ORDINANCE NO. 3146-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE TO AMEND TITLE 6 (ANIMALS) OF THE SUNNYVALE MUNICIPAL CODE

WHEREAS, the City of Sunnyvale has not completed a comprehensive review of its animal regulations (Title 6 of the Sunnyvale Municipal Code) in over 30 years; and

WHEREAS, the City desires to amend Title 6 of the Sunnyvale Municipal Code relating to Animals to modernize and reorganize the City's animal regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. TITLE 6 AMENDED. Title 6 (Animals) of the Sunnyvale Municipal Code is hereby repealed and reenacted to read as follows:

6.01 Definitions.
6.02 General Regulations.
6.03 Sale of Animals.
6.04 Dogs.
6.05 Impoundment of Animals.
6.06 Dangerous or Diseased Animals.
6.07 Animal Establishments and Facilities.
6.08 Beekeeping Standards.
6.09 Small Animals and Livestock.
6.10 Enforcement, Violations, Penalties.

Chapter 6.01.

DEFINITIONS

6.01.010. Definitions.

The definitions set forth in this section govern the application and interpretation of this title.

(a) "Abandoned animal" means an animal that is left without proper and necessary care, including but not limited to proper and adequate food, water, shelter or veterinary care for the animal's well-being for twenty-four (24) hours or an unreasonable period of time as determined by an animal control officer, police officer, or other safety officer. "Abandoned animal" shall also mean any animal lawfully impounded by the city for which the owner or custodian has not paid fees, rates or charges relating to the detention of the animal.

(b) "Administrator" means the person authorized by the city manager, by designation, delegation or contract, to administer or enforce the provisions of

this title and applicable state laws pertaining to the care, destruction, impoundment, licensing, and treatment of animals.

(c) "Animal" includes but is not limited to any mammal, fowl, bird, reptile, or fish.

(d) "Animal control officer" means any person authorized by the administrator to enforce the provisions of this title and applicable state laws pertaining to the care, destruction, impoundment, licensing, and treatment of animals.

(e) "Animal menagerie" means any place where wild, exotic or inherently dangerous animals are boarded, trained, exhibited, kept, kept for hire, or maintained for any commercial purpose.

(f) "Animal rescuer" or "animal rescue" means any person or organization that provides temporary housing and care for domestic animals with the purpose of placing those animals with a new and permanent owner and that provides evidence satisfactory to the administrator of a history of active placement or an affiliation with a recognized organization with a history of active placement.

(g) "Animal shelter" means a facility operated by a public entity 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.

(h) "At large" means the presence of any animal when it is off the premises of its owner or custodian and not restrained by a six-foot (6') leash under the control of a person physically capable of restraining control of the animal, or when it is on the premises of its owner or custodian and not restrained by a six-foot (6') leash, fence or other adequate enclosure sufficient to prevent ingress and egress of the animal, or when it is not under the control and/or the immediate presence of its owner or custodian.

(i) "Attractant" means any substance which could reasonably be expected to attract an animal or does attract an animal, including, but not limited to, garbage, food products, pet food, feed, grain, or salt.

(j) "Bees" mean honey-producing insects of the species Apis Mellifera, including the adults, eggs, larvae, pupae, or other immature states thereof, together with such materials as are deposited into hives by their adults, except honey and rendered beeswax.

(k) "Building" means any structure having a roof supported by columns or walls for the shelter, housing or enclosure of persons, animals, chattels or property of any kind.

(l) Cat" means a domesticated feline (felis catus).

(m) "Collar" means a well fitted device, worn around the neck, appropriate to the age and size of the animal.

(n) "Custodian" means any person who is not the owner, but has been entrusted by the owner to provide care for or have control of an animal, or to act on the owner's behalf, financially or otherwise.

(o) "Dangerous animal" means any animal, except a police dog, which:

(1) Without provocation inflicts bites on a human or a domestic animal while on public or private property;

(2) Without provocation chases or approaches humans or domestic animals on the streets, sidewalks, or any public grounds in a threatening manner or apparent attitude of attack;

(3) Has a known propensity, tendency or disposition for unprovoked attack, causing injury or threatening the safety of humans or domestic animals;

(4) Has been declared potentially dangerous, dangerous or vicious in another jurisdiction;

(5) Is not licensed pursuant to state, county or city law; or

(6) Has been certified by a doctor of veterinary medicine, after observation thereof, as posing a danger to human life or property if not kept in the manner required by this title upon the basis of reasonable medical probability.

Any animal demonstrating behavior described in (1), (2) or (3) shall be rebuttably presumed dangerous.

(p) "Dog" means a domesticated canine (canis familiaris).

(q) "Dwelling unit" means one or more rooms designed as a unit for occupancy for the purpose of cooking, living and sleeping.

(r) "Exhibition" means any organized animal conformation or agility type competition registered or chaptered with a nationally recognized organization.

(s) "Fowl" means any domesticated bird such as a chicken, duck, goose, guinea fowl, peafowl, peacock, turkey, dove, pigeon, game bird or similar bird.

(t) "Grooming parlor" means any commercial place where animals are trimmed, bathed, or groomed.

(u) "Health officer" means the county of Santa Clara director of public health or any other person duly authorized to act on behalf of the health officer.

(v) "Hive" means any movable frame box designed and used for keeping bees and/or storage of honey, having no more than one bee entrance, one brood chamber, and four honey storage ("super") chambers.

(w) "Kennel" means any building, structure, enclosure or premises whereupon or within which five or more dogs or cats or both dogs and cats are kept for any reason or purpose. The term does not include dogs or cats under one hundred twenty (120) days of age. "Kennel" also includes any person or facility that maintains such animals for commercial breeding to sell, individually or in litter lots; allow the parturition or rearing of more than one (1) litter from all dogs and cats on the premises in any twelve (12) consecutive months; or boards, trains or hires dogs and/or cats for compensation. Animal hospitals with a valid veterinary premise permit maintained by a veterinarian licensed by the State of California as part of the practice of veterinary medicine or animal shelters are not kennels.

(x) "Livestock" means all domestic or domesticated bovine, equine, caprine, ovine, porcine, corvine and ratite animals.

(y) "Owner" or "ownership" means any person who owns an animal, or who harbors, keeps or has possession or custody of an animal for five (5) or more consecutive days. All adults over eighteen (18) years of age residing at the same property address shall be rebuttably presumed to be the owner of any animal owned, possessed, harbored or controlled on the property.

(z) "Person" includes any individual, firm, association, organization,

partnership, business trust, corporation or company.

(aa) "Pet" means any animal kept for pleasure rather than utility.

(bb) "Pet shop" means a person or facility that obtains or keeps live animals for sale, exchange, barter, or hire to the general public as a principal or agent, or on consignment.

(cc) "Police dog" means any dog, especially trained for assistance to law enforcement officers, which is under the control of a law enforcement officer in the performance of official duties, including training and exercise.

(dd) "Premises" means any lot, parcel of land, or building owned, leased or rented by a person.

(ee) "Service animal" means an animal specially trained to perform tasks for an individual with a disability, and as defined in the Americans with Disabilities Act.

(ff) "Small animal" includes but is not limited to hares, rabbits, chickens, turkeys, geese, ducks, doves, pigeons, game birds or other fowl.

(gg) "Vaccination" means a protective inoculation against rabies with an anti-rabies vaccine recognized and approved by the California Department of Public Health.

(hh) "Veterinary hospital" means any establishment maintained and operated by a veterinarian licensed by the State of California for the care and treatment of animals.

(ii) "Wild animal" means any wild, exotic, dangerous or venomous animal. The term wild animal shall not include bees when kept in conformance with the standards set forth in Chapter 6.08.

