive behavior by a dog (a) that requires a defensive action by any person to prevent bodily injury to any person or domestic animal or (b) that would cause a reasonable person to fear for the safety of any person or domestic animal that was in the presence of the dog at the time of the behavior.

2.11 Owner. "Owner" shall mean any person who acknowledges ownership of an animal or who harbors or keeps an animal for five (5) or more consecutive days.

2.12 Person. "Person" shall mean any individual, establishment, firm, association, organization, partnership, trust, corporation or company.

2.13 Pet Shop. "Pet shop" shall mean a person who obtains animals for sale, exchange, barter or hire to the general public as a principal or agent or on consignment, or who holds himself or herself out to be so engaged.

2.14 Potentially Dangerous Dog. "Potentially dangerous dog" shall mean a dog which has been classified as potentially dangerous at one of the following five (5) levels based upon specific behavior exhibited by the dog. For purposes of this Chapter, behaviors establishing various levels of potential dangerousness are as follows:

**Level 1**

Level 1 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior toward or otherwise threaten or endanger the safety of any domestic animal.

**Level 2**

Level 2 behavior is established if a dog at large is found to menace, chase, display threatening or aggressive behavior toward or otherwise threaten or endanger the safety of any human.

**Level 3**

Level 3 behavior is established if a dog at large aggressively bites or causes physical injury to any person or domestic animal and may be established if a dog that has been classified as a Level 1 or Level 2 potentially dangerous dog repeats behavior defined as Level 1 or Level 2 behavior within the 12-month

period after the owner receives notice of the Level 1 or Level 2 classification.

**Level 4**

Level 4 behavior is established if a dog, while under restraint, aggressively bites any human or causes physical injury to any human or domestic animal.

**Level 5**

Level 5 behavior is established if either (a) a dog, whether or not confined, causes the serious injury or death of any human, (b) a dog, while at large, kills any domestic animal, (c) a dog engages in or is found to have been trained to engage in exhibitions of fighting, or (d) a dog that has been classified as a Level 4 potentially dangerous dog repeats the behavior defined as Level 4 behavior after the owner receives notice of the Level 4 classification.

2.15 Unsterilized Dog or Cat. An "unsterilized dog or cat" is a dog or cat that has not been rendered permanently incapable of reproduction. (Ord. 54.23 §§ 1,2, 9/4/01; Ord. 54.21 (part), 1/2/01; Ord. 54.20 (part), 7/18/95)

**Section 3 Authority**

**V-210-3.01 Scope of Authority**

The Administrator, authorized designee(s), and/or any peace officer, are empowered to enforce the provisions of this Chapter. Nothing herein is intended to affect the City Attorney's discretion with respect to prosecution under this Chapter. (Ord. 54.20 (part), 7/18/95)

**V-210-3.02 Inspection of Premises**

Any person granted authority under this Section shall have the power to enter upon and inspect any premises where any animal is kept or harbored when such entry is necessary to enforce the provisions of this Chapter. A search warrant shall be obtained whenever required by law. (Ord. 54.20 (part), 7/18/95)

**V-210-3.03 Notice of Inspection**

Such entry and inspection shall be made only after every reasonable effort has been made to provide the

occupant of the premises with written or oral notice of the inspection. (Ord. 54.20 (part), 7/18/95)

**V-210-3.04 Notice Not Required in an  
Emergency Situation**

Notwithstanding the foregoing, if there is reasonable cause to believe the keeping or maintaining of any animal is so hazardous as to require an immediate inspection to protect the animal or to protect public health or safety, any person granted authority under this Section shall have the power to immediately enter and inspect the property. Failure or refusal to permit such an inspection shall constitute a misdemeanor. (Ord. 54.20 (part), 7/18/95)

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**Section 4 Animal Behaviors—Nuisances****V-210-4.01 Defecating on Public or Private Property**

No person owning or having control of any animal shall allow it to defecate on public property or private property not owned by or under the control of that person, without immediately cleaning or removing the excrement to a proper receptacle. (Ord. 54.20 (part), 7/18/95)

**V-210-4.02 Bothering Passersby**

No person owning or having control of any animal shall allow it to obstruct the reasonable and comfortable use by another of public or private property, by chasing vehicles or disturbing passersby. (Ord. 54.20 (part), 7/18/95)

**V-210-4.03 Excessive Noise**

No person owning or having control of any animal shall allow it to bark, howl, wail, bay, yelp, cry, or make any other noise with such frequency or in such a manner as to disturb the peace and quiet of one (1) or more persons residing within a radius of three hundred (300) yards of the boundaries of the premises where the animal is located. (Ord. 54.20 (part), 7/18/95)

**V-210-4.04 Unsanitary Conditions**

No person owning or having control of any animal shall permit unsanitary conditions to exist on the premises where said animal is kept which would cause odors, attract flies or vermin, or otherwise be injurious to public health and safety, or is offensive to the senses, or is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by others. (Ord. 54.20 (part), 7/18/95)

**V-210-4.05 Dogs Shall be Leashed**

All dogs shall be physically restrained by means of a leash when they are not on the property of their owner or the person who has control of them. This requirement shall not apply to dogs on private property if the owner of such property gives permission for the dog to be unrestrained or on public property

if such property is in an area where dogs are specifically permitted to be unrestrained or for approved dog obedience classes. (Ord. 54.20 (part), 7/18/95)

**V-210-4.06 Remedies—Private**

Any private person may maintain an action under the California Civil Code for enforcement of this Section, declaring certain acts a private nuisance, if such acts are specially injurious to such person. (Ord. 54.20 (part), 7/18/95)

**Section 5 Regulation of Potentially Dangerous Dogs—Quarantine Provisions—Deceased Animals****V-210-5.01 Remedy for Potentially Dangerous Dog Under This Section Not Exclusive**

Remedies under this Section are in addition to all other remedies available under this Chapter or as otherwise provided by law. (Ord. 54.20 (part), 7/18/95)

**V-210-5.02 Authority to Classify Dog as Potentially Dangerous**

Any person granted authority under this Chapter shall have the authority to determine whether any dog has engaged in the behaviors specified in Section V-210-2. This determination shall be based upon an investigation of the dog's behavior based on information about the dog's upbringing and the owner's control of the dog. (Ord. 54.20 (part), 7/18/95)

**V-210-5.03 Discretion to Classify Dog as Potentially Dangerous**

Notwithstanding Section V-210-2 of this Chapter, any person granted authority under this Chapter shall have discretionary authority to refrain from classifying a dog as potentially dangerous, even if the dog was engaged in the specified behaviors, if it is determined that the behavior was the result of the victim abusing or tormenting the dog or that there were other extenuating circumstances. (Ord. 54.20 (part), 7/18/95)

**V-210-5.04 Exceptions from Potentially Dangerous Classification**

No dog shall be classified as potentially dangerous if the dog is, pursuant to its training, assisting a peace officer engaged in law enforcement duties or if the behavior in question was directed against a trespasser inside any fully-enclosed building or fenced-in open area of private property. (Ord. 54.20 (part), 7/18/95)

**V-210-5.05 Notice to Owner of Animal's Classification and Owner Appeal**

Upon classification of an owner's dog as potentially dangerous, the owner may appeal the classification by filing a written request for an administrative hearing pursuant to Section V-210-13 within ten (10) days of service of the notice of classification. (Ord. 54.20 (part), 7/18/95)

**V-210-5.06 Compliance of Owner with Restrictions Pending Hearing**

Once the owner has received notice, pursuant to this Section, of the dog's classification as a Level 1, 2, 3, or 4 potentially dangerous dog, the owner shall comply with the restrictions specified in the notice until such time as the decision may be reversed on appeal. Failure to comply with the specified restrictions pending the completion of all appeals shall be a violation of this Chapter. In addition to other remedies afforded the City, the dog may be impounded with the costs of such impoundment to be paid by the owner, pending completion of all appeals. (Ord. 54.20 (part), 7/18/95)

