

**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
MAY 20, 2014, 5:30 P.M.**

Call to Order
Roll Call

Adjourn to a Joint Meeting of the Porterville City Council and Successor Agency to the Porterville Redevelopment Agency.

**JOINT CITY COUNCIL / SUCCESSOR AGENCY TO THE
PORTERVILLE REDEVELOPMENT AGENCY AGENDA
291 N. MAIN STREET, PORTERVILLE, CA**

Roll Call: Agency Members/Chairman

ORAL COMMUNICATIONS

This is the opportunity to address the City Council and/or Successor Agency on any matter scheduled for Closed Session. Unless additional time is authorized by the Council/Agency, all commentary shall be limited to three minutes.

JOINT CITY COUNCIL/AGENCY CLOSED SESSION:

- A. Closed Session Pursuant to:
1- Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One Case.

During Closed Session, the Joint Council/Successor Agency Meeting shall adjourn to a Meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:

- B. Closed Session Pursuant to:
1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN 253-182-009. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Pacifica First National, Inc. Under Negotiation: Terms and Price.
2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN 302-110-076. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and R & B Resources, Inc. Under Negotiation: Terms and Price.
3- Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Porterville City Employees Association; Management and Confidential Series; Porterville Police Officers Association; Fire Officer Series; Porterville City Firefighters Association; Public Safety Support Unit; and all Unrepresented Management Employees.
4- Government Code Section 54956.95 – Liability Claims: Claimants: Kimberly Wyatt and William Wyatt. Agency claimed against: City of Porterville.
5- Government Code Section 54956.95 – Liability Claim: Claimant: Project Resources Group for Charter Communications. Agency claimed against: City of Porterville.
6- Government Code Section 54956.95 – Liability Claim: Claimant: Dawna McGowan.

Agency claimed against: City of Porterville.

7- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Champehuang v. Porterville Police Department, et al., Tulare County Superior Court Case No.: 255956.

8- Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One case concerning correspondence from the ACLU dated April 30, 2014 pertaining to the City’s Ordinance concerning sex offenders.

9- Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation.

6:30 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Mayor Cameron Hamilton
Invocation

PROCLAMATIONS

Community Action Month – May 2014

AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

1. Consolidated Waste Management Authority (CWMA) – May 15, 2014
2. Tulare County Association of Governments (TCAG) – May 19, 2014

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

- I. City Commission and Committee Meetings:
 1. Parks & Leisure Services Commission
 2. Library & Literacy Commission – May 13, 2014
 3. Arts Commission
 4. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 1. Porterville Community Youth Center
Re: Informational report regarding the Youth Center and programs/activities provided.

ORAL COMMUNICATIONS

This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CONSENT CALENDAR

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar. All items removed from the Consent Calendar for further

discussion will be heard at the end of Scheduled Matters.

- 1. City Council Minutes of February 10, 2014, and May 14, 2014**
- 2. Authorization to Purchase Library Furniture**
Re: Considering authorization to negotiate for the acquisition and installation of materials with CalBennetts for the Literacy Office areas at the Municipal Library.
- 3. Authorization to Purchase Golf Carts**
Re: Considering authorization to negotiate the purchase of eleven (11) golf carts from All Carts of Bakersfield, California.
- 4. Authorization to Purchase City Council Meeting Videos**
Re: Considering approval to continue purchasing unedited raw video from Mr. Lloyd under current terms until such time as an alternate video solution is approved and implemented.
- 5. Authorization to Distribute Request for Proposals (RFP) for Maintenance of the Valley Elderberry Longhorn Beetle Mitigation Site**
Re: Considering authorization to distribute a Request for Proposals to maintain the Valley Elderberry Longhorn Beetle Mitigation Site that encompasses 7.7± acres of the 55-acre Headgate property.
- 6. Consideration of Street Closure for Porterville Library Summer Reading Program Kick-Off Event**
Re: Considering approval of the temporary closure of Cleveland Street between the alley just east of Centennial Park and Main Street on June 2, 2014, in support of the planned Library Summer Reading Program Kick-Off Event.
- 7. State Homeland Security Grant Program, 2013**
Re: Considering acceptance of any or all State Homeland Security Grant Program disencumbered funds from Fiscal Years 2010, 2011, and 2012, for the purchase of portable radios, automatic external defibrillators and thermal imagine cameras.
- 8. Assistance to Firefighters Grant Award**
Re: Considering acceptance of Assistance to Firefighters Grant in the amount of \$18,526, and authorizing the use of \$2,058 from the Fire Departments radio and pager equipment replacement account for the replacement of radio communications repeater.
- 9. Authorization to Apply for Federal Transit Administration Section 5311 Funding**
Re: Considering approval of a resolution authorizing the application for financial assistance from the 5311 program to purchase one replacement compressed natural gas (CNG) bus.
- 10. Parks and Leisure Services Commission Meetings**
Re: Considering approval of Parks and Leisure Service Commission's request to not meet June and July of 2014, unless it is deemed necessary.

