**IN-HOME ADOPTION PROGRAM**

**(FOUNDATIONAL PRINCIPLES)**

The Shelter PALS model for In-Home Adoption starts from the proposition that a foster parent acts on behalf of the shelter with respect to the animal the foster is caring for, and so the foster is subject to the same requirements with respect to holding periods and standards of care as the shelter. That is, a foster who is working with a shelter, and who is in possession of an animal the foster has found, need only wait until expiration of the legal holding period and satisfaction of the shelter’s requirements to attempt to locate the animal’s owner, all as determined by state and local law, before the animal may be lawfully adopted out by the shelter and the adopting person (including the foster parent) becomes the lawful owner of the animal.

The Shelter PALS model, in effect, creates a foster/agency relationship between a private citizen who finds or has taken possession of a stray or abandoned animal (the “Finder”) and the local shelter. In this way, the shelter can satisfy any legal obligations it may have vis-à-vis the found animal – an animal who would otherwise be in the physical possession of the shelter. Thus, the Finder becomes a foster parent for the shelter, like any other foster parent.

The Shelter PALS approach reduces the number of animals who need to enter the shelter, and ensures a short turnaround time for animals found/rescued by private individuals (basically the same time they would spend in the shelter). This enhances animal welfare and helps shelters reduce their operating costs, while at the same time ensuring that animals receive the appropriate level of care and remain available for owner redemption for the legally required holding period and when the shelter is attempting to locate an animal’s owner.

With the In-Home Adoption Program, the shelter is involved from the beginning but each animal remains at the Finder’s home. If, after expiration of the holding period and the shelter’s satisfaction of its obligations to attempt to locate the animal’s owner, the Finder would like to adopt the animal, the Finder will be required to go through the same process as any other adopter, in order to ensure that the animal is spayed/neutered, microchipped, and receives any necessary vaccines and licenses. At that time, the Finder also may release the animal to the shelter or continue a non-adoptive foster relationship with the animal.

**IN-HOME ADOPTION PROGRAM**

**(PROTOCOL)**

The shelter will have two readily-available documents for the In-Home Adoption Program: a general description/set of guidelines for the In-Home Adoption Program; and an In-Home Foster Agreement, which will govern the relationship between the Finder and the shelter after the found animal is entered into the shelter’s records. These program materials will be made available to the Finder in whatever form is preferred by the Finder.

Upon receiving notice from the Finder that an animal has been found, Animal Control/Animal Services will promptly collect the necessary information to determine if the animal is a candidate for the In-Home Adoption Program. The criteria for determining whether the animal is eligible for the In-Home Adoption Program will be the same as the shelter’s criteria for determining whether a physically impounded animal is eligible for fostering or adoption. If the found animal is an animal that the shelter is not legally required to intake, then the shelter has discretion to decide if it wants to include the animal in the Program. If the shelter determines the animal qualifies, it will enter the animal into the shelter’s recordkeeping program and take steps to attempt to locate the animal’s owner. All other steps in the shelter’s normal intake procedure will also be accomplished in the In-Home Adoption Program.

As soon as possible after the initial contact, Animal Control/Animal Services will visit the Finder’s home to scan the animal for a microchip as required by Food and Agricultural Code Section 31108(c) (dogs) and Section 31751.3(a)(1) (cats), and, if necessary, to photograph the animal. This will ensure that, if an owner is identified through the microchip scan, the shelter can begin its attempts to locate the owner sooner rather than later. That way, the shelter will more likely have satisfied its obligations to attempt to locate the animal’s owner by the time the holding period has expired and the animal will be available for adoption at that time or soon thereafter.

Whether or not the animal has a microchip, the shelter will also immediately begin to “make reasonable efforts to contact the owner and notify him or her that his or her [animal] is impounded and is available for redemption,” as required by Food and Agricultural Code Section 31108(c) (dogs) and Section 31751.3(a)(1) (cats), and to take any other specific measures required by the applicable city/county ordinances. These efforts should be the same as for an animal who was initially physically impounded at the shelter.

During the in-person meeting between Animal Control/Animal Services and the Finder, the Finder will relinquish possession of the animal (so that the microchip scan can be conducted and a photograph taken), the Finder will review and execute the In-Home Foster Agreement, and possession of the animal will then be returned to the Finder. The In-Home Foster Agreement will be very similar to the shelter’s standard foster agreement for an animal who was initially physically impounded at the shelter, unless the shelter chooses to include some preferential terms to incentivize people in the community to participate in the In-Home Adoption Program. The In-Home Foster Agreement will thereafter govern the relationship between the shelter, the animal, and the Finder.

