

## Chapter 8.04

### ANIMAL CONTROL LAW\* \*\*

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- \* For statutory provisions relating to the licensing of dogs, see Gov. C.A. §38792 and Food and Agric. C.A. §30501 et seq.  
For provisions relating to rabies control, see H. & S. C.A. §121575 et seq.  
For provisions pertaining to animals at large, see Food and Agric. C.A. §16301 et seq.  
For provisions relating to the use of animals in research, see H. & S. C.A. §1666 et seq.  
For estrays, see Food and Agric. C.A. §17001 et seq.
- \*\* Prior ordinance history: Ord. 516, 538, 567, 581, 609 and 628.

8.04.010 Short title. This chapter shall be known and may be referred to in all proceedings as the "Animal Services Ordinance." (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.020 Definitions. For the purposes of this chapter the following words have the following definitions: "Animal Services Agency" means that agency appointed as the animal services provider for the County of Marin under the provisions of Section 8.04.110

"Board of supervisors" means the Marin County board of supervisors. "County" means the County of Marin.

"County administrator" means the Marin County Administrator.

"Director" means the chief executive officer of the Animal Services Agency or any person authorized to act on his/her behalf.

"Dog" means any animal that is a member of species *canis familiaris* four months old or older.

"Dog license" means the license required to be annually issued for each individual dog.

"Licensed dog" means- any dog for which the license for the current year has been issued and to which the tag is properly displayed.

"Owner/guardian" means any person who has the legal responsibility and rights of an owner/guardian after keeping or harboring an animal for fifteen or more days, except a veterinarian or an operator of a kennel engaged in the regular practice of this business. The use of the word "guardian" for all legal intent and purposes has the same meaning and effect as the term "owner/guardian" with respect to all federal, state, and county law, current and/or as modified.

"Severe injury" means any physical injury directly caused by a dog attack that results in muscle tear(s), puncture(s), dislocation(s), broken bone(s) or disfiguring laceration(s), or which requires the suturing of a wound, corrective or cosmetic surgery and hospitalization for any of the aforementioned conditions.

"Town" means the town of Ross.

"Wild and/or undomesticated animal" means an animal that is wild by nature and not customarily domesticated in Marin County and which, because of its size, disposition or other characteristics could constitute a danger to human life or property. Such wild and/or undomesticated animals shall be deemed to include but are not exclusive of:

I. Class Mammalia. (a) Order carnivora.

1. Family felidae (cat) including but not limited to such members as the tiger, the jaguar, the leopard, the lion, the serval, the mountain lion, the bobcat, the ocelot and the cougar, excepting *felis domesticus* (domestic cat),

2. Family hyenidae (hyena),

3. Family urisidae (bear),

4. Family canidae (dog) excepting *canis familiaris* (domestic dog) and including but not limited to such members as the wolf, coyote and the jackal;

(b) Order proboscidea (elephant);

(c) Order primata (primates), including but not limited to the chimpanzee, the baboon, the orangutan, the gibbon, the macaque and the gorilla, excepting the family hominidae (man);

(d) Order artiodactyla, even-toed hoofed mammals such as water buffalo, camels, elk, moose, deer and antelope, excluding the domesticated species of the family suidae (domestic pig) and family bovidae (cattle, sheep, goats, llamas and alpacas);

(e) Order perissodactyla, odd-toed hoofed mammals including the zebra and rhinoceros, excluding the domesticated species of the family equidae (horses, donkeys, etc.).

- II. Class Reptilia. (a) Order squamata.
1. Sub-order serpentes, all front and rear fanged venomous snakes,
  2. Sub-order lacertilia, both venomous species of the family heloder matidae (gila monster and mexican beaded lizard);
- (b) Order crocodilia (crocodile, alligator and caiman).
- III. Class Aves. (a) Sub-order ratitae, such as, but not limited to, ostriches, rheas, cassowaries and emus, excluding small caged birds such as parakeets, canaries, love birds and finches.
- IV. Any other animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means, excepting the honey-producing bee. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.030 Licenses required. (a) Every owner/guardian of a dog which is over the age of four months and which is kept in the town shall procure a license for each such dog, for each year, commencing with the date of the rabies vaccination of the dog and expiring the year following the date of issuance of such license. Such license shall be procured within thirty days after the day upon which the dog is four months old, or within thirty days after the day upon which the dog, if over the age of four months, is first obtained by a resident of the county and thereafter shall be maintained on a current basis from year to year.

(b) Dog owners may, with proof of multi-year rabies vaccination, choose to obtain licenses for one, two or three years, with final expiration to coincide with the expiration of the rabies vaccination. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.040 Rabies vaccinations. (a) Whenever the laws of the state of California require vaccination of dogs against rabies, no license shall be issued for any dog required to be vaccinated until the issuing authority is given satisfactory written evidence of compliance under such law.