- 11. Support for Request by Tule River Tribe to Provide Training and Work Experience Support for Wastewater Treatment Facility Operators**
Re: Considering approval of request to provide training and work experience support to the Tule River Tribe for Wastewater Treatment Facility Operators.
- 12. State Department of Finance – Population Estimates**
Re: Considering authorizing the Mayor to sign a request for State certification for the City of Porterville, January 1, 2014, at a population of 55,697.
- 13. Renewal of Airport Lease Agreement – Lot 34F**
Re: Considering approval of the Lease Agreement between the City of Porterville and Messrs. Steven Huth and Michael Quatacker for Lot 34F at the Porterville Municipal Airport.
- 14. Approval for Community Civic Event – The Elemental Awareness Foundation, Golden State YMCA and YMCA Camp Sequoia Lake – Skate the Lake Contest – May 31, 2014**
Re: Considering approval of an event to take place at the Skate Park on Saturday, May 31, 2014, from 12:00 p.m. to 3:00 p.m.
- 15. Approval for Community Civic Event – Central Valley Family Crisis Center – Mud Run – June 7, 2014**
Re: Considering approval of an event to take place on Saturday, June 7, 2014, from 7:00 a.m. to 2:00 p.m. at the Off Highway Vehicle Park located at 2701 W. Scranton Avenue.
- 16. Amendment to Employee Pay & Benefit Plan – Porterville City Employees Association**
Re: Considering approval of a resolution amending the Employee Pay & Benefit Plan for employees represented by the Porterville City Employees Association.
- 17. Review of Local Emergency Status – December 26, 2013**
Re: Reviewing status of local emergency that was declared following a significant fire event at 14 N. Main Street on December 26, 2013.
- 18. Review of Local Emergency Status – December 21, 2010**
Re: Reviewing the City’s status of local emergency pursuant to Article 14, Section 8630 of the California Emergency Services Act.
- 19. Council Member Requested Agenda Item – Request for the City Council to Consider Establishing Domestic Water Filling Stations**
Re: Considering approval of a request to authorize a Scheduled Matter on the next Council Agenda to consider establishing domestic water filling stations.

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

SCHEDULED MATTERS

- 20. Proposed Draft Revisions to City Animal Control Ordinance**
Re: Consideration of proposed revisions to Chapter 5, Animal Control, of the Porterville Municipal Code.

21. Adoption of Ordinance Establishing an Animal Control Commission

Re: Consideration of a draft ordinance adding Article VII – Animal Control Commission to Chapter 5 of the Porterville Municipal Code.

22. Consideration of Sponsoring the Establishment of a Community Youth Safe Zone Program

Re: Consideration of a request to discontinue any further consideration of the establishment of a Community Youth Safe Zone Program.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of May 27, 2014.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: PORTERVILLE COMMUNITY YOUTH CENTER

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Porterville Community Youth Center is a drop-in after school recreation program for youth ages 10-18. Hours of operation when school is in session are weekdays 3:00-7:00 p.m. Hours are extended to 11:00 a.m.-7:00 p.m. weekdays when school is out. There are special events that occur monthly that further extend the hours of operation such as Friday Night Fun, holiday theme parties, and other special events.

A few of the programs offered include arts/crafts, homework tutoring, sports, indoor and outdoor games, music/dance, community service projects, job readiness, cooking, weightlifting and gaming. Over 170,000 have attended this program since the City took over operations in 1994. The daily average of youth attending ranges from 40-65 depending on the month.

The Youth Center was located at 177 S. Hockett St. from 1994-2005 prior to moving to its current location within the Heritage Center, 256 E. Orange Ave. The Youth Center is 100% funded through Community Development Block Grant Funds. A percentage of the salaries of three full-time staff, and all of three part-time staff are paid through this budget.

RECOMMENDATION: Information only

ATTACHMENT: CDBG Funding Request

DS Director MB Appropriated/Funded J City Manager **REPORT NO.:** II 1

CDBG FUNDING REQUEST
7/1/2014 - 6/30/2015

FOR PORTERVILLE COMMUNITY YOUTH CENTER

I. SCOPE OF SERVICE

The contractor for this project will be the City of Porterville. This contractor shall ensure that the Porterville Community Youth Center (PCYC) continues to operate the existing youth center recreation program established in September 1994 through the CDBG 2014-2015 fiscal year.

The Porterville Community Youth Center will continue to operate in Porterville Census Tract 41 at 256 E. Orange Ave. The program will prevent and divert youth ages 10 - 18 from negative behavior and surround them in a productive and positive environment.

No youth from within the City of Porterville will be excluded from participation in PCYC activities. However, it is intended through use of CDBG funds that a minimum of 51% of the youth participating will come from low and moderate income households.

A. OBJECTIVES

The purpose of this program will be to:

1. Enhance self-esteem.
2. Build leadership skills.
3. Learn teamwork and the ability to cooperate with others.
4. Improve physical and mental health.
5. Empower teens to develop interpersonal skills.
6. Engage in positive alcohol and drug-free behavior.
7. Promote an atmosphere where trustworthiness, respect, responsibility, fairness, caring and citizenship are core values.
8. Provide a drop-in center for recreational opportunities.