**V-210-5.07 Impoundment Required if Level 5 Behavior Alleged**

If a dog is classified as a Level 5 potentially dangerous dog and the dog's owner has not obtained a permit for such dog under Section V-210-10, the dog may be impounded pending the completion of all appeals. If the decision is upheld on appeal, the dog's owner shall be liable for the cost of the dog's impoundment. (Ord. 54.20 (part), 7/18/95)

**V-210-5.08 Control of Potentially Dangerous Dog**

Any person granted authority under this Chapter may seize any dog he or she reasonably believes to be a potentially dangerous dog, as defined in Section V-210-2, and may keep such animal in a safe place for a period of time sufficient to observe, examine and determine whether such dog should be classified as a potentially dangerous dog. A dog classified as a potentially dangerous dog shall be controlled and restrained according to the level of classification. (Ord. 54.20 (part), 7/18/95)

**V-210-5.09 Level 1 and Level 2 Potentially Dangerous Dog**

The following requirements shall apply to any dog classified as a Level 1 or Level 2 potentially dangerous dog:

5.09-1 Confinement. The owner or person with the right to control any dog classified as a Level 1 or Level 2 potentially dangerous dog shall keep said dog confined to the owner's premises behind a solid fence not less than six feet (6') high or such other enclosure as may be approved by the administrator, or his or her designee(s), or shall keep such dog under physical restraint by means of a leash not to exceed six feet (6') in length and capable of restraining at least four (4) times the weight of the dog, so long as such dog is not tied to a post, pole, or other object which enables the dog to be closer than six feet (6') to any street or sidewalk.

5.09-2 Control of Animals Outside Owner's Premises. A Level 1 or Level 2 potentially dangerous dog may be permitted off the owner's premises only when securely muzzled and leashed on a leash not to exceed three feet (3') in length which is capable of restraining four (4) times the weight of the animal. Further, the animal must be under the control of a person eighteen (18) years of age or older who is physically capable of restraining the animal. (Ord. 54.20 (part), 7/18/95)

**V-210-5.10 Level 3 and Level 4 Potentially Dangerous Dog.**

The following requirements shall apply to any

dog classified as a Level 3 or Level 4 potentially dangerous dog:

5.10-1 Dangerous Animal Permit Required. No person shall keep, have, maintain, sell, trade, or let for hire a Level 3 or Level 4 potentially dangerous dog without first obtaining a dangerous animal permit under Section V-210-10.

5.10-2 Confinement of Animal Indoors. A Level 3 or Level 4 potentially dangerous dog shall be allowed to be enclosed in a house, apartment, building, or similar structure only if the windows and doors are secured to prevent the dog from exiting without assistance.

5.10-3 Posted Warnings. If a dog has been classified as a Level 3 or Level 4 potentially dangerous dog, the owner shall post warning signs on all gates and all sides of the property accessible to the public, where the dog is kept. Such warning signs shall be no smaller than eight and one-half inches (8½") by eleven inches (11") and shall, at a minimum, bear the words "Beware of Dog" or "Beware of Dangerous Animal."

5.10-4 Confinement of Animal to Kennel or Pen. When not confined indoors, the owner of a Level 3 or Level 4 potentially dangerous dog shall keep the dog in a securely enclosed, escape-proof, locked kennel or pen. Such kennel or pen shall have secured sides and a secured top attached thereto. The kennel or pen shall be constructed in a manner so that it cannot be broken down by any action of the confined dog. Such structure shall be locked with a key or combination lock of sufficient strength to ensure confinement of said dog and shall be erected upon a secure bottom or floor constructed of concrete or other material sufficient to prevent the animal from digging free. The sides of the structure shall be imbedded not less than two feet (2') into the ground behind a solid fence not less than six feet (6') in height.

5.10-5 Control of Animal Outside Owner's Premises. A potentially dangerous dog may be permitted off of the owner's premises only when securely muzzled and leashed on a leash not to exceed three feet (3') in length which is capable of restraining four (4) times the weight of the dog, and which is

attached to a commercial quality walking harness which fastens securely across the shoulders and mid-chest, encompassing the rib area and upper abdomen of the dog. Further, the dog must be under the control of a person eighteen (18) years of age or older who is physically capable of restraining the animal.

5.10-6 Transportation of Animal. No person shall transport a Level 3 or Level 4 potentially dangerous dog unless the dog is in a locked animal carrier equivalent in construction quality to those used by commercial air carriers. No person shall leave a Level 3 or 4 potentially dangerous dog confined or unattended in or about any motor vehicle. (Ord. 54.20 (part), 7/18/95)

#### V-210-5.11 Level 5 Potentially Dangerous

##### — Dog

The following requirements shall apply to any dog classified as a Level 5 potentially dangerous dog:

5.11-1 Dangerous Animal Permit Required. No person shall keep, have, maintain, sell, trade or let for hire a Level 5 potentially dangerous dog without first obtaining a dangerous animal permit under Section V-210-10.

5.11-2 Confinement of Animal Indoors. A Level 5 potentially dangerous dog shall be allowed to be enclosed in a house, apartment, building, or similar structure only if the windows and doors are secured to prevent the dog from exiting without assistance.

5.11-3 Posted Warnings. If a dog has been classified as a Level 5 potentially dangerous dog, the owner shall post warning signs on all gates and all sides of the property accessible to the public, where the dog is kept. Such warning signs shall be no smaller than eight and one-half inches (8½") by eleven inches (11") and shall, at a minimum, bear the words "Beware of Dog" or "Beware of Dangerous Animal."

5.11-4 Confinement of Animal to Kennel or Pen. When not confined indoors, the owner of a Level 5 potentially dangerous dog shall keep the dog in a securely enclosed, escape-proof, locked kennel or pen. Such kennel or pen shall have secured sides and a secured top attached thereto. The kennel or

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pen shall be constructed in a manner so that it cannot be broken down by any action of the confined dog. Such structure shall be locked with a key or combination lock of sufficient strength to ensure confinement of said dog and shall be erected upon a secure bottom or floor constructed of concrete or other material sufficient to prevent the animal from digging free. The sides of the structure shall be imbedded not less than two feet (2') into the ground behind a solid fence not less than six feet (6') in height.

5.11-5 Endangering the Public. A Level 5 potentially dangerous dog which is determined to be a danger to public health or safety may be impounded, pursuant to Section V-210-12, and may be destroyed. (Ord. 54.20 (part), 7/18/95)

### V-210-5.12 Identification of Known Potentially Dangerous Dogs

To ensure correct identification, the owner of any dog that has been classified as a potentially dangerous dog shall have the dog marked with a permanent ear tattoo. Such tattoo shall be a serial number to be no smaller than one-quarter inch (1/4") in height. The owner of the tattooed animal shall register the tattooed serial number with the City. Additionally, the owner of the animal shall provide to the City, at least two (2) photographs of the animal, with at least one (1) photograph showing a front view of the animal and at least one (1) photograph showing a side view of the animal. (Ord. 54.20 (part), 7/18/95)

### V-210-5.13 Killing or Wounding of Another Domestic Animal by A Potentially Dangerous Dog

If a dog classified as potentially dangerous at any level, when unprovoked, kills, wounds, or assists in killing or wounding any domestic animal, the owner or person in control of said dog shall be guilty of a misdemeanor. (Ord. 54.20 (part), 7/18/95)

### V-210-5.14 Animal Bites

Any person having knowledge that any animal is

known to have, or is suspected of having, bitten any person shall immediately report that fact to the City with all known information concerning the incident. (Ord. 54.20 (part), 7/18/95)

### V-210-5.15 Seizure and Quarantine of Animal

Upon receipt of a report that an animal is known to have, or is suspected of having bitten any person, any person granted authority under this Chapter will either: (i) seize and quarantine such animal for a period of fourteen (14) days or such other period as may be prescribed by the State Department of Public Health; or (ii) order the owner to quarantine the animal on their own premises. (Ord. 54.20 (part), 7/18/95)

### V-210-5.16 Diseased Animals

No person owning or having charge of any animal which that person knows to be infected with any disease transmittable to humans shall permit such animal to remain within the City, other than at an approved veterinary hospital, unless the Administrator approves an alternate method of confinement. (Ord. 54.20 (part), 7/18/95)