At the end of the legal holding period and upon satisfaction of the shelter’s obligations to try to locate the animal’s owner, the shelter will contact the Finder to schedule an appointment for spay/neuter, microchipping, vaccinations, and licensing if the Finder would like to adopt the animal, or to release the animal to the shelter. It is anticipated that most shelters will provide a “right of first refusal” to the Finder or a Finder’s referral for adoption of the animal – so long as the Finder or the Finder’s referral satisfies the shelter’s generally-applicable eligibility criteria for animal adoption. If the Finder would prefer to keep the animal, but in the role of foster, then nothing need be done.

***PALS INTERNAL ONLY***

**IN-HOME ADOPTION PROGRAM**

**(LEGAL FRAMEWORK)**

**I. Animal Is Found.**

**A. Finder’s Obligations – Locate Owner**.

1. California Law. Under Civil Code Section 1846(b), the finder of an animal (called a “depositary”) must make reasonable attempts to notify the owner of the animal’s location **if the animal has any identification**. *See also id.* § 2080.

a. If the animal does not have any readily apparent identification, the Finder has no obligation under California law to attempt to locate the animal’s owner.

2. Municipal/County Law. Some city/county codes may impose specific obligations on the Finder to attempt to locate the animal’s owner, but it is relatively unusual.

**B. Finder’s Obligations – Maintenance/Care Of Animal.**

1. California Law. Under Civil Code Sections 1834 and 1846(b), the Finder must provide found animals with “necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly.”

a. The Commission on Mandates concluded that these two Civil Code provisions (enacted as part of Hayden) created a duty to provide both emergency and non-emergency veterinary care for a found animal. The latter (but not the former) was deemed to be an unfunded mandate, but that ruling only would apply once the found animal is under the control of a public shelter, i.e., after the animal is registered in the In-Home Adoption Program.

2. Municipal/County Law. Some city/county codes contain requirements on the part of the Finder with respect to maintenance/care of a found animal. The Finder’s obligations will be determined by the law of the jurisdiction in which the animal was found and/or the jurisdiction in which the Finder lives.

**C. Finder’s Obligations – Reporting That An Animal Has Been Found.**

1. California Law. There is no obligation under California state law for the Finder to deliver a found animal to the local shelter or to notify the shelter that an animal has been found, **unless** the Finder “does not have sufficient resources or desire to provide [] care.” In that case, the Finder “shall promptly turn the animal over to an appropriate care facility.” Cal. Civ. Code § 1846(b).

a. Property with a value of $100 or more has additional rules, pursuant to Civil Code Sections 2080 *et seq*. (triggering obligation for finder to turn over such property to local law enforcement). But except in rare circumstances, the value of found companion animals will be less than $100 and, as a result, there will be no obligation on the part of the Finder under these Civil Code sections.

2. Municipal/County Law. Most city/county codes contain requirements on the part of the Finder to notify the local shelter that animals have been found and/or to deliver the animals to the local shelter (often, only upon demand of the shelter). These regulations also specify the deadline for providing notice/delivering the animals relative to when the animals were found, and the information which must be provided by the Finder to the shelter (e.g., description of animal, location where found, identification of owner).

a. These regulations vary from jurisdiction to jurisdiction. The Finder’s obligations will be determined by the law of the jurisdiction in which the animal was found and/or the jurisdiction in which the Finder lives.

b. Reporting requirements of this sort generally will not impact the In-Home Adoption Program.

**II. Initial Contact Between Finder And Shelter.**

[From a legal requirements standpoint, the initial contact between the shelter and the Finder will be governed by the city/county code in which the Finder lives and/or found the animal. Generally speaking, at a minimum, there will be a requirement to give telephonic notice to the shelter that an animal has been found. In the context of the In-Home Adoption Program, our working assumption is that the initial contact will be via telephone, text message, or e-mail.]

**A. Shelter’s Obligations – Locate Owner.**

1. California Law.

a. Food and Agricultural Code Section 31108(c): “During the holding period required by this section and before the adoption or euthanasia of a dog impounded pursuant to this division, ***a public or private shelter shall scan the dog for a microchip*** that identifies the owner of that dog and ***shall make reasonable efforts to contact the owner and notify him or her that his or her dog is impounded*** and is available for redemption.” (Emphasis added.) Food and Agricultural Code Section 31752(d) contains a parallel provision for cats. These two provisions were enacted in 2000.

i. The most natural reading of the statutory text is that the obligation to attempt to contact the animal’s owner arises whenever the animal has any indicia of ownership (i.e., not just a microchip) which would provide guidance regarding the identity and contact information of the owner.

ii. Sections 31108(c) and 31752(d) apply to all shelters.

2. Municipal/County Law.

a. Many city/county codes have specific requirements in terms of what steps a shelter must take to attempt to locate an animal’s owner.

b. The shelter’s obligations will be determined by the law of the jurisdiction which controls the shelter unless the shelter also has contractually obligated itself to comply with the regulations of specific municipalities.

c. Although there will be “due diligence”-type requirements in many jurisdictions which effectively extend the legal holding period, the shelter’s obligations should not impact the general design of the In-Home Adoption Program. These requirements should, however, always be considered when implementing a Program.