B. CLIENTS TO BE SERVED

The contractor shall ensure service by the City of Porterville Community Youth Center to a minimum of 51% low and moderate income residents of Porterville, between the ages of 10 to 18. Participants shall be recruited through local schools, community organizations, social service agencies, and law enforcement.

C. CONTINUED ACTIVITIES TO BE PERFORMED

The contractor shall ensure the provisions of services through continued implementation of the current COPCYC supervised recreation program over a twentieth one-year period. The center will be open five days per week for no less than 20 hours. The youth center will run for a minimum of 42 weeks throughout the one-year period. A minimum of 100 unduplicated youth will participate in the following youth center activities each quarter of the one-year grant period.

1. A general recreation area within the same facility to provide youth with other positive activities.

This general recreation area includes games such as pool, ping-pong, table soccer, video games, music, computers and board games. Arts & crafts, homework tutoring, nutrition and music classes, and special projects also take place in this area.

Youth will be involved in occasional tournaments, holiday specific activities, and city-wide special events to help maintain their interest.

2. Homework tutoring in the classroom.

Staff hired with CDBG funds will administer a homework tutoring program. An incentive program is in place to encourage youth to complete their homework prior to going home.

3. Arts & crafts.

Arts & crafts projects and classes are held throughout each month.

4. Outdoor paved area.

An outdoor paved area next to the youth center provides a place for hockey, badminton, volleyball, handball and more.

5. Outdoor grass area.

An outdoor grass area behind the youth center provides a place for flag football, soccer, frisbee, golf, baseball, dodge ball and more.

6. Off site recreational activities.

The basketball, arena soccer, and baseball programs will continue to be offered at the available playing fields specified further in the text. Youth are also encouraged to participate in track and field which is held at the local junior college.

D. NEW ACTIVITIES TO BE PERFORMED

The contractor shall ensure the provision of new services through the inclusion of younger children, continuation of tutorial programs in reading, writing, science and math. Outdoor activities for a minimum of 42 weeks over the 2014-2015 CDBG funding cycle shall be implemented. For a minimum of 12 hours per week, at least 4 days each week, supervised athletics will be available for 10-18 year old youth. A minimum of 50 unduplicated youth will participate in these activities each quarter.

In addition, a minimum of 8 hours of supervised community service work will be completed weekly by 10-18 year old youth. A minimum of 25 unduplicated youth will participate in this program each quarter of the CDBG funding cycle. Also, a minimum of 2 days per week will be open for non-league play so youth can participate in athletic activities on a less formal, just-for-fun basis. Program details are provided below:

1. Equipment – A weight room is available for the youth to get some exercise. An assortment of other equipment is provided enabling a wide array of recreational opportunities.
2. Community service - Hours of community service are served by Youth Center members working such events as the egg hunt, fishing derby, concerts in the park, runs, kid days in the park, youth sports and projects around the Youth Center.
3. Classes - Staff classes are taught on an ongoing basis in arts & crafts, drawing,

cooking, music, sport instruction and health & fitness.

4. Athletics - Open athletic play and leagues are available. League play is offered in the following sports: basketball, baseball, arena soccer, track & field and fall soccer. A coach for each sport will be provided. Youth also compete against other Youth Centers around the valley in various sports throughout the year.

5. Fund raising - Staff will continue to create fund raising for the participants to generate additional funding to offset cost of excursions and special activities. Donation solicitations are made to local businesses as the need arises.

E. SITE LOCATION

Within the Census Tract 41, the original Porterville Community Youth Center services shall be provided at the following location: 256 E. Orange Ave., Porterville, CA 93257. Sign-ups for athletic play, leagues, tutorial programs, arts & crafts, and outdoor activities will take place at this location. Additional program implementation will take place at the following locations: Porterville Sports Complex, Municipal Pool, and Santa Fe School.

The main location is within the boundaries of Census Tract 41 and the other locations will provide access to youth over a broader range of low and moderate income areas within the city.

F. PROJECT STAFF

(1)	Leisure Services Specialist	\$23.24/hr	15/hrs	52/wks
(1)	Leisure Services Coordinator	\$20.22/hr	24/hrs	52/wks
(1)	Cler. Asst. II	\$14.85/hr	2/hrs	52/wks
(1)	Recreation Leader III	\$12.00/hr	22/hrs	52/wks
(2)	Recreation Leader II	\$9.00/hr	20/hrs	52/wks

G. BUDGET

Total CDBG funds requested are \$104,615.