### V-210-5.17 Seizure of Diseased Animals

Any animal reasonably believed to be infected with any disease transmittable to humans will be seized and quarantined for a period of time sufficient to observe, examine and determine whether the animal is diseased. (Ord. 54.20 (part), 7/18/95)

### V-210-5.18 Compliance with Quarantine

Any person who fails, refuses, or neglects to quarantine any animal as ordered pursuant to any Section of this Chapter, or who refuses to allow inspection of any private premises where the animal is kept, is guilty of a misdemeanor. (Ord. 54.20 (part), 7/18/95)

### V-210-5.19 Animal May Not Be Removed From Quarantine

No animal shall be removed or released during

the quarantine period without the written permission of the Administrator. (Ord. 54.20 (part), 7/18/95)

**V-210-5.20 Cost of Quarantining Animal**

The costs of quarantining an animal shall be paid by the owner or person in charge of the animal. Such costs shall include the actual costs of housing, feeding and otherwise caring for a quarantined animal, including any necessary medical care. (Ord. 54.20 (part), 7/18/95)

**V-210-5.21 Death of Animal While Quarantined**

The body of any animal which dies or is destroyed while under quarantine shall be submitted to the laboratory of the County Health Department for rabies examination. (Ord. 54.20 (part), 7/18/95)

**V-210-5.22 Deceased Animals**

Upon the death of any animal, the owner or person in charge thereof shall provide for the burial, incineration, or other proper disposition of the body of such animal. (Ord. 54.20 (part), 7/18/95)

**V-210-5.23 Inability to Provide for Disposition of Deceased Animal**

If the owner or person in charge of any deceased animal is unable to provide for burial or other proper disposition, he or she shall relinquish the animal's body to an animal shelter authorized by the City to accept such remains for disposal. (Ord. 54.20 (part), 7/18/95)

**V-210-5.24 Body of Deceased Animal—Improper Disposal**

Upon learning that the body of a deceased animal has not been disposed of in a safe and sanitary manner, any person granted authority under this Chapter shall immediately cause the body of such animal to be disposed of in an appropriate manner. (Ord. 54.20 (part), 7/18/95)

**V-210-5.25 Fee for Disposal**

If the City disposes of the body of a deceased

animal, a fee of thirty dollars (\$30.00) shall be paid by the owner of the animal, if known, to defray the costs of disposal. The amount of this fee may be superseded by contractual agreement between the City and a licensed animal shelter. (Ord. 54.20 (part), 7/18/95)

**V-210-5.26 Fee Waived For Persons Over the Age of 65**

No fee shall be charged for disposal of the body of a deceased animal if the owner or person in charge of the animal has attained the age of sixty-five (65) years. (Ord. 54.20 (part), 7/18/95)

**V-210-5.27 Animals in City Buildings**

No person having the control or care of any animal shall permit such animal to enter or remain in City owned or managed buildings, other than buildings used for the purpose of the care, detention, control, or treatment of animals, or buildings used for animal training classes, animal shows or exhibits, or except as otherwise allowed by law. (Ord. 54.20 (part), 7/18/95)

**Section 6 Humane Treatment of Animals**

**V-210-6.01 Owners Shall Protect Animals' Health and Safety**

Owners of animals shall be responsible for maintaining the proper standards, as outlined in this Chapter, of health and safety for their animals. (Ord. 54.20 (part), 7/18/95)

**V-210-6.02 Animals in Unattended Motor Vehicles**

No person shall leave an animal in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures which may adversely affect the health or well-being of the animal. (Ord. 54.20 (part), 7/18/95)

**V-210-6.03 Transportation of Animals**

It shall be unlawful to transport any dog, cat, or

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other animal upon any street or highway in an open truck, open automobile, or other vehicle, not completely enclosed on all sides unless the animal is secured so that it cannot escape or be ejected from said open truck, open automobile, or other vehicle. The driver of said truck, automobile, or other vehicle shall be responsible for compliance with the requirements of this Section. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.04 Rabies Vaccination**

Every owner of a dog or cat over the age of four (4) months shall cause such animal to be vaccinated with a rabies vaccine approved by the State Department of Public Health. Revaccination of all dogs and cats shall be done one (1) year after their initial vaccination and thereafter shall be done again every two (2) years. Compliance with the provisions of this Section shall be a condition to the issuance or renewal of a dog or cat license. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.05 Care of Feral Cats**

Every person caring for one or more feral cats, as defined in Section V-210-2, shall provide, at a minimum, the following level of care:

6.05-1 Regularly feed the cats, including weekends and holidays;

6.05-2 Trap all cats over the age of eight (8) weeks and have them spayed or neutered;

6.05-3 Arrange to have all cats tested for feline leukemia and feline immune deficiency virus and to have those who test positive humanely euthanized or isolated indoors;

6.05-4 Arrange to have all cats routinely vaccinated for rabies, feline leukemia, and feline rhinotracheitis-calici-panleukopenia-chlamydia psittaci. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.06 Treatment of Animals**

It shall be unlawful to mistreat, abuse or abandon any animal. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.07 Poisoning Domestic Animals**

It shall be unlawful for any person to willfully

administer poison to any domestic animal, or to willfully place, expose, or leave poisonous or harmful substances of any kind in any place with intent to injure or kill any domestic animal. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.08 Abusing Animals**

It shall be unlawful for any person to maliciously kill, maim, wound, mutilate, torment, torture, or physically abuse any animal. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.09 Prohibition of Steel-Jawed Traps**

No person shall use a leg-hold steel-jawed trap, steel-jawed trap, or steel leg-hold trap, as defined in the California Fish and Game Code. (Ord. 54.20 (part), 7/18/95)

### **V-210-6.10 Unsterilized Dog or Cat At-Large**

No owner or person with the control or custody of any unsterilized dog or cat shall allow that animal to run at-large upon any public street or other public place, or upon any private property or common area of any planned development, cluster townhome or condominium project without the consent of the property owner or person in control of the property. (Ord. 54.21 (part), 1/2/01)

## **Section 7 Maximum Number of Animals**

### **V-210-7.01 Animals in Residential Areas**

Except as otherwise provided herein, it shall be unlawful for any person to own, possess, have in custody or control, or to maintain any animal upon any lot in any residentially zoned district (pursuant to the provisions of Chapter 10 of Title XI of the Milpitas Municipal Code) when that lot is located within three hundred feet (300') of any residential building owned by someone other than the owner or custodian of said animal or the tenant of said owner or custodian. (Ord. 54.20 (part), 7/18/95)

**V-210-7.02 Exceptions to Animals in Residential Areas**

The ownership, possession, custody, control, or maintenance of the following animals is permitted:

7.02-1 Dogs and Cats. Dogs and/or cats, as defined in Section V-210-2, are allowed in a number not to exceed a combined total of four (4) dogs and/or cats over the age of four (4) months. No household may contain more than one (1) unspayed female dog or one (1) unspayed female cat. Unless an owner provides evidence of spaying, there shall be a rebuttable presumption that a female dog or cat is unspayed. Written certification from a licensed veterinarian that an animal cannot be spayed for health reasons or is incapable of breeding shall be deemed a satisfactory substitution for a certificate stating that an animal is spayed. Authorized volunteers of City of Milpitas permitted animal adoption organizations who provide shelter to stray animals in their own homes may have up to a combined total of seven (7) dogs and/or cats over the age of four (4) months at their homes at any one time.

7.02-2 Birds. Any bird, continuously kept caged and within the confines of a dwelling house, is allowed. The ownership of more than twenty (20) birds at one time is not allowed.

7.02-3 Mice, Rabbits, Hamsters, Etc. Any mouse, rabbit, guinea pig, hamster, squirrel, or animal of like size or species, continuously kept caged and within the confines of a dwelling house, is allowed. The ownership of more than ten (10) such animals at one time is not allowed.

7.02-4 Animals in a Terrarium or Aquarium. Any animal continuously confined to a terrarium or aquarium and within the confines of a dwelling house is allowed.