(b) All cats shall be vaccinated against rabies. Any person in possession, control, or owner/guardianship of any cat shall have that cat vaccinated against rabies.

(c) Any veterinarian operating either at an established place of business or at a mobile clinic shall provide a copy of a rabies vaccination certificate for any cat or dog vaccinated by him/her to the animal services provider within ten days of vaccination. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.050 Confinement and quarantine. (a) The owner/guardian of a quarantined animal shall pay a fee of thirty dollars toward the animal services costs in providing and insuring that the animal is properly quarantined.

(b) If any person fails or refuses to obey any lawful order for quarantine of an animal for rabies observation, any animal services officer may impound the animal for such quarantine at additional expense to the owner/guardian at the rate as may be established by resolution of the town council.

(c) Quarantine fees are payable within thirty days of issuance of an invoice. Payment is delinquent if not received within sixty days. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.060 License fee. (a) A dog license fee shall be imposed on all dogs. The license fee for dogs which have not been sterilized shall be established by resolution of the town council.

(b) The license fee for dogs which have been sterilized shall be established by resolution of the town council. The fee is due and payable with the issuance of a license as required in Section 8.04.030. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.070 Delinquent license penalty. (a) Any owner/guardian failing to procure and pay a license as required by Section 8.04.060 within the period allowed in Section 8.04.030 shall pay a delinquent penalty in the amount set forth by resolution of the town council.

(1) The delinquent penalty may be waived where failure to pay is due to reasonable cause and circumstances beyond the control of the dog owner/guardian which shall be determined by the animal services agency or the county administrator's office.

(2) Any person dissatisfied with a determination denying waiver of the delinquent penalty shall be entitled to a hearing which shall be conducted pursuant to the provisions of Section 8.04.122. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.080 Duplicate license tags. If a license tag is lost, a duplicate tag may be acquired by the payment of a fee as may be established by resolution of the town council. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.090 Display of license tags. The license tag shall be attached securely to a collar or harness or other suitable device on the dog, for which issued, at all times that the dog is in the public areas of the town. The person in control of the dog shall show the license certificate or tag upon demand by a representative of the animal services agency at any time. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.100 Exceptions. (a) Any dog bred, raised, or providing service as a guide or service dog is exempt from the license fee, but is not exempt from being licensed or from any required vaccination.

(b) The provisions of Section 8.04.030 shall not apply to any dog in the custody or care of a nonresident of the town or temporarily therein for a period not exceeding thirty days. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.110 Appointment of animal services agency. (a) The Marin Humane Society is appointed as the animal services agency for the town, and shall appoint suitable persons to act as animal services officers.

(b) All animal services officers shall, for the purpose of enforcing this chapter, be deemed to be peace officers. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.120 Powers and duties of the animal services agency and its animal services officers. The powers and duties of the animal services agency and animal services officers shall be as follows:

(a) To enforce all provisions of this chapter and all the laws of the state of California and of the town of Ross relating to the care, treatment, and impounding of animals, and specifically to issue citations and to make arrests for violations of the provisions of this chapter and related state laws.

(b) To provide an animal shelter for all animals which are subject to impoundment. Animals shall be provided with humane care and treatment, including veterinary care when appropriate, throughout the duration of their impoundment consistent with state laws and local ordinances.

(c) To take up, impound and safely keep any animals where authorized under all the laws of the state of California and of the town of Ross.

(d) To collect any costs or charges hereinafter provided in this chapter for the impounding and keeping of any animal.

(e) Where authorized under the laws of the state of California and/or the town of Ross, to enter upon any premises upon which any animal is kept for the purpose of taking up, seizing or impounding of such animal or for the purpose of determining whether such animal is licensed or is violating the provisions of this chapter.

(f) To euthanize any animal lawfully impounded which by reason of injury, disease or temperament is unsuitable for adoption placement.

(g) To enter upon any private or public property in order to pick up and dispose of any dead animal.

(h) To destroy or dispose of any animal where authorized pursuant to the provisions of this chapter.

(i) To make determinations in accordance with the provisions of this chapter.