**City of Porterville Community Youth Center
2014 - 2015 Budget**

Salaries

01	Specialist	\$23.24/hr	x	15hrs/wk	x	52/wks	\$18,127
	Coordinator	\$20.22/hr	x	24/hrs/wk	x	52/wks	\$25,235
	Cler. Asst. II	\$14.85/hr	x	2/hrs/wk	x	52/wks	\$1,544
02	1-Rec Leader III	\$12.00/hr	x	22/hrs/wk	x	52/wks	\$13,728
	2-Rec Leader II	\$9.00/hr	x	21/hrs	x	52/wks	\$19,656
							\$78,290

Benefits

09	Specialist	\$18,127	x	33.40%	\$6,054	
	Coordinator	\$25,235	x	31.73%	\$8,007	
	Cler. Asst. II	\$1,544	x	30.50%	\$471	
	Rec Leaders	\$19,656	x	3.89%	<u>\$765</u>	
						\$15,297

Professional Services

22	Printing/Copying	\$57
23	Prof/Temp Service	\$25
		\$82

Supplies and Material

32	Office / Computer Supplies	\$100
35	Tools / Equipment	<u>\$100</u>
		\$200

Other Operating Cost

42	Utilities	\$500
43	Uniform Allowance	\$100
45	Publication and Dues / Leisure Update	\$700
		\$1,300

Other Expenses

66	Special Activities, Supplies & Fieldtrips	\$8,126
	Rec Equipment & Supplies	<u>\$1,320</u>
		\$9,446

Grand Total \$104,615

**CITY COUNCIL MINUTES
ADJOURNED MEETING
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
FEBRUARY 10, 2014, 5:30 P.M.**

Called to Order at 5:30 p.m.

Roll Call: Council Member McCracken, Council Member Shelton, Council Member Gurrola,
Vice Mayor Ward, Mayor Hamilton

Pledge of Allegiance led by Council Member Pete V. McCracken
Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS

None

SCHEDULED MATTER

1. AUTHORIZATION TO SUBORDINATE DEVELOPMENT FEE PAYMENT PLAN AGREEMENT – HENDERSON VILLAGE APARTMENTS – PACIFIC RIM MIXED USE PROJECT (2012-002)

Recommendation: That the City Council consider approving the requested subordination agreement.

City Manager Lollis introduced the item and indicated that City Attorney Lew had been delayed due to working on final adjustments to documents, but would arrive shortly. Mr. Lollis updated the Council on the financing mechanism, a 3-year construction loan which would transition into a 7-year mini perm loan for a total 10-year financing term. He added that the loans were tethered because they were being provided by the same lender, but that it was the mini perm that was requiring the subordination.

City Attorney Lew arrived at 5:35 p.m. The City Attorney and City Manager addressed questions from the Council regarding the Development Fee Payment Plan structure and possible terms of the subordination.

The applicant, Mr. Paul Owhadi, stated that he was not requesting anything from the Council that had not been granted to others before, but the timing of the request was to meet requirements of their lender. He then addressed questions from the Council regarding financial investments to date.

The Council questioned Ms. Portia Sanders from United Security Bank, regarding the request for subordination, preparation of final documents, interest rates, and processing of draw requests. She indicated that the bank could not be in a second lien position from day one due to federal and state guidelines.

City Attorney Lew expressed concern regarding the legality/enforceability of a subordination agreement in the absence of definite terms. Mr. Owhadi suggested that the Council's approval of the

subordination agreement be contingent upon the interest rate not exceeding 10%.

Vice Mayor Ward spoke of development fee payment plans as an incentive to developers; and Council Member McCracken suggested the inclusion of a penalty interest provision.

Council Member Shelton accused members of the Council of being cavalier about impact fees and “others” of being disingenuous.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Gurrola that the City Council approve the subordination of Development Fee Payment Plan Agreement, and the inclusion of 7% penalty interest provision to said plan.

AYES: McCracken, Gurrola, Ward, Hamilton

NOES: Shelton

ABSTAIN: None

ABSENT: None

Documentation: M.O. 01-021014

Disposition: Approved.

ORAL COMMUNICATIONS

None

OTHER MATTERS

- Council Member Shelton spoke of memorial service for Mr. Rick Flores that was scheduled to take place the following day.
- Council Member Gurrola spoke of StepUp meeting on February 22nd.
- Mayor Hamilton announced that Council Member McCracken has pulled papers to run for re-election.

ADJOURNMENT

The Council adjourned at 6:33 p.m. to the meeting of February 18, 2014.

Luisa M. Zavala, Deputy City Clerk

SEAL

Cameron Hamilton, Mayor

**CITY COUNCIL MINUTES
ADJOURNED MEETING
291 NORTH MAIN STREET
PORTERVILLE, CALIFORNIA
MAY 14, 2014, 5:30 P.M.**

Called to Order at 5:32 p.m.

Roll Call: Council Member McCracken, Council Member Shelton (arrived during Closed Session), Council Member Gurrola, Vice Mayor Ward, Mayor Hamilton

ORAL COMMUNICATIONS

None

CITY COUNCIL CLOSED SESSION:

- A. Closed Session Pursuant to:
1 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis, Steve Kabot, and Patrice Hildreth. Employee Organizations: Porterville City Employees Association; Management and Confidential Series; Porterville Police Officers Association; Fire Officer Series; Porterville City Firefighters Association; Public Safety Support Unit; and all Unrepresented Management Employees.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

It was reported that no reportable action had taken place in Closed Session.