7.02-5 Animals for Which a Permit has been Obtained. Any animal for which a permit has first been obtained pursuant to the provisions of this Section is allowed. (Ord. 54.20 (part), 7/18/95)

**V-210-7.03 Permit for Exception to Type or Number of Animals Allowed**

Upon application a permit may be issued for the

ownership, possession, custody, control or maintenance of any animal or any number of animals, on a residentially zoned lot, otherwise prohibited by this Section, upon such terms and conditions as set forth in this Section. (Ord. 54.20 (part), 7/18/95)

**V-210-7.04 Permit for Exception to Type or Number of Animals Allowed—Application Fee**

An applicant for a permit for an exception to the type or number of animals allowed shall pay a nonrefundable fee of twenty dollars (\$20.00) for the processing of a permit application or a renewal application. (Ord. 54.20 (part), 7/18/95)

**V-210-7.05 Duration of Permit for Exception to Type or Number of Animals Allowed**

No permit issued which permits an exception to the type or number of animals allowed shall create any vested right in the holder thereof. All permits shall be issued on a yearly basis and shall expire, unless renewed at the request of the applicant, after twelve (12) months from the date of issuance. The procedure for renewal of the permit is the same as for issuance under this Section. (Ord. 54.20 (part), 7/18/95)

**V-210-7.06 Denial of Permit Application for Exception to Type or Number of Animals Allowed**

An application for a permit or a renewal of an existing permit which permits an exception to the type or number of animals allowed may be denied pursuant to this Section. The applicant shall be notified in writing, pursuant to Section V-210-13, of the decision to deny the application. The applicant may appeal the decision by requesting an administrative hearing, pursuant to Section V-210-13, within ten (10) days of service of the decision. (Ord. 54.20 (part), 7/18/95)

**V-210-7.07      Revocation of Permit for  
Exception to Type or Number  
of Animals Allowed**

A permit which allows an exception to the type or number of animals allowed may be revoked pursuant to this Section. Notification shall be given, pursuant to Section V-210-13, and an administrative hearing, pursuant to Section V-210-13, shall be held prior to the effective date of the revocation. (Ord. 54.20 (part), 7/18/95)

**V-210-7.08      Criteria Used to Issue, Deny,  
Renew or Revoke Permits for  
Exception to Type or Number  
of Animals Allowed**

In issuing, denying, renewing or revoking permits which allow an exception to the type or number of animals allowed, the following criteria shall be used:

7.08-1 The Need Which is Greatest: Public or Private. The purpose served by the ownership, possession, custody, control or maintenance of the animal shall be balanced against the needs of the community for safety.

7.08-2 Sanitation, Safety and Anti-Nuisance Provisions. Whether provisions for: (i) the sanitation and safety of the premises where the animal will reside; (ii) securing the animal; and (iii) the control of odors and noise have been or will be made.

7.08-3 Prior Compliance. The owner's previous compliance with the rules and regulations under this Chapter shall be evaluated.

7.08-4 Investigation Results. A report and investigation may be required from any City officer or department, including but not limited to the Community Development Department, the City Attorney's Office, the Police Department, and/or the Fire Department, before determining whether to issue, deny, renew or revoke a permit for exception to type or number of animals allowed. (Ord. 54.20 (part), 7/18/95)

**V-210-7.09      Remedy for Multiple  
Violations**

Notwithstanding any other remedy that may be available this Chapter or any other provisions to the contrary, a violation of this Section V-210-7 may be remedied by impoundment, in accordance with the provisions of Section V-210-1 of this Chapter, of those animals that are in excess of the number of animals allowed to be kept under this Section, where there has been three (3) or more violations of this Section V-210-7 within any previous twelve (12) month period. (Ord. 54.21 (part), 1/2/01)

**Section 8 Dog and Cat Licensing**

**V-210-8.01      License Required**

No person shall maintain or board any unlicensed dog or cat over the age of four (4) months. (Ord. 54.20 (part), 7/18/95)

**V-210-8.02      Exception for Dogs and Cats  
Temporarily in City**

A license shall not be required for a dog or cat owned or under the control of a nonresident of the City, and which is to be kept in the City for less than thirty (30) days, or for dogs or cats temporarily brought into the City for entry into an event, show or exhibition scheduled not more than ten (10) days after the animal's arrival in the City. (Ord. 54.20 (part), 7/18/95)

**V-210-8.03      Exception for Feral Cats**

A license shall not be required for a feral cat, as defined in Section V-210-2, if such cat is spayed or neutered, vaccinated and cared for pursuant to the provisions of this Chapter. (Ord. 54.20 (part), 7/18/95)

**V-210-8.04      Presentation of License upon  
Request**

The owner or person in charge of a dog or cat shall present the animal's license, upon request by the City. (Ord. 54.20 (part), 7/18/95)

**V-210-8.05      Applicability of Fee Schedule**

Any provisions for fees in this Section may be superseded by any contractual agreements between the City and a licensed animal shelter. (Ord. 54.20 (part), 7/18/95)

**V-210-8.06      License Fees**

License fees shall be paid on an annual basis. License fees shall not be refundable in whole or in part. An additional late fee shall be paid for a license purchased more than sixty (60) days after expiration of a previously issued license or sixty (60) days after notice to the owner to obtain a license. (Ord. 54.20 (part), 7/18/95)

**V-210-8.07      Annual Dog License Fees**

Altered dog	\$10.00
Unaltered dog	35.00
Late fee	5.00
Replacement tag	5.00

(Ord. 54.20 (part), 7/18/95)

**V-210-8.08      Annual Cat License Fees**

Altered cat	\$ 5.00
Unaltered cat	25.00
Late fee	5.00
Replacement tag	5.00

(Ord. 54.20 (part), 7/18/95)

**V-210-8.09      Proof of Alteration Required**

Submission of certification from a licensed veterinarian that the dog or cat has been spayed or neutered, or cannot be spayed or neutered for health reasons, or is incapable of breeding, may be required prior to the issuance of a license at the altered fee level. (Ord. 54.20 (part), 7/18/95)

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**V-210-8.10 Fee Waiver for Guide and Law Enforcement Dogs**

License tags for dogs used primarily for the purpose of guiding persons who are blind, deaf, or otherwise disabled shall be issued by request without charge. License tags for dogs used in law enforcement by any governmental agency shall be issued upon request without charge. (Ord. 54.20 (part), 7/18/95)

**V-210-8.11 Fee Waiver for Persons Over the Age of 65**

The license fee for only one (1) dog or one (1) cat, where the owner of the animal is over the age of sixty-five (65) years, will be waived provided such owner presents proof of age. (Ord. 54.20 (part), 7/18/95)

**V-210-8.12 Veterinarian Certification of Vaccination**

Every veterinarian who vaccinates or causes or directs to be vaccinated in the City of Milpitas any dog or cat with rabies vaccine shall certify that such animal has been vaccinated by submitting to the City a copy of the rabies vaccination certificate within ten (10) days of the beginning of each month, for each dog or cat which he or she vaccinated or directed to be vaccinated with rabies vaccine during the previous month. (Ord. 54.20 (part), 7/18/95)

**V-210-8.13 Issuance of License**

Upon payment of the license fee and the presentation of a valid certificate of rabies vaccination by a duly licensed doctor of veterinarian medicine, a license tag will be issued, together with a license certificate which shall state the name and residence of the person to whom the license is issued, the amount paid, the date of issuance, the date of expiration of the rabies vaccination, a description of the dog or cat for which the license is issued, and the number of the license tag. (Ord. 54.20 (part), 7/18/95)

**V-210-8.14 Issuance of License Tags**

Along with each license certificate, a metal tag bearing an identifying number and the words and letters "City of Milpitas Dog License" or "City of Milpitas Cat License," depending upon what type of animal is being licensed, will be issued. (Ord. 54.20 (part), 7/18/95)