(j) To perform any and all services related to public records in the same manner as employees of the town of Ross regarding the handling of what would be public records if prepared, retained or distributed by town employees. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.122 Hearings. (a) The administrative hearing officer selected by the county administrator, or his or her designee, is authorized to conduct hearings in all cases authorized by the provisions of this chapter. This shall include, but not be limited to, all permit denials, permit revocations or refusals to renew permits authorized under this chapter. Written notice of the time and place of the hearing shall be given to the animal owner/guardian, permittee or permittee applicant at least ten days prior to the date set for hearing, unless the animal owner/guardian, permittee or permittee applicant expressly requests, in writing, that the hearing be set for an earlier date, and the animal services agency agrees to do so. Service of the notice shall be made in accordance with the provisions of Section 1.04.190 of the Marin County code. If the owner/guardian, permittee or permittee applicant of the affected animal fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued in accordance with the provisions of this chapter. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

(b) The administrative hearing officer shall have the ability to impose administrative hearing fees authorized under a fee ordinance or resolution adopted by the governing body under whose authority the hearing has been undertaken. The administrative hearing officer may impose the fees based upon the complainant's, or business owner's or animal owner/guardian's culpability for causing administrative expenses to the animal services agency's program. At the administrative hearing, the hearing fee shall be in lieu of the imposition of any applicable statutory fine. In a de novo appeal to the Superior Court, both administrative expense fees as well as statutory penalties may be imposed upon the animal owner/guardian as deemed appropriate. Criminal restitution, damages and/or injury awards are the domain of the superior courts and are not available by way of the administrative hearing process. In any hearings other than ones involving the determination of the status of a potentially dangerous animal or vicious animal, the decisions of the hearing officer shall be final but subject to review by the Superior Court pursuant to the provisions of CCP section 1094.5. De novo appeal of hearing officer decisions to the Superior Court is only available in the case of potentially dangerous animal or vicious animal hearings.

(c) If the animal owner/guardian does not appeal the orders of the hearing officer in a potentially dangerous or vicious animal case to the Superior Court within the time period prescribed in this Chapter, the hearing officer's orders shall be binding. In all other administrative hearings, the decisions of the hearing officer are final without further appeal to the Superior Court. Failure to abide by the hearing officer's orders shall, upon petition by the Animal Services Agency, subject the animal owner/guardian or other permittees/licenseses to attend a noticed sanctions hearing where further regulatory actions to protect the public health

and safety may be considered and imposed. Notice requirements shall be the same as in the case of the initial hearing before the hearing officer. (See (a) above.) The sanctions that may be imposed include any reasonable regulatory actions to preserve public health and safety including, but not limited to the destruction of the animal (which order is subject to de novo review), or in the case of a permit of license, loss of said permit or license. Lesser sanctions may be imposed provided the health and safety of the public is not unreasonably placed at risk. Sanctions hearings shall be recorded or reported, and shall be final. The hearing officer shall have the authority to impose additional administrative fees authorized under a fee ordinance or resolution adopted by the governing body under whose authority the hearing has been undertaken for the expenses related to the sanctions hearing. The orders from such sanctions hearings shall be subject to review by the Superior Court pursuant to the provisions of CCP section 1094.5.

(d) Any owner/guardian failing to abide by the final orders of the hearing officer within the period allowed within the orders or under law shall pay a civil administrative penalty in the amount of \$500. The civil administrative penalty may be waived where failure to perform the required order(s) is/are due to reasonable cause and circumstances beyond the control of the dog owner/guardian which shall be determined by the hearing officer. Any person dissatisfied with a hearing determination denying waiver of the civil administrative penalty may petition for review by the Superior Court pursuant to the provisions of CCP section 1094.5.

8.04.130 Disposition of animals by the animal services agency. Except where otherwise provided in this chapter, the animal services agency shall keep any animal impounded for violation of the provisions of this chapter or relinquished for the period of time hereinafter specified and shall determine the final disposition of the same in accordance with the following provisions:

(a) Unidentified Stray Animals. All impounded unidentified stray animals shall be held for redemption for five working days. The stray holding period shall not include the day upon which the animal was impounded, days the animal shelter is closed or holidays. At the end of the stray holding period, the animal services agency shall determine the final disposition of the animal, which may include adoption, redemption or euthanasia.

(b) Identified Stray Animals. All impounded stray animals where an owner/guardian is known shall be held eight working days. The stray holding period shall not include the day upon which the animal was impounded, days the animal shelter is closed or holidays. At the end of the stray holding period, the animal services agency shall determine the final disposition of the animal, which may include adoption, redemption, or euthanasia. The animal services agency shall notify the owner/guardian by mail at the last known address of the animal being impounded. Notice of impoundment shall be given to the animal owner/guardian within twenty-four hours of impoundment.

(c) Release of Dogs. All dogs, four months old and older shall be released to their owner/guardians with a current dog license

(d) Release of Cats. All cats, four months old and older shall be released to their owner/guardians with proof of a current rabies vaccination.

(e) Sterilization of Animals Released for Adoption. No dog or cat shall be released for adoption without being sterilized.