(jj) "Zoo" means any organization which exhibits animals to the general public at regular specified hours, equaling at least thirty (30) hours a week for thirty-six (36) weeks a year, and whose animals, whether maintained for exhibit purposes or not, are not for sale to private individuals.

Chapter 6.02.

GENERAL REGULATIONS

6.02.010. Proper and adequate care of animals.

It is unlawful for any person to keep, use, or maintain any animal without proper and adequate care in violations of any of the provisions in this section. The keeping of small animals shall be in accordance with Chapter 6.09.

(a) **Food and feeding**.

(1) The animal must be provided wholesome food of sufficient quantity and nutritive value to maintain a healthy body weight, and meet the normal daily requirements for the condition and size of the animal.

(2) The food receptacle must be accessible to the animal and placed in a location to minimize contamination from excreta and insects. Feeding pans must be durable and kept clean. Disposable food receptacles may be used and must be discarded after each feeding. Self-feeders may be used for dry food and must be

sanitized regularly to prevent molding, deterioration, or the dense compaction of food.

(3) Spoiled or contaminated food must be disposed of promptly and in a sanitary manner.

(4) All dry food intended for use as food for animals must be kept in metal containers with tightly fitted metal covers or other containers constructed to keep out vermin and wild animals.

(b) **Water**.

(1) The animal must have access to clean potable water at all times unless restricted for veterinary care. If the water is kept in a container, the container must be designed to prevent tipping and spilling of the water or be secured to either a solid structure or the ground.

(2) Water containers must be clean and must be emptied and refilled with fresh water every twenty-four (24) hours or alternatively if the water is provided by an automatic or demand device, the water supply connected to the device must function twenty-four (24) hours a day.

(c) **Veterinary treatment**. The animal must receive veterinary treatment from a veterinarian licensed by the State of California when such treatment is necessary to alleviate the animal's suffering or prevent transmission of disease.

(d) **Exercise**. The animal must be provided the opportunity to exercise in order to maintain normal muscle tone and mass for the age, size, and condition of the animal.

(e) **Dog confinement**. No dog may be tethered, fastened, chained, tied, or restrained to a shelter, tree, fence, or any other stationary object, except in accordance with Penal Code Section 597t and Health and Safety Code Section 122335, as may be amended from time to time.

(f) **Shelter**. Any animal maintained outdoors must have adequate shade and shelter such that the animal can protect itself from the elements. Such shelter must be:

(1) Accessible to the animal at all times;

(2) Situated to prevent exposing the animal to unreasonably loud noise, teasing, abuse or injury by another animal or person;

(3) Of adequate size inside and outside the shelter to allow the animal to stand up, sit, turn around freely and lie down in a normal position; defecate and urinate away from its confinement; and safely interact with any other animal;

(4) Adequately lighted to provide regular diurnal lighting cycles of natural or artificial light uniformly diffused throughout the shelter, and sufficient illumination for routine inspections and care of the animal;

(5) Supplied with clean and dry bedding material or other means of protection from the weather elements to maintain the shelter at a temperature that is not harmful to the health of the animal;

(6) Constructed with at least five (5) sides including a roof and floor. The floor must be raised off the ground; be free of cracks, depressions and rough areas where insects, vermin or eggs for internal parasites may lodge; and protect

the animal's legs and feet from injury; and

(7) Cleaned and maintained in a manner designed to ensure sanitary conditions and to control for insects, ectoparasites, and other pests. Carcasses, debris, food waste, excreta, and other like material must be removed from the shelter as often as necessary to minimize unreasonably obnoxious odor, allergen, pests, and the risk of disease. If the animal is confined within the shelter during cleaning, the animal may not be exposed to any cleaning agents or water. Rugs, blankets, or other bedding material must be kept clean and dry.

(g) **Sanitation**. It is unlawful for unsanitary conditions to exist on the premises where any animal is kept which would cause odors, attract flies or vermin, or otherwise be injurious to public health and safety, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by others.

(h) **Chain collar prohibited**. It is unlawful for any person to use a chain as a collar for any animal except during training sessions under the direct supervision of the owner or custodian.

6.02.020. Maximum number of dogs, cats, or litters.

(a) It is unlawful for any person to maintain, at any dwelling unit, more than any of the following combination of dogs and cats:

Zero (0) adult dogs and four (4) adult cats; or
One (1) adult dog and three (3) adult cats; or
Two (2) adult dogs and two (2) adult cats; or
Three (3) adult dogs and one (1) adult cat; or
Four (4) adult dogs and zero (0) adult cats.

(b) No person may allow the parturition and rearing of more than one (1) litter from all dogs and cars on any premises, including a dwelling unit, in any consecutive twelve-month (12) period except under the following circumstances:

(1) A premise maintained by a veterinarian licensed by the State of California for the practice of veterinary medicine;

(2) A kennel, pet shop, or animal menagerie in possession of a valid permit from the administrator; or

(3) An animal shelter or animal rescue.

6.02.030. Animals in vehicles.

(a) It is unlawful for any person to transport or carry any animals in a motor vehicle on any public highway or roadway located within city limits unless the animal is safely enclosed inside the passenger area of the vehicle or by means of a container, cage or other device which will prevent the animal from falling from, jumping from or being thrown from the vehicle while the vehicle is in motion.

(b) It is unlawful for any person to leave any animal in an unattended motor vehicle without adequate ventilation or in such a manner as to subject the animal to extreme temperatures that may adversely affect the health or well-being of the animal.

(c) An animal control officer, police officer, or other safety officer is

authorized to use reasonable force to remove an animal from a vehicle when it appears that the animal's health, safety or welfare is endangered.

6.02.040. Nuisances by animals.

(a) It is unlawful for an owner or custodian to permit an animal to engage in any of the following acts:

(1) Defecate on property other than the private property of the animal's owner or custodian without immediately removing the feces to a proper receptacle. This requirement does not apply to persons with visual disabilities using seeing-eye guide dogs.

(2) Walk on public property or upon the private property of another without the owner or custodian carrying, at all times, a suitable container or instrument for the removal and disposal of dog or animal feces.

(3) Obstruct the reasonable and comfortable use of public or private property by chasing vehicles, or molesting passersby.

(4) Attack other humans or animals.

(5) Damage private or public property.

(6) Run at large while in the stage of heat, or while receptive to mating.

(7) Bark, bay, cry, howl, or make any other noise continuously and incessantly for a period of ten (10) minutes within any fifteen-minute (15) period, or intermittently for one-half hour or more, to the disturbance of any other person. The issuance of a citation shall be within the discretion of an animal control officer, police officer, or other safety officer.

(b) Every owner or custodian shall:

(1) Prevent such animal from biting or physically harassing any person engaged in a lawful act and from interfering with the lawful use of public or private property;

(2) Prevent such animal 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 warrants veterinary treatment or results in death; and

(3) Desist from commanding or provoking such animal to attack, sic or threaten a person when such person is peaceably and lawfully upon public or private property.

(c) It is unlawful for any person to keep any animal within the city in such a manner that the same becomes or is a nuisance.

(d) Any violation of this section is hereby declared to be a public nuisance.

(e) An animal control officer, police officer, or other safety officer may impound any animal causing a public nuisance.

(f) Nothing in this section shall require or prevent the use of nuisance abatement procedures for violations of this section.

(g) Any private person may maintain an action under Civil Code Section 3493, as may be amended from time to time, for compliance with the requirements of this section.

6.02.050. Ban on feeding wild animals.

(a) It is unlawful for any person to feed or in any manner provide an attractant to wild animals, including birds.

(b) No person may leave, store, or maintain any attractant, or scatter food, seed, or other forms of matter edible to animals in a location and manner accessible to any wild animal or bird.