**V-210-8.15 Wearing of License Tags**

Owner's shall ensure that each animal shall wear the license tag issued for it all times except when being shown at a dog/cat show, exhibition or event. Dogs or cats with microchip implants or other permanent identification acceptable to the Administrator shall not be required to wear a license tag. If the license tag is lost or stolen, the owner must procure a replacement tag by paying the appropriate fee. (Ord. 54.20 (part), 7/18/95)

**V-210-8.16 License Tags Nontransferable**

It shall be unlawful for any person to attach a license tag issued pursuant to this Section to any dog or cat other than the dog or cat for which it was issued. (Ord. 54.20 (part), 7/18/95)

**V-210-8.17 License Period**

Unless otherwise provided, the term of any dog or cat license issued hereunder shall commence on the date of issuance of the license and shall terminate twelve (12) months from the date of issuance. (Ord. 54.20 (part), 7/18/95)

**V-210-8.18 License Renewal**

Owners shall renew licenses prior to expiration. When a license is renewed after the expiration date, the new license period shall begin on the expiration date of the previous license. (Ord. 54.20 (part), 7/18/95)

**V-210-8.19 Record of Licenses**

The Administrator will keep a record of all licenses together with a description of the dog or cat for which such license was issued. (Ord. 54.20 (part), 7/18/95)

**Section 9 Transfer of Ownership  
of Cats and Dogs**

**V-210-9.01 Seller's Permit Required**

It shall be unlawful to sell or to otherwise transfer the ownership of dogs and/or cats under the age of four (4) months without a valid seller's permit. (Ord. 54.20 (part), 7/18/95)

**V-210-9.02 Exception for Commercial Sales**

Licensed Commercial Kennels and Pet Shops are not required to obtain a seller's permit. (Ord. 54.20 (part), 7/18/95)

**V-210-9.03 Exception for Unadvertised  
Animals**

Individuals who do not advertise the dogs or cats they offer, such as those who place their dogs or cats with friends or family members, are not required to obtain a seller's permit. (Ord. 54.20 (part), 7/18/95)

**V-210-9.04 Exception for Accidental Litters.**

Persons whose dog or cat produces an unplanned and unwanted litter may choose to either have the parent animal altered or pay the seller's permit fee. Proof of alteration from a licensed veterinarian shall be required for waiver of the permit fee. (Ord. 54.20 (part), 7/18/95)

**V-210-9.05 Exception for Animal Adoption  
Organizations**

Animal adoption organizations are not required to obtain a seller's permit, but they shall obtain an animal adoption organization permit number. The organization's permit number shall be used in all of the organization's advertisements for the sale of animals. (Ord. 54.20 (part), 7/18/95)

**V-210-9.06 One Seller's Permit Per Litter**

One (1) seller's permit shall be valid for only one (1) litter of dogs or one (1) litter of cats produced. No person shall allow the parturition and rearing of more than one (1) litter of dogs or cats in any one (1) calendar year from the female owned by him or

her, or maintained on his or her premises, without a valid second seller's permit. (Ord. 54.20 (part), 7/18/95)

**V-210-9.07 Number of Seller's Permits  
Limited**

Only one (1) seller's permit per year, per household, shall be issued, with an option to obtain a second permit within the same calendar year at an escalated fee and subject to the requirement that a second seller's permit within the same calendar year may be issued only once within a five (5) year period. (Ord. 54.20 (part), 7/18/95)

**V-210-9.08 Display of Seller's Permit  
Number**

The seller's permit number which is issued along with each seller's permit shall be displayed by any permittee in any advertisement for the transfer of ownership of individual dogs or cats, or litters of dogs or cats, under the age of four (4) months. (Ord. 54.20 (part), 7/18/95)

**V-210-9.09 Seller's Permit Fees**

The following fees, shall be paid for a seller's permit:

A dog or litter of dogs, seventy-five dollars (\$75.00).

A cat or litter of cats, fifty dollars (\$50.00).

The following fees, shall be paid for a second seller's permit within a calendar year:

A dog or litter of dogs, one hundred fifty dollars (\$150.00).

A cat or litter of cats, one hundred dollars (\$100.00). (Ord. 54.20 (part), 7/18/95)

**V-210-9.10 Requirement to Give New Owner  
a License Application**

All permittees and animal adoption organization volunteers shall give any and all new owners of any and all dogs or cats sold or transferred a license application. License applications will be provided by the City. (Ord. 54.20 (part), 7/18/95)

**V-210-9.11 Seller Required to Provide Information Regarding New Owner**

Any and all permittees shall inform the City of the name, address and/or phone number of the new owner or owners of any or all dogs or cats which he or she sells or transfers. Forms for reporting such information will be provided to the permittee by the City of Milpitas at the time a seller's permit is issued. (Ord. 54.20 (part), 7/18/95)

**V-210-9.12 If Dog or Cat is Already Licensed**

If the transferred dog or cat already has a valid license tag issued by the City of Milpitas, the permittee shall record the license tag number on the reporting form. (Ord. 54.20 (part), 7/18/95)

**V-210-9.13 Transfer of Ownership of Dogs or Cats—Minimum Age Requirement**

No person or establishment, with the exception of a licensed animal shelter, shall sell, exchange, or barter any dog or cat under eight (8) weeks of age. Proof of age of the dog or cat may be required. Proof of age may include, but not be limited to, a certification by a licensed veterinarian attesting to the animal's age. (Ord. 54.20 (part), 7/18/95)

**V-210-9.14 Location of Transfer of Ownership**

It shall be unlawful for any person to display for sale, sell, exchange, barter, or give away any animal except in the following locations: a pet shop, commercial kennel, animal shelter, or horse establishment, all of which must have valid permits under Section V-210-11, or a private residence. This prohibition shall not apply to City of Milpitas permitted animal adoption organizations. (Ord. 54.20 (part), 7/18/95)

**Section 10 Permits for Dangerous Animals**

**V-210-10.01 Permit Required for Dangerous Animal**

No person shall keep, have, maintain, sell, trade,

or let for hire, a dangerous animal, as defined in Section V-210-2, without first obtaining a dangerous animal permit. The application for such a permit, permit conditions, inspection, denial, revocation, and appeal shall be the same as set forth in Section V-210-11. (Ord. 54.20 (part), 7/18/95)

**V-210-10.02 Other Provisions May Pre-empt this Section**

Nothing in this Section shall be construed to permit the keeping of dangerous animals where zoning provisions or State law would prohibit such keeping. (Ord. 54.20 (part), 7/18/95)

**V-210-10.03 Dangerous Animal Permits are Nontransferable**

Dangerous animal permits shall not be transferable. (Ord. 54.20 (part), 7/18/95)

**V-210-10.04 Dangerous Animal Permit Fees**

The nonrefundable application fee for a permit to keep or maintain any dangerous animal shall be one hundred fifty dollars (\$150.00) for a twelve (12) month term. This application fee is per animal and the permit, if granted, shall expire and/or be subject to renewal at the end of every twelve (12) month term. (Ord. 54.20 (part), 7/18/95)

**V-210-10.05 Denial of Dangerous Animal Permit**

Notwithstanding anything to the contrary, a dangerous animal permit may be denied or revoked when the keeping or maintaining of any such animal may not occur without endangering the safety of any person(s) or property, or the keeping of the animal would constitute a public nuisance, or the animal would be subject to suffering, neglect, cruelty or abuse. (Ord. 54.20 (part), 7/18/95)

**V-210-10.06 Granting of Dangerous Animal Permit With Conditions**

A dangerous animal permit may be granted with conditions requiring the owner to properly cage, tether, or restrain any such animal in zoo type facilities that meet or are in addition to, or more restric-

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tive than, state and federal guidelines. (Ord. 54.20 (part), 7/18/95)

### Section 11 Permits for Animal Facilities and Animal Adoption Organizations

#### V-210-11.01 Permits Required for Animal Facilities

No person shall conduct, operate or keep any pet shop, commercial kennel, animal shelter or horse establishment in the City without first obtaining an animal facility permit. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.02 Animal Facility Permits are NonTransferable

Animal Facility Permits shall not be transferable. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.03 Rebuttable Presumption that Breeding is Primary Function of Kennel