(f) The animal services agency shall follow all laws of the state of California concerning holding periods and final disposition of animals. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.140 Redemption of impounded animals. (a) Except where redemption is not permitted by this chapter, redemption of an impounded animal by the owner/guardian shall be made by exhibiting to the animal services agency proof of the owner/guardian's identity and any

required license certificate, tag, or other satisfactory proof of custody.

(b) All charges provided for under Section 8.04.150 must be paid to the animal services agency prior to the animal being redeemed.

(c) If such animal is released to a person other than the owner/guardian, the owner/guardian of such animal may, at any time within thirty days, request the animal services agency to return the animal to the owner/guardian.

(d) All costs of impoundment, including charges for boarding, shall be collected prior to the animal being released to the owner. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.150 Fees for redemption, placement, surrender. (a) Redemption Fees. No animal may be released by the animal services agency to the owner/guardian until all appropriate charges have been paid. The redemption fee for an impounded animal shall be established by resolution of the town council.

(b) Boarding Fees. The animal services agency shall collect boarding fees for dogs and cats as may be established by resolution of the town council. Fees for livestock shall be collected pursuant to Section 8.04.220.

(c) Veterinary Fees. The animal services agency shall collect all fees associated with veterinary care provided to any impounded animal.

(d) Surrender. Animals surrendered by their owner/guardians subsequent to impoundment for a violation of the laws of the state of California and/or the town of Ross shall not relieve the owner/guardian of the obligation to pay such charges as set forth by resolution of the town council, prior to such surrender. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.155 Barking dogs and unreasonable animal noise. (a) It is unlawful for any person to suffer or permit any dog, cat, fowl, or other animal to habitually bark, yelp, howl or create noise in such a manner which unreasonably disturbs the peace of any person(s).

(b) Any person who shall keep or permit to remain on any premises, an animal which disturbs the peace of any person in the manner set forth in subsection (a) of this section shall be guilty of an infraction for a first offense and for a subsequent second offense. Any person found in violation of this subsection for a third or additional offense shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars, by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

(c) Except as otherwise provided in subsection (d) of this section, where the animal owner/guardian is present and available at a household, the police will notify the keeper of the offending animal of the noise violation and direct that such violation be abated. If the police receive a second complaint from any person within thirty days of the notice of complaint of an additional violation by the animal, then the police may issue a citation provided there is probable cause to believe the noise has been continuous for one-half hour or more. If an animal creates noise, but not to the extent of a half hour of continuous noise, and the owner/guardian is not present at home, the police shall issue a written notice of complaint upon a first complaint that informs the owner/guardian that a further violation within thirty days of the notice of complaint may result in the issuance of a citation. Written notice of complaint shall be sufficient by securely posting the notice of the complaint upon the door of the household where the animal is kept. If the police receive a second complaint from any person within thirty days of the notice of complaint of an additional violation by the animal, then the police may issue a citation provided there is probable cause to believe the noise has been continuous for a half an hour or more. Whenever possible, the police may recommend the services of county mediation to the complainant and the keeper of the animal as a means of resolving the animal nuisance noise. If mediation is refused by either party or is unsuccessful at the end of the thirty business days, then

the matter shall proceed as if it were never referred to mediation.

(d) If the animal owner/guardian of the offending animal is unavailable, the police may issue a citation with a first complaint if it is determined by the police after investigation of the complaint and interview of the complainant that the noise created by the animal has persisted for one-half hour or more and cannot be abated or quieted so that it continues to disturb the peace of the complaining person(s). If the noise created by the animal can be abated or quieted so that it does not continue to disturb the peace, such abatement or quieting shall be done and the police shall issue a written notice of complaint upon a first complaint that informs the owner/guardian that a further violation within thirty days of the notice of complaint may result in the issuance of a citation. Written notice of complaint shall be sufficient by securely posting the notice of the complaint upon the door of the household where the animal is kept. If the police receive a second complaint from any person within thirty days of the notice of complaint of an additional violation by the animal, then the police may issue a citation provided there is probable cause to believe the noise has been continuous for a half an hour or more. The police may in addition make a referral to the animal services agency identified in Section 8.04.110 so an investigation may ensue as to whether the animal should be taken into protective custody. The animal may be taken into protective custody by the animal services agency for animal owner/guardian abuse, neglect, or any other grounds within their authority pursuant to Section 8.04.120.

(e) Such repeated acts by an owner/guardian of allowing an animal to disturb the peace, as described in subsection (a) of this section and subject to the limitations set forth in subsections (b), (c), and (d) of this section, shall constitute a public nuisance under the provisions of Chapter 9.04 of the Ross Municipal Code. Persons responsible for such disturbances may be held liable to civil penalties as may be set forth in Chapter 9.04 of the Ross Municipal Code. (Ord. 628, 2011).