(c) The prohibitions in subsections (a) and (b) do not apply to:

(1) Any person who is the legal owner of the wild animal and the wild animal is kept under a valid license or permit issued by the California Department of Fish and Wildlife, and in compliance with all applicable laws;

(2) Any person who feeds or provides an attractant to a trapped injured or unweaned wild animal between the time that the agency charged with animal control or its designated agent is notified of the wild animal and the wild animal is picked up by said agency;

(3) A wildlife rehabilitator operating under a valid permit from the California Department of Fish and Wildlife;

(4) Any person who is using an attractant to trap an animal in a legally authorized or permitted manner; or

(5) Any person with a bird feeder provided the feeders are suspended on a cable or other device to make them inaccessible to wild animals and the area below the feeders are kept free from the accumulation of seed debris.

6.02.060. Taking up stray animals.

Any person who finds any animal which has strayed or is running at large may take possession of and hold the animal; provided however, that they notify the department of public safety within two (2) hours that such animal is in his or her possession, give full information in regard to the animal, and surrender it to the animal control officer upon demand.

6.02.070. Animal bites, reports, quarantine and violations.

(a) Any person having knowledge that an animal is known to have or is believed to have bitten any person or to have had direct contact with rabies-suspect animals must immediately report the basis for such knowledge or belief to an animal control officer or the administrator.

(b) Upon receipt of such a report, an animal control officer may seize and quarantine the animal, or order the animal quarantined on the owner or custodian's premises, for a period as may be prescribed by the Santa Clara County Public Health Department or California Department of Public Health. An animal control officer may order either the owner or custodian to quarantine the animal on the premises of the owner or custodian. No animal shall be removed or released during the quarantine period without permission of the animal control officer. Any animal that dies or is destroyed while under quarantine may be required to be submitted to the laboratory of the Santa Clara County Public Health Department or other process required by law for rabies examination.

(c) It is unlawful for any person to fail, refuse, or neglect to quarantine any animal as ordered by an animal control officer, or to refuse to allow the animal

control officer to inspect any private premises where the quarantined animal is kept.

(d) The administrator may charge a fee, as set forth in a resolution adopted by the city council, to recoup the costs of quarantining animals and inspections for quarantine of animals. Any fee charged shall be paid by owner or custodian of the animal, and shall be in addition to actual costs of housing, feeding and otherwise caring for a quarantined animal.

6.02.080. Disposal of dead animals.

(a) Upon the death of any animal, the owner or custodian shall, within twenty-four (24) hours, provide for the burial, incineration, or other disposition of the body of such dead animal in a safe and sanitary manner. If the owner or custodian is unable to provide for burial or other disposition, he or she may request an animal control officer to dispose of the body.

(b) Upon learning that the body of a dead animal has not been disposed of in a safe and sanitary manner, an animal control officer may dispose of such body as soon as practical; provided, however, that an animal control officer shall not be required to remove and dispose of bodies of dead animals on state highways or on state or county property.

(c) The administrator may charge a fee, as set forth in a resolution adopted by the city council, to recover the costs of transport and removal of dead animals.

6.02.090. Wild, exotic or nondomestic animals in captivity.

(a) It is unlawful for any person to have, keep, maintain, sell, trade or let for hire any wild, exotic, inherently dangerous, or nondomestic animal without first applying for and receiving special authorization from the administrator. The keeping or maintenance of such animals shall comply with all applicable zoning requirements.

(b) The administrator may authorize the keeping or maintaining of any wild, exotic, inherently dangerous or nondomestic animal when, as determined by the administrator, any such animal may be kept or maintained without endangering the safety of any person or property. The administrator may require any such animal to be properly caged, tethered, or restrained, may impose additional requirements that he or she deems necessary and appropriate. The administrator may revoke such authorization if he or she determines the safety of any person or property is endangered by the keeping of any such animal. The owner may appeal such determination as provided in Section 6.10.030.

(c) Exceptions. The provisions of this section shall not be applicable to licensed circuses, carnivals, zoos or other collections of wild animals under jurisdiction of a city, county, state, or federal government.

6.02.100. Animal traps.

It is unlawful for any person to use, install or make operable any body gripping trap including steel-jawed, leg-hold, saw-toothed, spike-jawed traps, or snares.

6.02.110. Poisoning domestic animals.

Pursuant to California Penal Code Section 596, as may be amended from time to time, it is 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.

6.02.120. Abandoned animals.

It is unlawful to abandon any animal in the city.

6.02.130. Interference with police dogs.

It is unlawful for any person to injure, torture, tease, beat, kick, strike, mutilate, disable, kill, or otherwise interfere with any police dog.

Chapter 6.03.

SALE OF ANIMALS

6.03.010. Sale of cats or dogs.

(a) It is unlawful for any person or establishment, other than an exempt establishment listed in California Penal Code Section 597z (c), as may be amended from time to time, to sell, barter, exchange, offer for adoption or otherwise transfer ownership, whether or not for compensation, any dog or cat under eight (8) weeks of age. Proof of age of the dog or cat may be required by the administrator. Proof of age may include, but not limited to, a certification by a veterinarian licensed by the State of California attesting to the animal's age.

(b) No person shall sell, barter, exchange or offer for adoption, whether or not for compensation, any dog or cat to any person who is under the age of eighteen (18) years without the written permission of the minor's parent or legal guardian.

(c) All sales of dogs and cats shall be in accordance with state law.

6.03.020. Immunization.

It is unlawful for any person to display, sell, exchange, barter, give away, or otherwise transfer ownership of any dog or cat over eight (8) weeks of age, unless the dog or cat has been immunized against common diseases. Dogs must be immunized against distemper and parvovirus. Cats must be immunized against pan-leukopenia. The person transferring ownership of a dog or cat must provide the person acquiring the dog or cat, at the time ownership is transferred, a signed statement attesting to the date of vaccination and the known state of the animal's health. Such statement must include the animal's immunization history, and the record of any known disease, sickness, or internal parasites that the animal is afflicted with at the time of transfer of ownership including treatment and medication.

6.03.030. Return of dog or cat.

Any person purchasing a dog or cat may, within five (5) days of such purchase, cause such animal to be examined by a veterinarian licensed by the State of California, and if such examination reveals clinical signs of a contagious or infectious disease or serious congenital defects, not otherwise disclosed to the purchaser as required by Section 6.30.020, the purchaser may, within one (1) day of the examination, return such animal to the seller. When returned, such animal must be accompanied with a written statement of findings signed by the attending veterinarian stating the examination findings. Upon return of such animal for the reasons stated in this section, the seller must accept the returned animal and reimburse the purchaser for the cost of the animal. If the seller refuses to accept the returned animal or to reimburse the purchaser for the cost of the animal upon purchaser's offer to return it, the purchaser may file a complaint with the Santa Clara County Superior Court stating the cause of action for violation of this section.

6.03.040. Location of sale.

It is unlawful for any person to display for sale, sale, offer for sale, exchange, barter, or give away any animal except in the following locations:

(a) An animal establishment operating pursuant to Chapter 6.07;

(b) A private residence; or

(c) Agricultural shows or agricultural exhibits.

6.03.050. Raffle of animals.

It is unlawful for any person to raffle, give away, or otherwise offer for a prize or fundraiser any live animal. The term "offer" includes when the live animal is redeemed at another location or time.

Chapter 6.04.

DOGS

6.04.010. License required.

(a) It is unlawful for any person to own, maintain or board any dog four (4) months of age or older that has not been licensed pursuant to the provisions of this title, except a license is not required in the following circumstances:

(1) A dog owned, maintained by, or under the control of a nonresident of the city which is kept in the city for thirty (30) or fewer days in any twelve (12) month period;

(2) Dogs temporarily brought into the city for entry into an event, show, or exhibition scheduled nor more than fifteen (15) days thereafter; or

(3) Dogs in animal shelters, animal hospitals, animal rescues, or animal establishments, unless the dog is owned by a person that owns or works at the facility or organization.