The maintenance of more than two (2) male dogs or cats used for breeding purposes for which compensation is received, or the parturition or rearing of more than two (2) litters of dogs or cats in any one (1) calendar year from the total number of females owned or maintained by the owner of the premises, shall be a rebuttable presumption that such animals are owned or maintained for the purpose of commercial breeding. In such case, the owner and the premises shall be subject to the same permit requirements as those applicable to a commercial kennel. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.04 Commercial Kennels or Animal Shelters Too Close to Certain Buildings—Restrictions

Unless specifically permitted by other provisions in this Chapter, no animal facility permit shall be issued or renewed for any commercial kennel or any animal shelter, which is within two hundred fifty feet (250') of any dwelling house, apartment, hotel, or any other building used for human habitation, unless the Administrator finds, in the exercise of his or her discretion, that the proximity to the build-

ing(s) used for human habitation will not result in disturbance to the resident(s) by excessive noise or odors. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.05 Application for Animal Facility Permit

An application for a permit to operate and keep an animal facility shall be made in writing to the Administrator. Such applications must be on an approved form and must include a list of the types of animals to be maintained or used on the property for any purpose, as well as the number of animals of each type. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.06 Animal Facility Permit—Application Fee

A nonrefundable application fee of fifty dollars (\$50.00) shall be paid by any person seeking an animal facility permit. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.07 Expiration and Renewal of an Animal Facility Permit

An animal facility permit issued under this Section shall expire twelve (12) months from the date of issuance. The procedure for the renewal of such a permit shall be the same as for the issuance of an original permit. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.08 Animal Facility Permit—Inspection Required

As a condition to the issuance, renewal or maintenance of an animal facility permit, the animal facility shall be open for inspection by any person granted authority under this Chapter, at any time during normal business hours without notice and at all other times with reasonable notice. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.09 Failure to Apply for Renewal of Animal Facility Permit

Upon failure to submit an application for the renewal of an animal facility permit prior to the expiration of such permit, the applicant shall pay a twenty dollar (\$20.00) late fee for renewal in addi-

tion to the application fee. (Ord. 54.20 (part), 7/18/95)

**V-210-11.10 Permits Required for Animal Adoption Organizations**

No person shall operate an animal adoption organization without first obtaining an animal adoption organization permit. (Ord. 54.20 (part), 7/18/95)

**V-210-11.11 Animal Adoption Organization Permits are Nontransferable**

Animal adoption organization permits shall not be transferable. (Ord. 54.20 (part), 7/18/95)

**V-210-11.12 Application for Animal Adoption Organization Permit**

An application for a permit to operate an animal adoption organization shall be made in writing to the Administrator. Such application shall be on an approved form and shall include a list of the names and addresses of all authorized volunteers. If a person is not listed as a volunteer on an animal adoption organization's permit application, they shall not be considered authorized to act on behalf of or in conjunction with the organization. Any change to the list of authorized volunteers, including additions or deletions of volunteers or change of address, shall be reported to the City within ten (10) days of any such change. (Ord. 54.20 (part), 7/18/95)

**V-210-11.13 Written Agreements by Volunteers Necessary for Issuance of Animal Adoption Organization Permit**

Prior to the issuance of a permit, volunteers of an animal adoption organization, as well as the organization as an entity, shall agree in writing:

11.13-1 To comply with all provisions of this Chapter;

11.13-2 To allow inspections of any and all volunteer homes or premises where animals are kept with twenty-four (24) hours notice; and

11.13-3 That all animals in excess of four (4) at any volunteer home or premises where animals are kept by the organization shall be available for adop-

tion or sale unless such animal is suffering from or recovering from a medical procedure or illness and the volunteer who is caring for such animal has a signed statement from a licensed veterinarian so stating. (Ord. 54.20 (part), 7/18/95)

**V-210-11.14 Animal Adoption Organization Permit Fee**

A nonrefundable application fee of fifty dollars (\$50.00) shall be paid by any animal adoption organization seeking a permit. (Ord. 54.20 (part), 7/18/95)

**V-210-11.15 Expiration and Renewal of Animal Adoption Organization Permit**

Any animal adoption organization permit issued under this Section shall expire twelve (12) months from the date of issuance. The procedure for the renewal of such a permit shall be the same as for the issuance of an original permit. (Ord. 54.20 (part), 7/18/95)

**V-210-11.16 Animal Adoption Organization Permit—Inspection Required**

As a condition to the issuance, renewal or maintenance of an animal adoption organization permit, any and all volunteer homes or premises where animals are kept shall be open for inspection at any time with twenty-four (24) hours notice. (Ord. 54.20 (part), 7/18/95)

**V-210-11.17 Denial of an Animal Facility or Animal Adoption Organization Permit Application**

An animal facility or animal adoption organization permit application or renewal of an existing permit may be denied pursuant to this Section. The applicant shall be notified in writing, pursuant to Section V-210-13, of the reasons for denial of the application. The applicant may appeal the decision by requesting an administrative hearing, pursuant to Section V-210-13, within ten (10) days of service of the decision. (Ord. 54.20 (part), 7/18/95)

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**V-210-11.18 Revocation of an Animal Facility or Animal Adoption Organization Permit**

Prior to revocation of an existing animal facility or animal adoption organization permit, the permit holder shall be notified, pursuant to Section V-210-13, of the intent to revoke the permit and the reasons for such revocation. An administrative hearing pursuant to Section V-210-13 shall be held prior to the effective date of revocation. (Ord. 54.20 (part), 7/18/95)

**V-210-11.19 Permit Conditions**

Any animal facility or animal adoption organization permit application or renewal of an existing permit may be denied or an existing permit may be revoked if any of the following occur:

11.19-1 Condition of Facility Unsatisfactory. If it is determined by inspection that an animal facility, animal adoption organization volunteer home or premises where animals are kept, fails to meet any of the conditions of the permit, of this Chapter, or of applicable State law, the animal facility or animal adoption organization permit may be denied or revoked.

11.19-2 Failure to Report Accurate Information. If an applicant or permit holder has willfully withheld or falsified any information required for issuance of an animal facility or animal adoption organization permit, the permit may be denied or revoked.

11.19-3 Previous Convictions under Laws Relating to Animals. If it is determined that an applicant or permit holder has been convicted of more than two (2) violations of this Chapter, or of State law relating to animals, or of a public nuisance caused by animals, within any twelve (12) month period, the animal facility or animal adoption organization permit may be denied or revoked. If it is determined that an applicant or permit holder has been convicted of cruelty to animals or similar crime in this or any other State within the previous five (5) years, the animal facility or animal adoption organization permit shall be denied or revoked. For purposes of this section, a bail forfeiture shall be deemed to be

a conviction of the offense charged. (Ord. 54.20 (part), 7/18/95)

**V-210-11.20 No New Animal Facility or Animal Adoption Organization Permit Issued Immediately After Denial or Revocation**

If an animal facility or animal adoption organization permit has been denied or revoked, a new permit application need not be accepted from the same person for the same activity at the same location less than six (6) months after such denial or revocation. (Ord. 54.20 (part), 7/18/95)

**V-210-11.21 Authority to Establish Regulations for an Animal Facility or Animal Adoption Organization Permit**

Regulations and standards which are in conformity with and for the purpose of carrying out the intent of this Chapter may be established at any time. Compliance with such rules and regulations shall be a prerequisite to the issuance and continued validity of any animal facility or animal adoption organization permit issued pursuant to this Section. (Ord. 54.20 (part), 7/18/95)

**V-210-11.22 Maximum Number of Animals—Animal Facility Permits**

The Administrator may establish the maximum number of animals and/or the maximum number of a particular species of animal that may be kept or maintained on the premises of an animal facility in accordance with the standards of care outlined in this Section. (Ord. 54.20 (part), 7/18/95)

**V-210-11.23 Recordkeeping—Animal Facility Permits**

Permittees shall maintain a record of the names and addresses of persons from whom they receive animals, and to whom they sell, trade or give animals. This record shall be made available to the City upon request. (Ord. 54.20 (part), 7/18/95)

#### V-210-11.24 Required Conditions for Animal Facilities and Animal Adoption Organization Volunteer Homes

Every person who owns, conducts, manages or operates any animal facility or animal adoption organization volunteer home shall comply with the following conditions:

11.24-1 Housing Conditions. Housing for animals shall be constructed and maintained in the following manner:

(a) Housing Must Protect the Animals. Housing for animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and shall restrict the entrance of other animals and prevent the escape of animals contained within the housing.