Pledge of Allegiance Led by Vice Mayor Brian Ward
Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS

None

SCHEDULED MATTER

1. PRELIMINARY FY 2014/2015 BUDGET STUDY SESSION

Recommendation: That the City Council accept staff's recommendation, and provide direction accordingly.

City Manager John Lollis introduced the item, and presented the staff report which consisted of a review of the City's anticipated capital projects work plan and Fund activities for the 2014/2015 Fiscal Year.

Mr. Lollis began by reviewing significant street projects anticipated to progress in the coming fiscal year, which included the following: Jaye Street Bridge Replacement Widening; Jaye Street Roundabout and Montgomery Street Reconstruction; Westwood Street Shoulder Stabilization/Widening – Henderson Avenue to Westfield Avenue; Lime Street Reconstruction, Phase 1 – Henderson Avenue to former railroad ROW; Newcomb Street Shoulder

Stabilization/Widening, Phase 2 – Roby Avenue to Olive Avenue; West North Grand Avenue Reconstruction, Phase 3 – Newcomb Street to Boyles Street; Gibbons Avenue Reconstruction, Phase 1 – Jaye Street to Indiana Street; Downtown Pedestrian Walkway – Oak Avenue; Morton Avenue Shoulder Stabilization – Westwood Street to Highway 65; and Date Avenue Reconstruction – Jaye Street to “H” Street.

In addition, the City Manager spoke of the completion of the Plano Street Bridge Widening Project, micro-surfacing to take place on portions of Date Avenue, Henderson Avenue, Indiana Street, Jaye Street, and Main Street, and continued efforts relative to the implementation of the Highway 190 Corridor Study.

Council was presented with a map displaying PCI Branch Rating for arterial and collectors within the city. The Council acknowledged significant improvement and lauded staff for their efforts.

The City Manager reviewed upcoming water and sewer projects, such as the development of Well Nos. 32 and 33, ongoing Island Annexation Sewer Extension Projects and the installation of water mains. A discussion ensued regarding the life expectancy of water and sewer pipes and funding their replacement.

The Public Safety Station, Animal Shelter, and Fallen Heroes Park were identified as the primary projects funded by General Fund, Measure H and grant funds. City Manager Lollis proposed the hiring of three additional Fire Department personnel once the Public Safety Station was operational, and no additional full-time Police or Parks and Leisure Services personnel were expected to be necessary. The Council discussed the possibility of contracting with a 501(c)3 organization for the operation of the animal shelter to save on costs, and the issue of grant funding relative to the OHV Park.

The City Manager reported a conservative estimate of \$22.5 million in General Fund revenues and estimated expenditures of approximately \$23.6 million for the 2014/2015 Fiscal Year. The Council inquired about a decrease in invested assets, which Finance Director Maria Bemis attributed to lower interest rates. The City Manager added that continued efforts to curtail departmental spending of budgeted expenditures would save approximately \$1.16 million.

City Manager Lollis spoke lastly of the Risk Management Budget, and noted multi-year deficits in the Health and Life component due to increased Health and Life Plan expenditures. He communicated staff’s recommendation to seek cost savings via Health Plan modifications, and increasing employer, employee and retiree contributions.

Following the City Manager’s presentation, the Council discussed losses from the Municipal Golf Course and the Zalud House. Council Member McCracken stated that Resolution 19-2006 had established benchmark cost recovery rates for youth, senior, adult and aquatic recreation programs. Council Member Shelton suggested that the rates established back in 2006 be re-evaluated.

The Council directed staff to provide a breakdown of cost recovery rates for the various

recreation programs as part of the proposed budget each year; and see if there was interest amongst any local 501(c)3 to operate the Zalud House.

In response to inquiries by Vice Mayor Ward, the City Manager updated the Council on renovations to the second floor of the library, and spoke of funds appropriated for playground shade structures.

Disposition: Direction given.

ORAL COMMUNICATIONS

None

OTHER MATTERS

- Council Member Shelton spoke of the commencement of the Porterville Fair and his attendance at the recent Peace Garden event.
- Vice Mayor Ward recognized Council candidates Larry Harper and Matthew Green for their attendance and spoke of the importance of the City budget.

ADJOURNMENT

The Council adjourned at 8:08 p.m. to the meeting of May 20, 2014.

SEAL

Luisa M. Zavala, Deputy City Clerk

Cameron J. Hamilton, Mayor

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: AUTHORIZATION FOR PURCHASE OF LIBRARY FURNITURE

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Read to Succeed Literacy office located on the first level of the library is in need of reconfiguration for space efficiency due to overcrowding of office furnishings. An inventory of program materials are also kept within this area and the space is inadequate for privacy due to the cramped arrangement that exists. A grant award from the California Library Literacy Services in the amount of \$17,154 has been received this fiscal year to support an upgrade to office equipment/furnishings. Pending Council's approval, staff would move forward with the redesign of space in the Literacy Office and acquisition of new, efficient office equipment to replace the equipment purchased in 2002.

Staff would recycle current office equipment into the City Librarian's office and staff work areas on the first level. Staff has obtained quotes from the two vendors who offer government contract pricing and that the City frequently purchases office furniture from: Office Depot and CalBennetts. The low quote from CalBennetts for this portion of the project was \$10,803.16; Office Depot's quote was \$11,649.94.