(b) Any dog that is not properly licensed in accordance with this part is rebuttably presumed to be an unvaccinated dog and may be subject to the seizure and impoundment procedures set forth in Chapter 6.05 of this title.

6.04.020. License fees.

(a) Dog license fees, including reduced fees for spayed females or neutered males, for each dog within the city shall be established from time to time by a resolution adopted by the city council. Dog license fees shall not be refundable in whole or in part.

(b) The administrator may require the submission of a certificate by a veterinarian licensed by the State of California stating that a dog has been spayed or neutered, or cannot be spayed or neutered for health reasons, or is incapable of breeding, prior to issuance of a license at a lesser fee.

(c) A late license fee shall be set by resolution adopted by the city council and may be imposed for any license required by this section when obtained:

(1) More than thirty (30) days after the date that the dog became four (4) months old;

(2) More than thirty (30) days after the date that the adult dog was acquired or brought into the city; or

(3) More than thirty (30) days after notice to the owner to obtain a license or thirty (30) days after expiration of a license.

(d) Licenses and tags shall be issued upon written request without charge for dogs honorably discharged or released from the services of the Armed Forces of the United States, dogs principally used as service animals as defined in the Americans with Disabilities Act, and police dogs.

(e) The administrator may waive the license fee for only one (1) spayed or neutered dog kept in a residence where the owner of the dog is over sixty-five (65) years of age.

6.04.030. Vaccination condition to license issuance.

Prior to the issuance of any license, it shall be necessary that the dog licensed shall be vaccinated with anti-rabies vaccine as provided in Section 6.04.080 which is effective and recent enough to provide protection against rabies for the license period.

6.04.040. Issuance of license.

(a) An application for a dog license or renewal, together with any required license fees and a current and valid rabies vaccination certificate must be filed with the administrator in a form or format determined by the administrator.

(b) The administrator may only issue a dog license upon payment of the required license fee and the presentation of a current and valid rabies vaccination certificate.

(c) Licenses shall state the name and address of the person to whom the license is issued, the amount paid, the date of issuance and expiration thereof, the date of expiration of the vaccination, a description of the dog for which such license is issued, and the identification number of the metallic tag accompanying the same.

6.04.050. Metal tags.

(a) With each dog license, the administrator shall issue a metal tag bearing an identifying number and the words and letters “Sunnyvale” or “SV”.

(b) Any person who owns, maintains, or boards a dog shall cause the dog to wear the metal tag issued for it at all times, except when being shown at a dog show, exhibition or event.

(c) In the event that it is necessary to issue a replacement tag, a fee, as set forth in a resolution adopted by the city council, shall be charged to the owner.

(d) The metal tag issued pursuant to this title may not be attached to a dog other than the dog for which the tag was issued.

(e) Police dogs are exempt from the requirement of wearing the issued metal tag.

6.040.060. Record of licenses and presentation on request.

(a) The administrator shall keep a record of all licenses issued with a description of the dog for which such license is issued.

(b) The owner or custodian of the dog must present the license for that dog upon request of the animal control officer or any person authorized to enforce this title.

6.04.070. License period.

(a) The term of any dog licenses shall commence on the date of issuance, and shall be valid for a term equal to or less than the remaining duration of the dog's current rabies vaccination.

(b) An application for the renewal of any license must be filed with the administrator prior to the expiration of the license.

(c) The new license period begins on the expiration date of the previous license period irrespective of the application date for the license renewal.

6.04.080. Vaccination of dogs.

(a) Every person who owns, maintains or boards a dog four (4) months of age or older must cause the dog to be vaccinated or revaccinated with a state-approved anti-rabies vaccine within the time period prescribed by the state law or regulation.

(b) A veterinarian must certify the vaccination in accordance with Section 6.04.090.

(c) Compliance with the provisions of this section is a condition precedent to the issuance or renewal of any dog license.

6.04.090. Vaccination certificate.

(a) A veterinarian who vaccinates any dog, for whom a license is required under this title, with an anti-rabies vaccine, or causes or directs such vaccination, must complete and sign a rabies vaccination certificate to certify that the dog has been vaccinated.

(b) The rabies vaccination certificate must include all information required by state law, including:

(1) The name, address, and telephone number of the owner of the dog;

(2) A description of the dog, including its breed, color, age, sex, and

spay or neuter status;

(3) The date of the vaccination;

(4) The type of rabies vaccination administered; and

(5) The expiration date of the vaccination and lot number.

(c) If the veterinarian who vaccinates the dog is located within the city, the veterinarian must submit a current and valid rabies vaccination certificate to the administrator within thirty (30) days from the date that the dog was vaccinated.

(d) If the dog that is subjected the licensing requirements is vaccinated for rabies by a veterinarian located outside the city, the owner must submit a copy of the vaccination certificate to the administer within thirty (30) days from the date that a dog is vaccinated or brought into the city, whichever date is later.

6.04.100. Restraint of dogs.

(a) The dog owner or custodian must keep the dog confined to property owned or controlled by that person. Confinement shall be accomplished by means of a substantial fence or similar enclosure of sufficient strength and height to prevent the dog from escaping, or from extending its head through the enclosure so as to constitute a threat to any person or animal in the area adjoining the enclosure; or by keeping the dog inside a house or other building.

(b) The dog owner or custodian must keep the dog under direct physical restraint be means of a leash not to exceed six (6) feet in length when the dog is on any public street, public sidewalk, other public place, at any event on public property, or at any private place or property or common area of any planned development.

(c) The restraint requirements specified in subsections (a) and (b) do not apply to:

(1) Service dogs while such dogs are performing their duties;

(2) Police dogs;

(3) Dogs being trained for any of the above purposes on private land with permission of the landowner, as long as such dogs are under direct control of either the dog owner or custodian to assure that the dog does not violate any other provision of law;

(4) Dogs subject to regulation under Chapter 6.06 of this title;

(5) Dogs participating in field or obedience trials or exhibitions located on a public place and approved by the city;

(6) Dogs within a posted off-leash area located in any city owned land, as established by the city council or parks division, provided however, that the dog owner or custodian shall comply with all rules posted for such off-leash area and that nothing herein relieves either the dog owner or custodian from the responsibility to maintain proper control over the dog; or

(7) Dogs, while in the performance of their duties, as part of an operation commissioned by the city for grazing and vegetation management at city facilities.

6.04.110. Impound and seizure of dogs.

(a) An animal control officer shall not seize or impound any dog for

running at large in violation of this section when the dog has not strayed from and is upon private property owned by the dog owner or custodian, or upon private property to which the dog owner or custodian has a right of possession, and the owner is physically present.

(b) A dog that has strayed from but then returned to the private property of its owner or custodian shall not be seized or impounded merely for violation of this section, but in such case, a citation for such violation may be issued; provided, however, that if in such situation the owner or custodian is not available at the premises, the dog may be impounded, but the animal control officer shall post a written notice of the impound in a conspicuous place at the owner or custodian's residence. The notice shall state where the dog is being held, the name, address, and telephone number to contact regarding release of the dog, and an indication of the ultimate disposition of the dog if no action to regain it is taken within a specified period of time.

(c) This section shall not otherwise affect the authority of an animal control officer to seize or impound an animal or issue citations as a result of the violation of other sections of this title.

6.04.120. Dogs in posted off-leash areas.

(a) It is unlawful for any dog owner or custodian to permit the dog to be unrestrained on a posted off-leash area in violation of this section.

(b) The dog owner or custodian must comply with all of the following conditions:

(1) No dog may be in a posted off-leash area except when in the charge, care, custody, or control of a person at least thirteen (13) years old.

(2) No animals other than dogs may be in any posted off-leash area.

(3) Dogs are only permitted in the posted off-leash area during posted hours of operation.

(4) No person may have more than two (2) dogs in a posted off-leash area at any one time.