(b) Housing Must Have Proper Ventilation, Temperature Control and Light. Every building or enclosure wherein animals are maintained shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided to housed animals as required according to the physical needs of the animals. Light shall be sufficient to allow observation of the housed animals.

(c) Housing Must be of an Adequate Size. All animal rooms, cages, kennels, runs, stalls and corrals shall be of sufficient size to provide adequate and proper accommodation and protection from the weather for the animals kept therein.

(d) Housing Must Protect the Animals and the Public. All animal housing shall be constructed and operated in a manner that reasonably protects public health and safety and the safety of the animals.

11.24-2 Sanitation. All animal facilities and animal adoption organization volunteer homes shall, at all times, be maintained and operated in a clean and sanitary condition and in a manner which avoids causing odors or attraction of flies or vermin and which does not emit excessive noise.

11.24-3 Care of Animals. All animals shall be cared for in a humane manner and in accordance with the following requirements:

(a) Animals Shall be Given Adequate Food and Water. All animals shall be supplied with a quantity of wholesome food suitable for the species and age

of the respective animals as often as the feeding habits of such animals require. Food shall be supplied to such animals in an amount sufficient to maintain a reasonable level of nutrition. All animals shall have available to them sufficient potable water. Food and water shall be served to the animals in separate and clean receptacles.

(b) Animals Must be Supervised. No animal, except those animals in a pasture, which are provided with adequate feed and water, shall be without attention for more than twenty-four (24) consecutive hours. The name, address, and telephone number of the person responsible for the animals shall be posted in a conspicuous place, visible from outside the facility or the main gate of a pasture where animals are kept, unless the owner or attendant of the animals is immediately available on the premises.

(c) Sick Animals Must be Isolated and Treated. All sick or diseased animals shall be isolated from healthy animals at all times and all sick, diseased or injured animals shall be given proper medical treatment. The Administrator may order the person responsible for the animal(s) to immediately seek licensed veterinarian treatment for any animal. (Ord. 54.20 (part), 7/18/95)

### Section 12 Impoundment

#### V-210-12.01 Right to Impound

Except as otherwise provided in this Chapter, any person granted authority under this Chapter may, for violation of any provision of this Chapter or of State law, seize and impound an animal, prior to an administrative hearing, where it is reasonably believed seizure is necessary to protect the public health, safety or property, to protect an animal which is injured, sick or starving and which must be cared for, or where the owner is not present to protect an animal from injury when it has strayed onto public property, public right-of-way, or private property not owned by the animal's owner or to which the animal's owner does not have a right to possession. (Ord. 54.20 (part), 7/18/95)

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**V-210-12.02 Administrative Hearing Prior to Deprivation**

Except as provided above, no animal shall be seized or impounded, without the consent of the owner or person in charge of the animal, unless an administrative hearing is held pursuant to Section V-210-13. (Ord. 54.20 (part), 7/18/95)

**V-210-12.03 Animals Remaining on Private Property Not to Be Seized**

Except as provided in Section V-210-5, no animal shall be seized or impounded for running at large under the provisions of this Section when: (i) the animal has not strayed from and is upon the private property of the owner or the private property of the person in charge of the animal, or (ii) is upon private property to which the owner or person in charge of the animal has a right to possession, or (iii) is upon private property where the owner of the property has granted permission to the animal's owner allowing the animal to be on the premises. (Ord. 54.20 (part), 7/18/95)

**V-210-12.04 Animals Immediately Returning to Private Property Not to Be Seized**

Except as provided in Section V-210-5, no animal shall be seized or impounded which has strayed from but then returned to, the enclosed portion of the private property of its owner or of the person in charge of the animal. In such a case, however, a citation or notice of violation may be issued if the owner or person in charge of the animal is present. (Ord. 54.20 (part), 7/18/95)

**V-210-12.05 Notification of Impoundment**

Upon the seizure and impoundment of an animal, the authority responsible for the seizure and impoundment shall post a notice of such impoundment on the front door of the residence of the owner or person in charge of the animal, if that person is known. (Ord. 54.20 (part), 7/18/95)

**V-210-12.06 Contents of the Notification of Impoundment**

The notice of impoundment will contain the following information: (i) the fact that the animal has been impounded, (ii) the location where the animal is being held, (iii) the name, address and telephone number of the agency or person to be contacted regarding the release of the animal, and (iv) an explanation of what the ultimate disposition of the animal will be if no action to reclaim it is taken within a specified period of time by its owner or by the person in charge of the animal. (Ord. 54.20 (part), 7/18/95)

**V-210-12.07 Owner May Challenge Impoundment**

If the owner or person in charge of the animal wishes to appeal the impoundment, they shall personally deliver or mail a written request for an administrative hearing pursuant to Section V-210-13, so that the request is received by the Administrator within seventy-two (72) hours of the seizure and impoundment. Unless otherwise prohibited, the owner or person in charge of the impounded animal may redeem it in accordance with this Section prior to an administrative hearing. (Ord. 54.20 (part), 7/18/95)

**V-210-12.08 Response to Request for an Administrative Hearing**

The Administrator shall promptly set the time and place for the administrative hearing and shall cause notification pursuant to Section V-210-13 to be served on the party requesting the hearing. The hearing shall be conducted pursuant to Section V-210-13. (Ord. 54.20 (part), 7/18/95)

**V-210-12.09 Failure to Appeal Impoundment**

Any person who fails to appeal any seizure or impoundment within seventy-two (72) hours from impoundment shall forfeit all rights of ownership and control of the animal. All rights of ownership and control shall then be transferred to the City. Final disposition of the animal will be determined by the Administrator in accordance with the provi-

sions of this Chapter and State law. (Ord. 54.20 (part), 7/18/95)

#### **V-210-12.10 Post-Impoundment Procedure**

Once an animal is impounded, the following procedures apply:

12.10-1 Care of Impounded Animals. All impounded animals shall receive suitable and adequate food, water and shelter.

12.10-2 Costs for Impounding and Keeping Animals. Any and all costs of impounding an animal shall be paid by the owner or person in charge of that animal. Such costs shall include the actual costs of housing, feeding and otherwise caring for an impounded animal, including necessary medical care.

12.10-3 Redemption of Impounded Animals. Unless otherwise provided, the owner or other person entitled to custody of an impounded animal may be allowed to redeem such animal. No animal may be redeemed without payment of the costs of impoundment, and without compliance with the licensing provision set forth in Section V-210-8 and all other applicable provisions of this Chapter.

12.10-4 Disposition of Impounded Animals. No animal may be disposed of until seventy-two (72) hours have elapsed from the time of impoundment. The calculation of seventy-two (72) hours shall not include hours during the day of impoundment and the days that the impounding facility is closed to the public.