3. Best Practices. Although not always required by city/county ordinances, it makes sense that the shelter would post information about found animals on its website and on social media platforms (e.g., Facebook, Nextdoor Neighbor). Doing so would require that the shelter obtain a description of the animal and the circumstances under which the animal was found; ideally, the shelter would obtain a picture of the animal as well.

4. The microchip-scan requirement pursuant to Food and Agricultural Code Sections 31108(c) and 31752(d) requires in-person contact, but can be done at the Finder’s residence.

5. Photographs can be taken in-person or submitted electronically.

**B. Shelter’s Obligations – Maintenance/Care Of Animal.**

1. California Law.

a. Under Civil Code Sections 1834 and 1846(b), if an animal is taken in, a depositary (including a Finder or shelter) must provide animals with “necessary and prompt veterinary care, nutrition, and shelter, and treat them kindly.”

i. Both of these provisions impose an obligation to provide emergency and non-emergency veterinary care for an animal that is found and, in the case of a shelter, taken in. However, note that the Commission on Mandates ruled that “the requirement to provide ‘prompt and necessary veterinary care’ for abandoned animals, ***other than injured cats and dogs given emergency treatment***, is new,” and this requirement is an unfunded mandate.

ii. While California law may not require public shelters to provide anything but emergency treatment, the In-Home Adoption Program should ensure proper treatment for animals in need even where there is no “emergency.”

b. Penal Code Section 597f(a) imposes a “duty” on “any peace officer, officer of the humane society, or officer of an animal shelter or animal regulation department of a public agency” to take possession of owned animals who have been abandoned or neglected.

c. Similarly, Penal Code Section 597.1(a)(1) requires “[a]ny peace officer, humane society officer, or animal control officer” to take possession of owned stray or abandoned animals and to provide them with care and treatment until “the animal is deemed to be in suitable condition to be returned to the owner.”

d. Penal Code Sections 597f(b)(1) and 597.1(c)(1) impose a “duty” on “all officers of animal shelters or humane societies, and animal regulation departments of public agencies” to transport owned, injured dogs and cats directly to a veterinarian.

2. Municipal/County Law. Many (if not most) jurisdictions have ordinances addressing the shelter’s obligations of maintenance/care for found animals. These ordinances generally do not differ in material respect from the state law requirements. The main significance of the city/county ordinances is to remove the issue of unfunded mandates surrounding the state statutes.

3. Legal Holding Period.

a. The length of the legal holding period will depend on the interplay between the California statutes and city/county ordinances plus the nature of the shelter (i.e., private, public, hybrid). Each sponsor of an In-Home Adoption Program will need to examine the relevant holding periods, in order to determine the specific date when an animal is available for adoption or transfer.

b. Also, note that the legal holding period can effectively be extended by the amount of time it takes a shelter to comply with its obligations to attempt to locate the animal’s owner.

**III. Adoption Of Animal.**

After expiration of the applicable legal holding period and the shelter’s satisfaction of its obligations to attempt to locate the animal’s owner, certain legal requirements apply before the animal can be adopted out or transferred to another organization.

**A. California Law.**

Under California law, before adopting out or transferring an animal to a third party, the shelter must ensure the animal has been:

1. Spayed or neutered pursuant to California Food and Agricultural Code Section 30503(a)(1) (dogs) and Section 31751.3(a)(1) (cats), unless one of the exceptions listed in the statute applies.

2. Microchipped pursuant to California Food and Agricultural Code Section 31108.3 (dogs) and Section 31752.1 (cats), unless one of the exceptions listed in the statute applies.

3. Licensed pursuant to California Health and Safety Code Section 121690(a) (dogs four months of age or older). The details of the licensing requirements are established at the city/county level.

4. Vaccinated against rabies pursuant to California Health and Safety Code Section 121690(b) (dogs three months of age or older), unless one of the exceptions listed in the statute applies. The details of the vaccination requirements also may be set at the city/county level.

**B. Municipal/County Law.**

1. It is very common for city/county ordinances to contain detailed provisions regarding the pre-adoption licensing requirements for dogs; these ordinances flesh out the basic requirement in California Health and Safety Code Section 121690(a). Although less common, some cities/counties also have licensing requirements for cats.

2. It is very common for city/county ordinances to contain detailed provisions regarding the rabies vaccination requirements for dogs; these ordinances flesh out the basic requirement in California Health and Safety Code Section 121690(b). Although less common, some cities/counties also have vaccination requirements for canine diseases other than rabies, and some have vaccination requirements for cats as well.

3. It is not unusual for city/county ordinances to require that dogs (and, to a lesser extent, cats) be microchipped prior to adoption. While the state-law microchipping requirement went into effect on January 1, 2021, a shelter still should review the applicable local regulations in case there are additional requirements.

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