(5) Any dog in a posted off-leash area must be at least four (4) months of age, vaccinated for rabies, and currently licensed by the city or other jurisdictions. Any dog over 18 months of age in a posted off-leash area must be spayed or neutered. All persons entering the posted off-leash area are responsible for ensuring that their dog is not sick, in heat, injured, less than four (4) months of age, or displaying aggressive behavior toward other dogs or humans in the posted off-leash area.

(6) Any person having charge, care, custody, or control of a dog in a posted off-leash area must:

(A) Carry at all times a suitable container or other suitable instrument for the removal and disposal of dog waste;

(B) Promptly remove and properly dispose of any waste deposited by the dog;

(C) Quiet or remove the dog if it disrupts or disturbs the reasonable and comfortable use of the area;

(D) Have in his or her possession a leash for the dog that

must be worn by the dog, and physically held by the owner or custodian, at all times the dog is not in the posted off-leash area; and

(E) Comply with all other applicable state and local laws, including without limitation those contained in this title that govern the health, safety, and maintenance of dogs.

(c) Compliance with this section does not relieve any person of liability for damages arising out of his or her use of a posted off-leash area.

Chapter 6.05.

IMPOUNDMENT OF ANIMALS

6.05.010. Stray animals—Impoundment.

The animal control officer shall take up and impound all stray animals.

6.05.020. Impounded animals—Fees for keeping or quarantine.

An impoundment or quarantine fee, or both, as set forth in a resolution adopted by the city council, shall be charged to the owner or custodian of an animal impounded to defray the costs of impoundment, and a fee for any actual costs of keeping and caring for the animal, shall be charged to the owner or custodian of an animal impounded.

6.05.030. Impounded animals—Record.

The administrator shall keep a record of all animals impounded which shall show the date of impoundment, license tag number, if any, and the date and manner of its disposal. If the animal is redeemed or sold, the administrator shall keep a record of the name and address of the person by whom redeemed or purchased, the amounts of all fees and other moneys received or collected, and the disposition thereof.

6.05.040. Redemption of impounded animals.

The administrator or animal control officer may permit an owner or custodian to redeem the animal. No animal may be redeemed without payment of the fees for impounding and keeping the animal, and without compliance with the licensing provision of this title.

6.05.050. Impounded animals—Disposition.

(a) When any licensed or registered animal is impounded, such fact shall be noted and entered in the records of the animal shelter. The animal control officer or administrator shall also notify in writing the owner or custodian of the impounded animal, if known, by either posting a written notice of the impound in a conspicuous place at the owner or custodian's residence, or delivering the notice to the owner or custodian personally or by United States mail.

(b) No animal may be disposed of until the completion of the state-mandated holding period, as may be amended from time to time.

(c) Notwithstanding the foregoing, if an animal which has been

determined by a veterinarian licensed by the State of California or by other city personnel authorized by the administrator to be diseased or injured to the extent that emergency veterinary care will not alleviate the animal's intense suffering, the animal may be disposed of or destroyed in accordance with state law.

6.05.060. Impounded animals—Care.

The administrator shall assure that all impounded animals are provided with suitable and adequate food, water and shelter.

6.05.070. Summary seizure and post-seizure hearing.

(a) In addition to any other authority contained in this title, including but not limited to the authority vested in the animal control officer by Chapter 6.06 to seize and impound certain animals whether or not in the presence of the owner or custodian, the animal control officer may seize and impound an animal for violation of any provision of this title or state law prior to a hearing in any of the following situations where the owner or custodian is not present and where the officer reasonably believes it is necessary:

(1) To protect public health, safety and property;

(2) To protect an animal which is injured, sick or starving and must be cared for; or

(3) To protect an animal from injury which has strayed onto public property or public right-of-way.

(b) Any owner pursuant to this section who wishes to challenge the impoundment may appeal such impoundment in writing, delivering such appeal and request for a hearing, either personally or by mail, to the administrator within seventy-two (72) hours of the seizure and impoundment. The written appeal and request for hearing must be received by the administrator within said seventy-two (72) hour period. The administrator shall promptly set the time and place for the hearing and shall cause notice of such hearing to be deposited in the mail or hand delivered to the party requesting the hearing at least five (5) days before the date of the hearing. The hearing shall be conducted as set forth in Section 6.06.020.

Chapter 6.06.

DANGEROUS OR DISEASED ANIMALS

6.06.010. Dangerous or diseased animals – Generally.

(a) It is unlawful for any person owning or having charge of any dangerous animal to permit such animal to remain within the city unless and until such person has obtained a dangerous animal permit.

(b) It is unlawful for any person owning or having charge of any animal that is infected with any disease which may be transmitted to humans or which constitutes a public health hazard to permit such animal to remain within the city other than at an approved veterinary hospital, unless the animal control officer or administrator approves an alternate means of confinement. The animal control officer or administrator is hereby empowered to impound and destroy any animal

not kept in compliance with this section.

(c) The animal control officer shall be empowered to seize any animal the officer reasonably believes to be infected with a disease transmittable to humans or dangerous or to have bitten any person. The animal control officer shall quarantine such animal in the animal shelter long enough to investigate, observe, examine, and determine whether it is diseased or dangerous so as to be a threat to public health, or safety.

(d) In the alternative, the animal control officer may require the owner or custodian to quarantine such animal in an approved enclosure upon the owner or custodian's property, or at an approved kennel, animal shelter, or veterinary facility during such time that a determination is being made.

(e) Seizure, impound, and disposition of diseased or dangerous animals is subject to the notice and hearing procedures in this chapter.

6.06.020. Determination of threat to public health and safety.

(a) Any animal demonstrating conduct which fits that described under Section 6.01.010(o) or which is suspected of being infected with any disease which may be transmitted to humans shall be impounded by or surrendered to the animal control officer or administrator, or quarantined upon the owner or custodian's property in an approved enclosure, as directed by the animal control officer.

(b) A determination as to whether or not such dangerous or diseased animal poses a threat to the public health and safety shall be made by the animal control officer. Upon such determination, the animal control officer may take no further action against the animal and its owner; may issue a formal warning notice; may require that the animal be permanently removed from the city; may decide that the owner will lose all rights of ownership and control of the animal; may require that the animal owner secure a permit to keep such animal; or may order the animal destroyed. The animal control officer shall notify the owner in writing of this determination and the owner's right to appeal.

(c) Any owner of an animal who is dissatisfied with the determination made by the animal control officer may appeal such determination in writing, within seventy-two (72) hours, to the administrator. Upon receipt of such request, the administrator shall conduct a hearing to determine if the animal is dangerous, as defined, and/or poses a threat to public health and safety. If the animal has been surrendered to or impounded by the animal control officer or administrator, the hearing shall be held within ten (10) days, not including weekends or holidays, after receipt of the request. Where the animal has not been surrendered to or impounded by the animal control officer or administrator, the administrator shall promptly set a time and place for the hearing and shall cause notice of the hearing to be deposited in the mail or hand delivered to the owner at least five (5) days before the date of the hearing.

(d) At the hearing, the owner may be represented by counsel, may present oral and written evidence, and may cross-examine witnesses. Strict rules of evidence shall not apply. Any relevant evidence may be admitted if it is of a type upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The decision of the hearing officer must be supported by the weight of the

evidence and shall be final.

(e) On the basis of evidence produced at the hearing, the hearing officer may take no further action against the animal and its owner; may require that the animal be permanently removed from the city; may decide that the owner will lose all rights of ownership and control of the animal; may require that the animal owner secure a permit to keep such animal; or may order the animal destroyed. The hearing officer shall give written notice to the owner and to the city of the decision within fifteen (15) days of the hearing. Service of the decision may be served either personally or by first-class mail, postage prepaid.