8.04.160 Dogs running in certain public areas. It is unlawful for the owner/guardian or person having control of any dog to permit the same, under any circumstances, to run at large in any public park, or in any school, or upon any school grounds, or in any commercial district; and every dog found running at large in violation of the provisions of this section may be immediately seized and impounded. Any duly authorized peace officer or person exercising peace officer powers shall be entitled to take such other action as may be reasonably necessary for the protection of public health and safety. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.161 Dogs prohibited upon the Ross commons. (a) It is unlawful for the owner or person having control of any dog to allow or permit such dog, under any circumstances and at any time, whether leashed or unleashed, to be upon or within the publicly maintained park area commonly referred to as "The Commons" and more particularly described as that improved lawn area lying completely within the asphalt pathway running the entirety of its southerly and easterly borders, the Ross school's baseball field backstop on its northerly border and the Ross school's playground on its westerly border; provided, that this prohibition shall not apply to a person with disabilities requiring the use of a guide dog, signal dog or service dog to obtain equal access to such publicly maintained property.

(b) Any person violating subsection (a) of this section as adopted in this chapter by reference is guilty of an infraction as provided in Section 19.6 of the Penal Code, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars for the first offense, and by a fine not exceeding one hundred dollars for a second offense within a one year period. (Ord. 609 (part), 2008; Ord. 585, 2004).

8.04.175 Control of dogs by responsible person. (a) Dogs shall at all times be kept under the physical or voice control and direction of a competent, responsible person who is

capable of controlling such an animal. Any dog that is not subject to such control and direction may be seized and impounded. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

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

(c) Every owner/guardian or possessor of a dog shall at all times prevent such dog from causing injury to another domestic animal that results in veterinarian treatment or death while such domestic animal is lawfully upon public or private property.

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

8.04.180 Prohibition of animals trespassing on public or private property. (a) It is unlawful to suffer or permit any animal to trespass on private or public property so as to damage or destroy any property or thing of value, or so as to commit any other act dangerous to public health or safety. Any animal committing such an act is a public nuisance.

(b) It is unlawful for the owner or person having control of any animal to suffer or permit such animal to defecate upon any public property unless the person immediately removes and disposes of the feces in a sanitary manner. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.181 Potentially dangerous and vicious dogs. (a) Except as otherwise provided under the provisions of subsections (b) through (d) of this section, the provisions of Chapter 9, Articles 1 through 5, Sections 31601 through 31683 and any amendments thereto exclusive of Sections 31602, 31603, 31606 and 31644 of the California Food and Agricultural Code are adopted and incorporated by reference herein. The hearing provisions set forth in subsection (d) below shall be in addition to the provisions set forth above in Section 8.04.122.

(b) "Potentially dangerous dog" means any of the following:

(1) Any dog which, when unprovoked on two separate occasions within the prior thirty-six month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner/guardian of the dog;

(2) Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Section 31604 of the Food and Agricultural Code;

(3) Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury or otherwise caused injury attacking a domestic animal off the property of the owner/guardian of the dog.

(c) "Vicious dog" means any of the following:

(1) Any dog seized under Section 599aa of the Penal Code and upon the sustaining of a conviction of the owner/guardian under subdivision (a) of Section 597.5 of the Penal Code;

(2) Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being;

(3) Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner/guardian has been notified of this determination, continues the behavior described in Section 8.04.181(b) or is maintained in violation of Section 31641, 31642 or 31643 of the California Food and Agricultural Code.

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

(5) Any dog which has engaged in any aggressive behavior that demonstrates that

the dog represents a clear and present substantial danger to public health or safety and that due to substantial risk to public health or safety it is unlikely that the dog could be safely maintained.

(d) A hearing on whether a dog shall be declared potentially dangerous or vicious shall be conducted in the following manner:

(1) If the director has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious as defined by this section, a hearing shall be conducted. The director shall prepare a petition specifying the basis as to why the dog is potentially dangerous or vicious.

(2) A documented complaint must be received from a member of the public which serves as the evidentiary basis for the director to find probable cause shall be sworn to and verified by the complainant and shall be attached to the petition.

(3) Prior to commencement of a potentially dangerous dog hearing and if the allegations of the petition indicate that the dog is potentially dangerous as defined under subsection (b) of this section, the county administrator or his/her designee may offer in writing mediation services as an alternative to a hearing provided both the complainant and the owner/guardian agree in writing to mediation. Mediation must be concluded within thirty days of the offer to mediate. If mediation is refused or is unsuccessful, then the matter shall be referred to a hearing under this subsection.