RECOMMENDATION: That the City Council authorize staff to move forward with negotiations for acquisition and installation of materials with CalBennetts for the Literacy Office areas.

DJ Director MB Appropriated/Funded

J City Manager ITEM NO.: 2

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: AUTHORIZATION TO PURCHASE GOLF CARTS

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: In the upcoming proposed FY 14/15 budget, the Golf Course has scheduled for replacement of nine (9) golf carts.

Monies for these vehicle replacements have already been accumulated in the department's Equipment Replacement Fund in the amount of \$27,001. Normally the Department's vehicle replacement plan would be part of the FY 14/15 budget process. However, there exists an opportunity to purchase these vehicles within the current fiscal year at a discounted rate.

Staff has been notified about an opportunity to purchase eleven (11) 2010 used EZ-GO txt pds electric carts with canopies and chargers for a total of \$22,467.50. The cost savings realized based on purchasing eleven carts is \$3,932.50.

Based on the above information and due to the availability of such favorable pricing, staff believes that it would be advantageous to make this purchase now, prior to the new fiscal year.

The Parks and Leisure Services Department requests permission to start the vehicle purchase process immediately, prior to budget adoption because of the cost savings available at this time.

RECOMMENDATION: That the Council authorize the City's Purchasing Agent to negotiate the purchase of eleven (11) golf carts from All Carts.

ATTACHMENT: All Carts quote

rs Director AMB Appropriated/Funded

J City Manager

ITEM NO.: 3

ALL CARTS

1636 SOUTH UNION AVENUE
BAKERSFIELD, CA 93307
(661) 836-9800 FAX (661) 836-9899
cartman4266@sbcglobal.net

QUOTE

Date	Estimate #
5/12/2014	59

Name / Address
CITY OF PORTERVILLE GOLF CORSE

Description	Qty	Rate	Total
2010 used ez-go txt pds electric carts with canopy & charger this is subject to prior sale	11	1,900.00	20,900.00T
		Subtotal	\$20,900.00
		Sales Tax (7.5%)	\$1,567.50
		Total	\$22,467.50

Phone #
(661) 836-9800

E-mail
cartman4266@sbcglobal.net

SUBJECT: AUTHORIZATION TO PURCHASE CITY COUNCIL MEETING VIDEOS

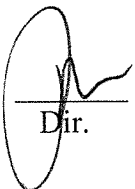
SOURCE: ADMINISTRATIVE SERVICES/ CITY CLERK

COMMENT: As the Council may recall, the City Council had voiced an interest in pursuing live broadcasting of City Council Meetings for transparency purposes via an educational PEG channel on cable. At that time, due to technical deficiencies in the Council Chambers live broadcasting was not a viable option. As a later alternative, the City entered into an arrangement with Mr. Will Lloyd for the City's purchase of video coverage of regular City Council Meetings. Under this arrangement, the City provides Mr. Lloyd access to electricity in the Council Chambers for his professional video equipment. Mr. Lloyd videos the regular Council Meetings, after which a DVD with the unedited raw footage is provided to the City with an invoice of \$250 per meeting.

In conjunction with the recent installation of fiber in the Council Chambers, staff is currently in the process of obtaining quotes for implementing an internet-based solution via a fixed camera which has a live web-streaming/video component linked to the Council's meeting agendas. It is staff's goal to bring this forward to the Council for consideration in the near future.

As continuance of the arrangement with Mr. Lloyd will soon exceed \$5,000 for this fiscal year, staff seeks Council's approval and authorization to continue purchasing unedited raw video from Mr. Lloyd under the same terms until such time as an alternate video solution is approved and implemented.

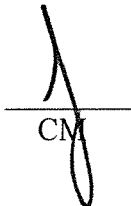
RECOMMENDATION: That the City Council authorize continuing the purchase of unedited video from Mr. Will Lloyd until such time as an alternate video/live-streaming solution is implemented.



Dir.



Approp./
Funded



CM

Item No. 4

CONSENT CALENDAR

SUBJECT: AUTHORIZATION TO DISTRIBUTE REQUEST FOR PROPOSALS (RFP) FOR MAINTENANCE OF THE VALLEY ELDERBERRY LONGHORN BEETLE MITIGATION SITE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Since 2008, the City of Porterville has maintained a Service Agreement with Sequoia Riverlands Trust for maintenance of the Valley Elderberry Longhorn Beetle (VELB) Mitigation Site. That agreement has run its term and it is now necessary to distribute a Request for Proposals for continued maintenance efforts at the site.

The VELB Mitigation site encompasses 7.7± acres of the 55-acre Headgate property, and was developed to provide mitigation for certain impacts described in the January 22, 2003, Federal Endangered Species Act Biological Opinion for the Orange Avenue Neighborhood Improvement Project and the March 18, 2003, Federal Endangered Species Act Biological Opinion for the Plano Street Bridge Project. In addition, the Project Site provides pre-mitigation for certain impacts located in and around the City of Porterville.