(f) The owner has five (5) business days upon service of the hearing officer's decision to appeal the decision to the Santa Clara County Superior Court pursuant to Food and Agriculture Code Section 31622, as may be amended from time to time. The hearing officer's decision will be deemed final if no appeal is filed on or before the expiration of the appeal period. The owner must also provide notice of the appeal to the administrator within five (5) business days upon service of the hearing officer's decision.

6.06.030. Permit for dangerous animal.

(a) It is unlawful for any person to keep, have, maintain, sell, or trade any dangerous animal within the city without first obtaining a permit from the administrator. Such permit may be valid for up to twelve (12) months from the date of issuance and must be renewed at the end of the calendar year in which the permit is issued for so long as the dangerous animal remains within the city limits.

(b) No permit shall be required of any zoo, university, college, governmental research agency, or other bona fide scientific institution, as determined by the administrator, engaging in scientific or public health research.

(c) All dangerous animal permits shall be issued in accordance with requirements, regulations, terms, and conditions approved by the administrator as they currently exist or as amended from time to time.

(d) Failure to comply with the requirements, regulations, terms and conditions of a permit may be grounds for revocation of the permit.

(e) In the event a permit is revoked by the administrator, the owner is entitled to an appeal hearing as prescribed in subsections (c) and (d) of Section 6.06.020.

(f) Fees for obtaining the permit required by this section shall be established as set forth in a resolution adopted by the city council.

6.06.040. Requirements for control of dangerous animals.

An owner or custodian of an animal deemed dangerous shall comply with the following requirements:

(a) **Confinement, generally.** The owner shall confine the dangerous animal within a building or secure enclosure, as further described in this chapter and subject to the exceptions described in this chapter.

(b) **Muzzle and leash.** A dangerous animal may be permitted off the premises only if it is securely muzzled and leashed on a non-retractable leash not to exceed four (4) feet in length and under the control of a person eighteen (18)

years of age or older, and who is physically capable of restraining the animal. Said leash must be capable of restraining four (4) times the weight of the animal. For dangerous animals, the leash must be attached to an escape-proof commercial quality walking harness which fastens securely across the shoulders and mid-chest encompassing the rib area and upper abdomen of the dog. No collar of any type or material will be sufficient to satisfy the above requirements. Dangerous animals shall not be leashed or tethered at any time to inanimate objects such as trees, posts, or buildings. The muzzling device for dangerous dogs must be constructed so that it is impossible for the dog to remove it without human assistance.

(c) **Signage.** In addition to subsection (a) above, a sign advising of the presence of a dangerous animal shall be posted at the entrance to every place wherein any such dangerous animal is confined. The sign shall be approved by the animal control officer and capable of being understood by a child.

(d) **Transportation.** Transportation of dangerous animals shall only be in locked animal carriers equivalent in construction quality to those used by commercial air carriers. No dangerous animal shall be left unconfined nor unattended in or about any motor vehicle.

(e) **Confinement standards.** Dangerous animals shall be kept securely confined indoors or in a securely enclosed escape-proof locked kennel or pen other than when on a leash as provided in Section 6.06.040(b).

(1) Dangerous animals kept indoors in a house, apartment, building or similar structure shall be allowed only where the windows and doors of said structure are secured to prevent any such animal from exiting without the assistance of the owner or custodian.

(2) Dangerous animals kept outdoors shall be confined in a kennel, pen or structure that must have secure sides and a secure 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 animal. All structures used for confinement of dangerous animals must be locked with a key or combination lock of sufficient strength to ensure confinement of said animals. Such structures must be erected upon a secure bottom or floor constructed of concrete or other material sufficient to prevent the animal from digging free. Sides of the structure shall be imbedded not less than two (2) feet into the ground behind a solid fence not less than six (6) feet in height.

(f) **Insurance.** The owner shall maintain a public liability insurance policy from an insurer licensed to practice in the state of California, in a single incident amount of not less than three hundred thousand dollars ($300,000) plus five thousand dollars ($5,000) for no-fault medical payments for each dangerous animal, for injury to or death of any person or persons, or loss or damage to any property, caused by or resulting from any act of such animal. The public liability insurance amount can be satisfied with one single policy or a combination of policies wherein the primary policy is either a homeowners, renters, or animal liability policy and the secondary policy is an umbrella policy, excess policy, or both. The owner shall provide written notice to the administrator of any cancellation or material change in the insurance within five (5) days of receipt of notice from the insurer. In case of such a cancellation or material change, the owner, at the time of the written notice to the administrator, shall also provide the administrator a

written assurance stating that the person will obtain other insurance to meet the requirement of this section. If no alternate insurance can be obtained before the previous insurance policy lapses, the owner must remove the animal from the city, or otherwise dispose of the dog in a manner prescribed by law. The owner shall notify the administrator of the removal or disposition of the animal due to lapsed insurance.

(g) **Notification.** The owner or custodian of a dangerous animal shall notify the administrator prior to moving, selling, transferring, or otherwise disposing of the animal, or when the dangerous animal is at large, has committed an attack or act of aggression on any person or animal, or has died.

(h) The owner shall adhere to all other requirements reasonably established by the animal control officer or administrator to ensure the health, safety and welfare of the public.

6.06.050. Dangerous animals at large.

It is unlawful for an owner or custodian of any animal known by such person to be dangerous to cause or permit the animal to run loose about the person's premises in a manner endangering any person lawfully entering such premises, or cause or permit the animal to be unrestrained upon or about any public street, sidewalk, park, schoolyard, or private property of other persons.

For purposes of this section, lawful entry to a premises includes but is not limited to entry made by a person in the performance of any duty imposed upon that person by the laws of this state or any city or county or by the laws or postal regulations of the United States, or when that person is on such property by reason of accident beyond control, or disaster, or by invitation either expressed or implied.

6.06.060. Civil right of action.

(a) A civil action for damages against the owner or custodian of a dangerous animal which bites any person or animal on either private or public property may be instituted by the victim of such bite. Damages shall include actual damages, costs, attorneys' fees and a civil penalty of five thousand dollars ($5,000) in addition thereto. The court also may award punitive damages in a proper case. Nothing in this provision shall be construed to limit any other right or remedy otherwise available in law or equity to any party, nor shall this section in any way limit the city's right to enforcement under Chapter 1.04 of this code.

(b) In the case of a bite by an animal, the court, in determining punitive damages, shall take into consideration whether the animal was or should have been licensed and properly maintained as a dangerous animal pursuant to this chapter.

(c) This section shall not apply to dog bites inflicted by police dogs owned or maintained by the department of public safety.

6.06.070. Exhibit of animal on demand.

Upon demand by an animal control officer or administrator, the owner or custodian shall exhibit such animal and its license if required by this title.

Chapter 6.07.

ANIMAL ESTABLISHMENTS AND FACILITIES

6.07.010. Permit—Required—Fee.

(a) It is unlawful for any person to conduct, operate or keep any kennel, pet shop, grooming parlor, zoo, animal menagerie or similar establishment where animals are kept for display or viewing without first obtaining a permit from the administrator.

(b) The annual permit fee for an animal establishment or facility shall be established as set forth in a resolution adopted by the city council.

(c) Applicants shall obtain any applicable zoning permits prior to requesting a permit under this title.

6.07.020. Permit application.

(a) An application for a permit to operate an animal establishment or facility shall be made in writing to the administrator on a form approved by the administrator. Applicant shall provide all information requested by the administrator related to the proposed facility, including but not limited to the types of animals to be maintained for any purpose, together with the approximate number of each type.

(b) The administrator may establish regulations and standards related to the maximum number and species of animals to be maintained; construction, sanitation and maintenance of facilities; and other regulations and standards in conformity with and for the purpose of carrying out the intent of this chapter.

(c) Prior to the issuance of the permit, an animal control officer may conduct an inspection.