(4) The county administrator or his/her designee shall designate a hearing officer from a panel of up to five persons whose membership shall be designated by the board of supervisors. Hearing officer applicants shall have had a minimum of five years experience as a practicing attorney and prior experience in administrative, arbitration or mediation hearings. Prior experience in care and control of animals shall also be considered but is not necessary. The hearing officer shall conduct a hearing as described in section 8.04.122 on whether a dog shall be declared potentially dangerous or vicious. The hearing officer shall be compensated for the actual hours devoted to the hearing and its determination at the County approved hourly rate for said services.

(5) (A) The county administrator or his/her designee shall provide written notice to the owner/guardian of the specific behavior of the animal alleged in the petition and the date upon which a hearing will be held to consider the petition. The hearing shall be held within the time limits set forth by Food and Agricultural Code Section 31621 or any amendments thereto. The notice shall advise the owner/guardian of the consequences of a finding of potentially dangerous or vicious. The hearing shall be open to the public and the hearing officer may admit into evidence all relevant evidence, and exercise the full scope of authority set forth in Food and Agricultural Code Section 31621. Service of the notice shall be made in accordance with Section 1.04.190 of the Marin County code. Where the owner/guardian's address of any dog is unknown, notice of the hearing shall be given by posting the same in the office of the director and by publication in a newspaper of general circulation. Notice shall then be deemed given on publication of the notice.

(B) A hearing may be continued if the hearing officer deems it necessary and proper or upon a showing of good cause.

(C) The time for hearing and the hearing provisions of this subsection shall be stayed if mediation services are offered pursuant to this subsection. The time for hearing and the hearing provisions of this subsection shall recommence at the date the county administrator or his/her designee has determined in writing that mediation has not been accepted or has been unsuccessful.

(6) Complaint(s) from the public serve as the evidentiary basis for the director to prepare a petition. At least one of the complainants or his or her designee in the matter must

appear and testify at the hearing or the complaint shall be dismissed.

(7) If the owner/guardian fails to appear at the hearing, the hearing shall nevertheless proceed and an appropriate order shall be issued.

(8) The hearing officer shall consider all relevant responsible evidence without regard to the formal rules of evidence, including circumstances of mitigation, and the record of any prior violations by the owner/guardian.

(9) All witnesses shall testify under oath or affirmation. The oath shall be administered by the hearing officer. The hearing officer may, when appropriate, request the production of oral or documentary evidence which is reasonably necessary and relevant to conduct a hearing. All proceedings shall be tape recorded.

(10) The hearing officer shall issue a written determination based upon a preponderance of the evidence, which shall be mailed to the owner/guardian within seven days after the hearing is completed. A determination that a dog is potentially dangerous or vicious is subject to de novo review by the Superior Court.

(11) If an animal is found to be potentially dangerous or vicious by a preponderance of the evidence, the animal shall be so designated on the records of the animal services agency. Such a designation shall be considered in future determinations involving the animal and/or owner/guardian.

(12) The owner/guardian of a dog for which a potentially dangerous or vicious dog petition has been issued may irrevocably waive his right to a hearing and any further appeal under Food and Agricultural Code Section 31622 and accept all conditions, sanctions and penalties set forth in Food and Agricultural Code Sections 31641, 31642 and 61643. The county administrator or his/her designee will mail a waiver form to the dog owner/guardian. The waiver must be signed by the dog owner/guardian and received by the county designee within thirty days from the date of agreement to waive or a hearing will be scheduled within thirty days of the refusal to sign the agreement to waive.

(e) In accordance with the provisions of Food and Agricultural Code Section 31641, the owner/guardian of a potentially dangerous dog shall in addition to the regular licensing fee, pay to the animal control agency an annual fee as may be established by resolution of the town council for the increased costs of maintaining the records of the dog.

(f) Within 30 days of the determination that dog is potentially dangerous, the owner/guardian of the animal shall have the dog sterilized and deliver proof of sterilization of the animal to the animal services agency.

(g) Within 30 days of the determination that a dog is potentially dangerous, the owner/guardian shall provide a secure and humane enclosure for the animal on the owner/guardian's property. The animal must be confined in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children. Such pen or structure shall be constructed such that the animal cannot climb, dig, jump or otherwise escape of its own volition.

(h) All dogs found potentially dangerous shall be maintained under immediate control of a responsible adult by a substantial leash appropriate for the size of the dog and no more than six feet in length when off of the property of the owner/guardian.