12.10-5 Animal Will Be Destroyed if Necessary. Notwithstanding anything to the contrary, an animal which has been determined by a veterinarian licensed by the State of California, to be diseased or injured to the extent that emergency veterinary care will not alleviate intense suffering shall be humanely euthanized in accordance with all State laws as soon as possible. (Ord. 54.20 (part), 7/18/95)

#### **V-210-12.11 Mandatory Sterilization for Multiple Impounds**

Any unsterilized dog or cat impounded twice or more from the same owner and same address, within the lifetime of the animal, shall be sterilized at the

owner's expense prior to redemption. At the option of the owner, a private veterinarian may perform the required spaying or neutering. The impounding agency may require that transportation to a private veterinarian be performed by the impounding agency. (Ord. 54.21 (part), 1/2/01)

#### **V-210-12.12 Hearing**

Any owner of an impounded animal subject to mandatory sterilization under the Section V-210-12.11 may petition, in writing for a hearing conducted by the Animal Hearing Officer or his or her designee within four (4) days, including weekends and holidays, following notice of the second impoundment. The hearing shall be held within four (4) working days excluding weekends and holidays of such petition. After the hearing, the hearing officer may require that the animal be spayed or neutered at the owner's expense, unless the hearing officer determines that good cause exists for not requiring that the animal be spayed or neutered. (Ord. 54.21 (part), 1/2/01)

#### **V-210-12.13 Exemption**

Mandatory sterilization shall not apply if the animal was at-large due to an act of God, emergency or other mitigating factor not caused by the negligence of the owner or person in control of the animal. (Ord. 54.21 (part), 1/2/01)

### **Section 13 Enforcement**

#### **V-210-13.01 Remedies Not Exclusive**

This Section provides for issuance of a notice of violation and/or an administrative hearing process which is in addition to any and all legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Chapter. (Ord. 54.20 (part), 7/18/95)

#### **V-210-13.02 Notice of Violation**

Any person granted authority under this Chapter may issue a notice of violation for any and all violations of any and all provisions of this Chapter. The recipient of such notice of violation may either: (i)

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pay the fee for that violation, if applicable and, by not requesting an administrative hearing, waive any right to such hearing and all other appeals provided under this Chapter; (ii) pay the fee for that violation, if applicable, and appeal the notice of violation by requesting an administrative hearing within ten (10) days of issuance of the notice of violation; or (iii) if no fee is set for that violation, may appeal the notice of violation by appearing at an administrative hearing pursuant to this Section. The notice of violation shall include the violation, the fee for that violation, if applicable, and the procedure for appeal of the notice of violation. (Ord. 54.20 (part), 7/18/95)

**V-210-13.03 Notice of Violation Fees**

Violations of the following sections carry an associated fee according to the following schedule:

Animals in excess of the maximum number allowed (Section V-210-7)	\$ 50.00
Unlicensed dog or cat (Section V-210-8)	50.00
Not maintaining control of or adequate confinement of a potentially dangerous dog (Section V-210-5)	100.00
Animal bites (Section V-210-5)	200.00
Nuisance (e.g. barking) (Section V-210-4 except V-210-4.05)	100.00
Leash law (Section V-210-4.05)	25.00
Hearing prior to impoundment of animal (Section V-210-12) (Ord. 54.20 (part), 7/18/95)	50.00

**V-210-13.04 Fee to be Paid as a Deposit**

If the recipient of a notice of violation is successful in appealing the notice, the fee shall be refunded to the recipient of the notice. If the appeal is not successful, the fee shall be forfeited. (Ord. 54.20 (part), 7/18/95)

**V-210-13.05 Additional Reports**

If any additional written reports concerning the notice of violation are submitted to the Administrator for consideration, a copy of the report shall be served on the person requesting the administrative hearing at least three (3) days prior to the date of the hearing. (Ord. 54.20 (part), 7/18/95)

**V-210-13.06 Notification**

Any and all notifications under this Chapter shall be served by certified mail or by personal service, or by regular mail if service by certified mail or personal service is not possible. Service shall be deemed complete upon mailing or upon receipt if made by personal service. (Ord. 54.20 (part), 7/18/95)

**V-210-13.07 Administrative Hearing Procedure**

The following procedures shall be followed for an administrative hearing:

13.07-1 Deposit of Fee, If Applicable. No administrative hearing to contest a notice of violation given pursuant to this Chapter shall be held unless the fee for that violation, if applicable, has been deposited in advance in accordance with this Section.

13.07-2 Date of Hearing. Any administrative hearing shall be set for a date no later than fourteen (14) days from receipt of the request for such a hearing.

13.07-3 Emergency Hearing. If an animal has been impounded under this Chapter, any administrative hearing on the disposition of such animal shall be set for a date that is not more than three (3) days from receipt of the request for such a hearing.

13.07-4 Notification of the Hearing. Notice of the date, time, and place of the administrative hear-

ing shall be served on the accused or the party requesting the hearing at least seven (7) days prior to the hearing date.

13.07-5 Appearance at Hearing Required. The failure of any recipient of a notice of violation issued pursuant to this Chapter or party requesting an administrative hearing to appear at the hearing shall constitute a forfeiture of the fee, if applicable, and/or, if no fee is set for the violation, shall serve as an admission of the violation and shall subject the recipient to any and all other legal remedies available.

13.07-6 Presentation of Evidence by the Accused or Requestor. At the administrative hearing, the party contesting the notice of violation or the party requesting the hearing shall be given the opportunity to testify and to present evidence concerning the violation or subject of the hearing. Any other persons having relevant evidence shall be allowed to present testimony at the hearing.

13.07-7 Presentation of Evidence by the City. The notice of violation along with any incident reports attached to the notice shall constitute prima facie evidence of the respective facts contained in those documents. (Ord. 54.20 (part), 7/18/95)

#### **V-210-13.08 Administrator's Decision**

After considering all of the testimony and evidence submitted at the administrative hearing, the Administrator shall issue a written decision to uphold or dismiss the allegations contained in the notice of violation, revocation of any permit issued pursuant to this Chapter, or other decision and shall list in the decision the reasons for that decision. The decision of the Administrator shall be served on the applicable party pursuant to this Section. The decision of the Administrator may be appealed to an Appeal Board, made up of one or more persons, to be established by the City Council by resolution. The appeal shall conform to the provisions of Milpitas Municipal Code Section I-20-5, and all references therein to "City Council" shall be deemed for the purposes of the appeal to refer to the Appeal Board. (Ord. 54.22, 6/5/01; Ord. 54.20 (part), 7/18/95)

#### **V-210-13.09 Late Payment Charges**

Any person who fails to pay any notice of violation fee imposed pursuant to the provisions of this Chapter, on or before the date that fee is due, shall also be liable for the payment of late payment charges. A late payment charge of ten percent (10%) of the original fee shall be imposed every seven (7) days from the date the fee was due, with the total late payment charges not to exceed one hundred percent (100%) of the amount of the fee. (Ord. 54.20 (part), 7/18/95)

#### **V-210-13.10 Collection of Fees and Late Payment Charges**

Any and all notice of violation fees charged for violations of this Chapter and any and all late payment charges assessed for failure to pay the fee within the prescribed time limit shall be a personal obligation of the individual charged and may be collected by any and all legal means available. (Ord. 54.20 (part), 7/18/95)

#### **V-210-13.11 Multiple Offenses**

Any violation which would otherwise be an infraction may be a misdemeanor if a defendant has been convicted of three (3) or more violations of this Chapter within the twelve (12) month period immediately preceding the commission of the offense, and such prior convictions are admitted by the defendant or are alleged in the accusatory pleading. For purposes of this Section, a bail forfeiture, payment of notice of violation fee and waiver of right to an administrative hearing, or denial of appeal of notice of violation at an administrative hearing shall be deemed to be a conviction of the offense charged. Each day a violation of this Chapter continues shall be regarded as a new and separate offense. (Ord. 54.21 (part), 1/2/01; Ord. 54.20 (part), 7/18/95)

#### **V-210-13.12 Sterilized Dog or Cat At-Large**

Persons cited for allowing a sterilized dog or cat to run at-large may, only upon the first offense, have their citation waived by attending an animal control diversion program class conducted by the

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Humane Society of Santa Clara Valley or such other similar program as may be approved by the Administrator. Such class will instruct owners on responsible pet ownership, animal behavior, the benefits of spaying and neutering pets, and controlling their animals. (Ord. 54.21 (part), 1/2/01)

### **V-210-13.13 Unsterilized Dog or Cat At-Large**

Persons cited for allowing an unsterilized dog or cat to run at-large may, only upon the first offense, have half the fee of their citation waived by attending an animal control diversion program class. If the dog or cat is sterilized within fifteen (15) days of the issuance of the citation, the owner may have the remainder of their citation fee waived. (Ord. 54.21 (part), 1/2/01)