(d) No permit shall be issued or renewed unless and until all general regulations relating to animals as set forth in this title are complied with. Failure of an applicant to comply with the requirements of the permit, this chapter, or applicable state law constitutes just cause for denial or revocation of a permit.

6.07.030. Conditions relating to animal establishments.

Every person within the city who owns, conducts, manages or operates any animal establishment for which a permit is required by this title shall comply with all of the following conditions:

(a) No animal establishment shall be operated or maintained in violation of any of the provisions of this code, including but not limited to the location and zoning requirements of Title 19 and applicable state laws.

(b) All animals must be treated in a humane manner.

(c) Housing facilities for all animals shall be structurally sound and shall be maintained in good repair to protect animals from injury and, where appropriate, restrict entrance of other animals.

(d) All animals and all animal buildings or enclosures shall be maintained in a clean and sanitary condition.

(e) All animals shall be provided wholesome food of sufficient quantity

and nutritive value and clean water to maintain a healthy body weight and meet the normal daily requirements for the condition and size of the animal.

(f) Animal buildings and enclosures shall be so constructed and maintained as to prevent the escape of animals.

(g) All animal establishments must be constructed and operated in a manner that reasonably protects public health and safety, and the safety of the animals.

(h) Every building or enclosure wherein animals are maintained shall have a heating and cooling system, and a ventilation system that has been properly installed and meets all permit requirements to regulate the temperatures therein within a range suitable for the physical needs of the animals to prevent drafts and odors, as well as an electrical system that has been properly installed and meets all permit requirements to support the ventilation, heating and cooling system.

(i) All animal establishments must include a properly installed and permitted hot and cold running water system which is connected to sanitary sewer facilities.

(j) All animal rooms, cages and runs shall be of sufficient size to provide adequate and proper housing for animals kept therein.

(k) All animal runs shall be of concrete and provide adequate drainage into an approved sewer or individual sewer disposal installation.

(l) All animal housing facilities including but limited to animal rooms, cages and runs, must provide a means to keep animals out of direct sunlight.

(m) All sick, diseased, or injured animals must be isolated from healthy animals at all times and given proper veterinary treatment. All animals shall be taken to a veterinarian licensed by the State of California for examination and treatment if so ordered by the animal control officer.

(n) Every violation of an applicable regulation shall be corrected within a reasonable time to be specified by the animal control officer.

(o) No animal may be without attention for more than twenty-four (24) consecutive hours. The name, address, and phone number of a person responsible for the animals must be posted in a conspicuous place, visible from outside the animal establishment, unless the owner or attendant of the animals is immediately available on the premises.

6.07.040. Permit—Expiration.

Any permit issued under this chapter shall expire at the end of the calendar year in which the permit is issued.

6.07.050. Permit—Renewal.

The renewal of any permit shall be subject to conditions as required by the administrator.

6.07.060. Inspection.

As a condition to issuance or renewal of a permit under this chapter, the animal control officer shall have authority to enter upon any area or premises in which an animal establishment is located, at any reasonable time, for the purpose

of inspection and enforcement of this chapter. The failure of the operator to consent to entry is grounds for revocation of the permit.

6.07.070. Denial or revocation of permit.

(a) The administrator may deny, suspend or revoke any permit issued pursuant to this chapter in the following situations:

(1) Whenever it is determined from an inspection that any animal establishment fails to meet all the required conditions of this chapter or applicable state law;

(2) Where there is reason to believe the applicant or permit holder willfully withheld or falsified any information to obtain a permit; or

(3) If the applicant or permit holder has been convicted by a court of law of more than two (2) violations of this chapter in a twelve (12) month period, or any state law relating to animals or public nuisance caused by animals, or has been convicted of cruelty to animals within the previous five (5) years.

(b) Any revocation of a permit shall be effective until all conditions have been met to the satisfaction of the administrator and written notice of completion of all conditions has been given to the permittee. Upon receipt of such notice the permit shall be deemed valid for the remainder of the original term for which issued.

(c) The owner may appeal the administrator's determination to deny, suspend or revoke any permit pursuant to this chapter as provided in Section 6.10.030.

6.07.080. Permits not transferable.

Permits issued pursuant to this chapter shall not be transferable.

Chapter 6.08.

BEEKEEPING STANDARDS

6.08.010. Maintenance of beehives.

No person shall keep or maintain any hive of bees in the city except under the following conditions:

(a) No more than five (5) hives shall be maintained on any one lot or parcel of land except that this condition shall not apply to any agricultural use within any zone pursuant to a use permit. The address of all such hives shall be registered with the office of the Santa Clara County Agriculture Commissioner.

(b) No hive shall be kept or maintained within twenty-five (25) feet of any side or rear property line of the lot or parcel of land upon which situated, as those property lines are determined pursuant to Title 19, or within one hundred (100) feet of any dwelling unit, other than that occupied by the person maintaining the hives, whichever distance is greater and more restrictive.

(c) No hive shall be kept or maintained on any parcel or lot between the line of the front face of the main building extended and the street adjoining the front yard as defined in Title 19, unless such hive is located not closer than one hundred

(100) feet from the edge of the street right-of-way.

(d) All hives shall be oriented so that the entrance faces the house or building occupied by the person maintaining the hives, and shall be surrounded by a solid fence not less than six (6) feet in height, located no farther than thirty (30) feet from such hives. Said fence may be open on that side facing a house or building on the premises. This condition may be met by locating such hives upon or affixed to a building or structure so that their entrances are more than ten (10) feet from the ground and face a house or building on the premises.

(e) A constant water supply adequate to the needs of all hives located on the premises shall be maintained on those premises.

6.08.020. Exception.

The city council finds that the maintenance of beehives within the city not in compliance with the regulations contained in Section 6.08.010 constitutes a public nuisance. The regulations contained in Section 6.08.010 are adopted for the general welfare of the citizens of the city. The regulations contained in Section 6.08.010(b) are adopted, in addition, specifically for the purpose of enhancing the welfare of the owners and occupants of properties adjoining lots or parcels upon which beehives are maintained and such persons are found to be specially affected by the maintenance of such beehives. Therefore, the requirements of Section 6.08.010(b) shall not be applicable if the person desiring to maintain the hive or hives shall file with the administrator written consent of the owners or adult occupants of the adjoining properties and/or dwelling units from which the distance limitations contained in Section 6.08.010(b) are to be measured. Consent by any such owner or occupant shall be deemed irrevocable for the period of two years after it is executed, and may be revoked by the grantor or successor resident after such period, following at least ninety (90) days written notice, filed with the administrator.

6.08.030. Applicability of zoning requirements.

Nothing contained in this chapter shall be deemed to authorize any agricultural or similar use not otherwise permitted under the provisions of Title 19.

6.08.040. Applicability of general provisions.

Nothing contained in this chapter shall be deemed to invalidate or supersede the provisions of Section 6.02.040(c) or any other provision of the Sunnyvale Municipal Code. Compliance with the provisions of this chapter shall not prevent enforcement of Section 6.02.040(c) or any other applicable provisions of the Sunnyvale Municipal Code.

Chapter 6.09.

SMALL ANIMALS AND LIVESTOCK

6.09.010. Keeping of certain animals—Generally.

(a) No person shall keep any livestock in any R district as defined in

Title 19.

(b) It shall be unlawful for any person to keep or maintain any rooster over four (4) months of age.

(c) It shall be unlawful for any person to keep or maintain more than six (6) small animals.

(d) It shall be unlawful for any person to keep or maintain any small animal except as provided in this chapter.

6.09.020. Nearness to dwelling.

(a) All structures for housing small animals shall be compliant with applicable zoning regulations and required setbacks.

(b) It is unlawful for any person to keep or allow small animals within twenty (20) feet of any inhabitable dwelling unit other than that of the owner or custodian.