(i) The owner/guardian of a dog found potentially dangerous under this Section, who has no additional violations of any of the provisions of Title 8 of the Ross Municipal Code, within a thirty-six-month period from the date of designation as potentially dangerous, shall be removed from the list of potentially dangerous dogs by the director. The dog may be, but is not required to be, removed from the list of potentially dangerous dogs prior to the expiration of the thirty-six-month period if the owner/guardian of the dog demonstrates to the director that changes in circumstances or measures taken by the owner/guardian, such as training of the dog, have mitigated the risk to public safety.

(j) The owner/guardian of a dog determined to be vicious shall, if it is not subject to

destruction, in addition to the regular licensing fee, pay to the animal control agency an annual fee as may be established by resolution of the town council to provide for the increased costs of maintaining the records of the dog.

(k) The owner/guardian of a dog determined vicious shall, if it is not subject to destruction, at his/her own expense, have the vicious animal registration number assigned to the dog tattooed upon the dog's left ear or, if the left ear is not available, on the left inner thigh, by a licensed veterinarian or a person trained, authorized and licensed to do business as an animal tattooist. As an alternative to tattooing, an owner/guardian may have a microchip injected beneath the skin, and between the shoulder blades of the animal by a licensed veterinarian. The owner/guardian shall provide proof satisfactory to the animal services agency of such tattooing or microchipping within thirty days of the vicious determination.

(l) The owner/guardian of a vicious dog shall, if it is not subject to destruction, within ten days of such determination, upon request by the animal services agency present said animal at the animal services agency and allow photographs and measurements of the animal to be taken for purposes of identification.

(m) Within 30 days of vicious dog determination, the owner/guardian of the dog, if it is not subject to destruction, shall provide proof to the animal services agency that the dog is contained in a secure and humane enclosure for the animal on the owner's property. The animal must be confined in a securely enclosed and locked pen or structure, suitable to prevent the entry of children or unauthorized persons. Such pen or structure shall be constructed such that the animal cannot climb, dig, jump or otherwise escape. The pen or structure shall be constructed with sufficiently strong materials and shall have a top that is secured to the floor and sides of the enclosure.

(n) Within 30 days of the determination that a dog is vicious, the owner/guardian of the dog, if it is not subject to destruction, shall provide proof of sterilization of the dog to the animal services agency.

(o) The owner/guardian of a dog found vicious under this, who has no additional violations of any of the provisions of Title 8 of the Ross Municipal Code, after a thirty-six-month period from the date of designation as vicious, may apply to the director to remove the animal from the list of vicious animals. The director shall have the discretion to remove the animal from the list of vicious animals upon proof of the successful completion of at least eight weeks of formal obedience training, other similar evidence of training, or other rehabilitative efforts designed to mitigate the risk to public safety. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

(p) The administrative hearing officer shall have the authority to impose any of the regulatory actions authorized under the Food and Agricultural Code and this section. To the extent justified by the circumstances, the administrative hearing officer shall have the authority to impose additional regulatory restrictions that have a reasonable nexus to the circumstances of the case which may not be adequately addressed by the normal statutory remedies. Such measures shall be undertaken in the interests of public health and safety, and may include, but not be limited to the following:

- 1.) Destruction of the dog
- 2.) Muzzling of the dog
- 3.) Confinement of the dog
- 4.) Displaying conspicuously on the owner/guardian's property such signs as are required by Animal Services and to be obtained at owner/guardian's expense with a symbol warning of the presence of a potentially dangerous or vicious dog.
- 5.) Restrictions upon the owner/guardian of the dog or similar animals
- 6.) Loss of the right to maintain the dog or similar dogs identified by the hearing

officer

- 7.) Loss of the ability to take the dog off the confined premises of the owner/guardian's property
- 8.) Restrictions upon the animal services business that may be subject to Animal Services regulation
- 9.) Similar restrictions upon the dog or dog owner/guardian, or service provider calculated to prevent further loss of property, risk of harm to animals or risk to human life
- 10.) Any measures, not otherwise hereinabove set forth that, are reasonably calculated to reduce the risk of harm to human life and safety, or reasonably calculated to prevent property loss or the loss or harm to animals.

(q) In the event an owner/guardian of a dog fails to comply with the regulatory measures deemed necessary by an administrative hearing officer, a further hearing may be convened for the purposes of determining what, if any, sanctions are appropriately imposed. The procedures for such a hearing are set forth in 8.04.122(c).

8.04.182 Wild and/or undomesticated animals prohibited. No person shall feed, board, have, keep, maintain or have in his or her possession or control, for any length of time, in any area, any wild and/or undomesticated animal, as defined in Section 8.04.183.

(a) This section shall not apply to persons legally engaged in trapping wild animals with devices utilizing food items as bait pursuant to applicable laws. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.184 Wild and/or undomesticated animals, remedial measures.

(a) Impoundment. Any wild and/or undomesticated animal as defined in Section 8.04.183 of this chapter determined to be in the town in violation of Section 8.04.183 may be impounded by animal services.