The services to be rendered under this contract would include, but not be limited to, project coordination, irrigation system maintenance, control of competing vegetation, monitor condition and survival of plantings, and if needed, install replacement plantings as needed in compliance with the United States Department of Fish and Wildlife Service's (FWS) Habitat Management Plan (HMP). The entire VELB Mitigation Site includes the 7.3± acres identified in the HMP and an additional .4± acres currently being reviewed by the FWS. While City staff does work with the consultant to ensure the highest success rate possible, the responsibilities and irregular schedule of site work require the use of a consultant.

The term of the agreement would be for three years with an anticipated start date of July 1, 2014. The City would establish a three (3) year contract, with an option to renew on a year-to-year basis for up to two additional years upon agreement of both parties. The current annual contract is approximately \$38,000.

RECOMMENDATION: That City Council authorize staff to distribute a Request for Proposals to maintain the VELB Mitigation Site.

ATTACHMENT: Request for Proposals

DD Acting Appropriated/Funded MB CM

Item No. 5



REQUEST FOR PROPOSALS (RFP)

The City of Porterville is seeking the services of a consultant or consulting firm to provide site maintenance work for the City of Porterville's Valley Elderberry Longhorn Beetle (VELB) Mitigation Site. The selected consultant must have substantial working knowledge of the site's mitigation needs and working knowledge of the Conservation Guidelines for the Valley Elderberry Longhorn Beetle as identified by the United States Department of the Interior Fish and Wildlife Service.

The term of the agreement is three years with an anticipated start date of July 1, 2014. The City will establish a three (3) year contract, with an option to renew on a year-to-year basis, for up to two additional years upon agreement of both parties.

PROJECT TITLE: VALLEY ELDERBERRY LONGHORN BEETLE MITIGATION SITE
MAINTENANCE CONTRACT

PROPOSAL DUE DATE: Friday, June 6, 2014 @ 5:00 p.m.

PROJECT DESCRIPTION AND BACKGROUND:

The VELB Mitigation Site possesses significant ecological and habitat values that benefit endangered, threatened, and other rare species. These species and their habitats are of aesthetic, ecological, educational, historical, recreational, and scientific value to the people of California and the People of the United States. These include habitat for the federally listed Threatened species, the Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*) which is commonly referred to as VELB, and other special status wildlife species including White-tailed Kite (*Elanus leucurus*), Northern Harrier (*Circus cyaneus*), California Horned Lark (*Eremophila alpestris actia*), and Loggerhead Shrike (*Lanius ludovicianus*). The identified habitat and species are of great importance to the City of Porterville.

The VELB Mitigation Site ("Project Site") provides mitigation for certain impacts described in the January 22, 2003, Federal Endangered Species Act Biological Opinion for the Orange Avenue Neighborhood Improvement Project and the March 18, 2003, Federal Endangered Species Act Biological Opinion for the Plano Street Bridge Project. In addition, the Project Site provides pre-mitigation for certain impacts located in and around the city of Porterville.

SCOPE OF MAINTENANCE SERVICES:

The consultant will respond directly to the Community Development Director or her designee. The selected consultant will perform, but not be limited to, the following tasks:

- 1) Comply with the U.S. Fish and Wildlife Service (FWS) conditions of the Habitat Management Plan as approved in the Biological Opinions for the Orange Avenue Neighborhood Improvement Project and the Plano Street Bridge Project (Exhibit A), as well as the Conservation Guidelines for the Valley Elderberry Longhorn Beetle, July 1999.
- 2) During, and in particular at the end of, each growing season, evaluate the elderberry plants and associated native plants for potential replanting requirements.
- 3) Evaluate the irrigation system at least once every two weeks from the month of April through September, and once a month from October through March for needed adjustments to ensure that wetting patterns are within plant root zones. Other maintenance activities for the irrigation system will be as needed.
- 4) Weeds and other plants that are not native must be removed at least once a year from July through April to reduce fire hazard. The use of herbicides is prohibited unless approved by the FWS.
- 5) Every month any trash or debris must be removed within ten working days of discovery.
- 6) Other requirements:
 - a) The selected firm will be required to carry and provide certificates of insurance for general and automobile liability insurance as follows:

General Liability	\$1,000,000 minimum per occurrence
Automobile Liability	\$1,000,000 minimum per occurrence
Workers Compensation	Statutory Limits

The General Liability is to contain or be endorsed to name the City, its officers, officials, employees and agents as Additional Insured as respects liability arising out of the activities performed in connection with this contract. The coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful firm.

- b) The selected consultant/firm shall indemnify and hold harmless the City, its officers, employees and agents from and against all claims, damages, losses and expenses caused in whole or in part by any negligent act or omission of the firm,

its consultants, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, or willful misconduct by the City.