6.09.030. Food and feeding requirements.

(a) Any small animal must be provided wholesome food of sufficient quantity and nutritive value to maintain a healthy body weight, and meet the normal daily requirements for the condition and size of the animal.

(b) The food receptacles must be accessible to the animal and be placed in a location to minimize contamination from excreta and insects. Feeding pans must be durable and kept clean. Disposable feed receptacles may be used and must be discarded after each feeding. Self-feeders may be used for dry food and must be sanitized regularly to prevent molding, deterioration, or the dense compaction of food.

(c) Spoiled or contaminated food must be disposed of promptly and in a sanitary manner.

(d) All dry food intended for use as food for small animals must be kept in metal containers with tightly fitted metal covers or other containers constructed to keep out vermin and wild animals.

6.09.040. Water requirement.

(a) Small animals must have access to clean potable water at all times unless restricted for veterinary care. If the water is kept in a container, the container must be designed to prevent tipping and spilling of the water or be secured to a solid structure or the ground.

(b) Water containers must be clean and must be emptied and refilled with fresh water every twenty-four (24) hours or alternatively if the water is provided by an automatic or demand device, the water supply connected to the device must function twenty-four (24) hours a day.

6.09.050. Veterinary treatment requirement.

Small animals must receive veterinary treatment from a veterinarian licensed by the State of California when such treatment is necessary to alleviate the animal's suffering or prevent the transmission of disease.

6.09.060. Exercise requirement.

Small animals must be provided the opportunity to exercise in order to maintain normal muscle tone and mass for the age, size, and condition of the animal.

6.09.070. Confinement requirement—Homing pigeon exception.

(a) The owner or custodian must keep the premises where the small animals are maintained fenced to prevent such animal from straying or running at large upon any public street or other public place, or upon any private place or property or common area of any planned development, cluster, townhouse, or condominium project without the consent of the owner or person in control thereof.

(b) If the small animal is a homing pigeon, the homing pigeon must be confined to the enclosure or structure and may only be released for exercise, training or competition if the homing pigeon is fitted with a leg band which contains a serial number issued by a pigeon registry and the homing pigeon does not perch or otherwise linger on the building or property of another without their consent.

6.09.080. Enclosure, shelter and shading requirements.

Any small animal maintained outdoors must have adequate shade and shelter such that the animal can protect itself from the elements. Such enclosure, shelter or shading must be:

(a) Accessible to the animal at all times;

(b) Situated to prevent exposing the animal to unreasonably loud noise or teasing, abuse, or injury by another animal or person;

(c) Of adequate size, inside and outside the enclosure or shelter to allow the animal to stand up, sit, turn around freely, or lie down in a normal position, defecate or urinate away from its confinement, and safely interact with any other animal;

(d) Adequately lighted to provide regular diurnal lighting cycles of natural or artificial light uniformly diffused throughout the shelter, and sufficient illumination for routine inspections and maintenance of the animal; and

(e) Supplied with clean and dry bedding material or other means of protection from the weather elements to maintain the shelter at a temperature that is not harmful to the health of the animal.

6.09.090. Sanitary enclosure and shelter requirement.

(a) All premises, enclosures, and shelters used or intended to be used for the keeping or housing of small animal must be cleaned and maintained in a manner designed to ensure sanitary conditions and to control for insects, ectoparasites, and other pests.

(b) Carcasses, debris, food waste, excreta, and other like material must be removed from the premises, enclosure, or shelter used or intended to be used for the keeping or housing of small animals as often as necessary to minimize unreasonably obnoxious odor, allergen, pests, and the risk of disease.

(c) The floor of any premises, enclosure, or shelter for the use of small animals must be smooth and tight to prevent the accumulation of water, debris,

refuse, manure, excreta, or like material, and the harboring of vermin and wild animals. A wire floor may be used if appropriate for the type of small animal and is maintained to prevent injury to the animal.

6.09.100. Refuse container requirement.

Any debris, refuse, manure, excreta, or other like material conducive to the breeding of flies or that creates a reasonably obnoxious odor must be placed in a fly-proof container until the material is removed from the premises or buried under the soil surface as fertilizer.

6.09.110. Transportation requirement.

Small animals must be handled, moved, or shipped in a manner consistent with Section 6.02.030 to ensure the health and safety of the animal.

Chapter 6.10.

ENFORCEMENT, VIOLATIONS, PENALTIES.

6.10.010. Authority of animal control officer.

Each animal control officer shall have and is hereby vested with the authority of a peace officer. Each animal control officer shall, when necessary in the performance of his or her duties and upon presentation of proper credentials, have the right to enter any building, structure or premises in the city to ascertain if any of the provisions of this title or any state laws relating to the disease, care, treatment, impounding, or cruelty to animals are being violated. Such entry shall be made only pursuant to a search warrant where the owner or lawful occupant of the property refuses to consent to entry by the animal control officer; provided, however, that entry may be made without a search warrant in emergency situations. Each animal control officer may make arrests for the violation of the provisions of this title or any state laws in the manner prescribed by law.

6.10.020. Penalties.

(a) The remedies provided in this title are cumulative and in addition to any other remedies available at law or in equity, including enforcement pursuant to Title 1 of this code. Any violation of this title may be remedied by an enforcement action brought by the city, including but not limited to administrative or nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

(b) Nothing in this title shall be deemed to in any way restrict, regulate or prohibit the city, or public entities authorized by the city, from maintaining, constructing or operating stables, riding trails, children’s zoos or similar activities for public usage.

(c) Any person violating the provisions of this title shall be guilty of an infraction, and upon conviction thereof shall be punishable as set forth in Chapter 1.04 of this code, with the exception that any person violating the provisions of Chapter 6.06 and Sections 6.02.040(c) and 6.02.100 may be charged with an

infraction or misdemeanor at the discretion of the animal control officer or other enforcement officer, and upon conviction thereof shall be punishable as set forth in Chapter 1.04 of this code.

6.10.030. Appeals of permit suspensions, denials or revocations.

(a) In case of denial, suspension or revocation of any permit or special authorization issued under this title, the applicant or holder of the permit may appeal the decision by filing a written request for an appeal hearing to the administrator within ten (10) calendar days of receipt or constructive receipt of the decision, except that actions taken pursuant to Chapter 6.06 shall be governed by the appeal provisions of that chapter.

(b) The administrator shall appoint a hearing officer for the purpose of the appeal. Until the ruling of the hearing officer, the denial, suspension or revocation shall remain in full force and effect.

(c) The hearing officer shall set a time and place for the hearing within seven (7) calendar days after the date that the appeal was received, and provide notice by mail to the appellant of the date, time, and place for the hearing. The hearing shall be set for a date that is not less than seven (7) calendar days and not more than twenty (20) calendar days after the date that the appeal was received, unless the applicant or holder requests a continuance.

(d) At the hearing, both the applicant or permit holder and staff shall have the right to appear and be represented by counsel, and to present evidence and arguments which are relevant to the grounds stated in the filing of the appeal. The applicant or holder may appear in person or by submitting written material. A non-appearance or failure to submit written material shall result in a vacation of the appeal.

(e) Within ten (10) calendar days of the hearing, the hearing officer shall issue a written decision which states whether the initial denial, suspension or revocation will be upheld, modified or reversed. The decision shall be mailed to the appellant, postage prepaid. The decision of the hearing officer shall be final.

SECTION 2. CEQA - EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. CONSTITUTIONALITY; SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the city of Sunnyvale and to cause publication once in The Sun, the official publication of legal notices of the city of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, and adopted as an ordinance of the city of Sunnyvale at a regular meeting of the City Council held on _____, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:
RECUSAL:

ATTEST: APPROVED:

_____ _____
City Clerk Mayor
Date of Attestation: _____

(SEAL)

APPROVED AS TO FORM:

_____
Anais Martinez Aquino, Assistant City Attorney