(b) Notice of Removal. Whenever animal services causes the impoundment of such wild and/or undomesticated animal as authorized in this section, animal services shall immediately give notice of such impoundment, the grounds thereof and the place to which such animal has been impounded.

(c) Penalty. Any person who boards, has, keeps, maintains, or has in his/her possession or control, for any length of time, any wild and/or undomesticated animal in violation of any of the provisions of Sections 8.04.182 through 8.04.184(a) of this chapter shall be guilty of a misdemeanor and shall be subject to imprisonment in the county jail for not more than six months or a fine not to exceed one thousand dollars or both. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.190 Stray animals. Any person discovering a stray or apparently lost animal shall report the same to the animal services agency. Any person who apprehends or picks up a stray or lost animal shall report the same to the animal services agency within eight hours thereafter and shall release such animal to the animal services agency upon demand. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.195 Fees for pickup and disposal of dead animals. (a) A fee, as may be established by resolution of the town council, shall be charged to an owner/guardian of a dead dog, cat or small household pet for the pickup and disposal of the animal by the animal services agency.

(b) Fees as may be established by resolution of the town council, may be charged for pickup and disposal of dead wildlife under fifty pounds, and a higher fee may be charged for dead wildlife fifty pounds and over by the animal services agency. (Ord. 609 (part), 2008; Ord.

581 §1(part), 2003).

8.04.200 Biting animals to be reported. The owner/guardian or other person having custody or control of any animal which bites a human being shall immediately notify the county health officer or the animal services agency of such bite, giving the name and address of the person bitten, if known, and shall faithfully obey any quarantine or other regulatory instructions (including but not limited to the temporary surrender of the deceased animal for testing) in furtherance of public health given by the health officer or his/her designated representative. To the extent the regulatory instructions of the health officer reach beyond the scope of the powers authorized under Health and Safety Code section 121710, violations of duties created under this code shall be treated as infractions. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.220 Stray livestock. Notwithstanding any provisions in this chapter to the contrary, the Agricultural Code of the state of California, Division 3, Chapter 5, shall be complied with in reference to stray bovine animals, horses, mules or burros; however, stray animals will be subject to fees as may be established by resolution of the town council. The town shall also be entitled to collect for all costs incurred and fees in connection with such animals, including, but not limited to, the cost of herding, advertising, transporting, drugs, and veterinary services. The fees for such services may be established by resolution of the town council.

8.04.250 Sale of animals for experimentation. (a) The animal services agency or anyone employed thereof shall not knowingly sell or give any impounded animal to any person, firm, corporation, association, or school for the purpose of animal experimentation.

(b) No person, firm, corporation, association or school shall by fraud, misrepresentation or coercion induce the animal services agency or anyone employed thereof to sell or give away any impounded animal for the purpose of animal experimentation. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.252 Animals and vehicles. (a) No person shall transport or carry, on any public highway or public roadway, any dog in a motor vehicle, unless the animal is safely enclosed within the vehicle or protected by a cap or container, cage or other device that will prevent the dog from falling from, being thrown from, or jumping from the motor vehicle.

(b) No person shall leave an animal in an unattended vehicle without adequate ventilation, or in such a manner as to subject the animal to extreme temperatures which adversely affect the animal's health or welfare. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).

8.04.255 Senior citizen, blind or disabled persons discount on specified fees. (a) Senior citizens age sixty-two and older, blind or disabled persons, upon satisfactory proof to the animal services agency may be entitled to a fee discount for specified county fees referenced in this chapter.

(b) For purposes of this section a person shall be considered to be disabled if that person is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to last for a continuous period of not less than twelve months, and only if the physical or mental impairments are of such severity that person is not only unable to do his or her previous type of work, but cannot, considering age, education and work experience, engage in any kind of substantial gainful work.

(c) A person shall be considered blind if there has been a medical determination of either of the following conditions:

(1) Central vision acuity (sharpness of vision) of no more than 20/200 with correction; or

(2) Tunnel vision, which is limited visual field of twenty degrees or less. (Ord. 581 §1(part), 2003).

8.04.260 Penalty for violation. (a) Except where otherwise provided, any person violating any of the provisions of Sections 8.04.181 and 18.04.250 of this chapter is guilty of a misdemeanor.

(b) Any person violating any other of the provisions of this chapter is guilty of an infraction as provided in Section 19.6 of the Penal Code, and upon conviction thereof shall be punished by a fine of not more than fifty dollars for the first offense and for a second or subsequent offense by a fine of not more than one hundred dollars. (Ord. 609 (part), 2008; Ord. 581 §1(part), 2003).