- c) Labor and material proposals submitted on this form shall be subject to the provisions of Section 1700, California Labor Code, as specified by Section 3700, California Labor Code, which requires Worker's Compensation insurance to be provided by the selected consultant/firm.
- d) Worker's Compensation policy(ies) are to be endorsed to include a waiver of subrogation against the City, its officers, officials, employees and agents.
- e) The firm and its employees are independent contractors and not employees of the City of Porterville. The firm and/or its insurers are responsible for payment of any liability arising out of worker's compensation, unemployment, or employee benefits offered to its employees.
- f) Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.
- g) Endorsements are to be received and approved by the City before work commences.
- h) The successful consultant/firm shall obtain a City of Porterville business license. Fee is based on gross receipts for all business transactions in the city of Porterville. For information, contact the business license clerk at (559) 782-7457.
- i) A service contract will be provided by the City to the selected contractor.
- j) All work performed by the consultant under this contract shall be under the ownership of the City of Porterville.
- k) All work performed under this contract shall be researched, prepared and executed in a professional and competent manner for which the consultant will be responsible.
- l) In accordance with City of Porterville and Caltrans policy, disadvantaged business enterprises (DBE), including qualified small minority and woman-owned firms, are encouraged to submit a proposal or otherwise participate in the completion of the work covered by this request. No DBE participation goals have been established for this project.
- m) The employee(s) identified in the proposal as performing the duties under this contract shall not be replaced without the prior written approval of the Community Development Director of the City of Porterville.

CONTENTS OF PROPOSAL TO BE SUBMITTED TO CITY

Consulting firms wishing to be considered for selection to provide the services to the City described herein should submit proposals containing the following information:

- 1) A description, including background, size and orientation of the firm.
- 2) A summary of the qualifications of the firm to perform the services described herein, including, but not necessarily limited to:
 - a. the firm's previous experience in managing mitigation sites; and
 - b. the firm's previous experience in performing similar services for other agencies; and
 - c. the firm's previous experience with the City of Porterville and familiarity with the community; and
 - d. the firm's ability to perform the required effort in a timely fashion, within budget.
- 3) Prospective consultants shall describe the qualifications of all professional personnel to be assigned to this project, including a summary of similar work or studies each member has performed and a resume of each professional involved with this contract.
- 4) Prospective consultants shall designate by name the project planner/manager to be employed in this effort. The selected consultant shall not substitute the project planner/manager without prior approval by the Community Development Director of the City of Porterville.

The proposal shall contain the fee(s) the firm proposes to charge for the services to be provided. The fee(s) shall be in the form of an annual rate with progress payments monthly which consider all billable expenses such as mileage, materials, insurance, phones, etc. It is anticipated that this effort may require more significant staff resources at times than others, particularly for the months of April through October.

Four (4) copies of the proposal should be submitted by not later than 5:00 P.M., June 6, 2014 to:

City of Porterville
Planning Division
Attn: Jennifer Byers
Acting Community Development Director
291 North Main Street
Porterville, CA 93257

The proposals must be submitted in an envelope clearly marked with the proposer's name and "Proposal for Services". Late or incomplete proposals will not be considered by the City.

INQUIRIES REGARDING THIS RFP:

Any inquiries regarding this RFP or the project described herein should be directed to Jennifer Byers, Acting Community Development Director, by calling (559) 782-7460.

RESPONSE TO REQUEST FOR PROPOSALS FOR
MITIGATION SITE MAINTENANCE

TO: City of Porterville

FROM:

Name/Company

Address

City, State, Zip Code

Telephone No.

Fax No.

Proposal Amount: \$ _____

(Summary of qualifications, references and relevant experience must be attached.)

Signature

Date

Name and Title (Printed)

May 21, 2014

Subject: Request for Proposals (RFP) – Mitigation Site Maintenance

The City of Porterville is requesting proposals for maintenance of the Valley Elderberry Longhorn Beetle Mitigation Site. The VELB Mitigation site encompasses 7.7 acres of the 55-acre Headgate property, and was developed to provide mitigation for certain impacts described in the January 22, 2003, Federal Endangered Species Act Biological Opinion for the Orange Avenue Neighborhood Improvement Project and the March 18, 2003, Federal Endangered Species Act Biological Opinion for the Plano Street Bridge Project.

If selected, the City will provide a Service Agreement for three (3) years following the date of the signed service agreement. The agreement may renew on a year-to-year basis, for up to two additional years upon agreement of both parties.

This contract is subject to a thirty (30) day written notice of cancellation by either party except that City may cancel contract upon five (5) days written notice in the event of nonperformance by contractor. Nonperformance by contractor or repeated lack of response or attention to responsibilities and/or directions and requests of City shall be considered adequate cause for termination of contract and/or withholding of funds to contractor which City must pay to a third party or parties to correct deficiencies due to lack of performance as determined by City.

Four (4) copies of the proposals must be submitted in accordance with the attached request by 5:00 PM, June 6, 2014 to:

City of Porterville, Planning Division
Attn: Jennifer Byers
Acting Community Development Director
291 N. Main Street
Porterville, CA 93257

Award of contract should occur in June 2014 or July 2014, by the City Council.

Please contact me at (559) 782-7460 if you have any questions regarding this letter.

Sincerely,

Jennifer M. Byers
Acting Community Development Director

City of Porterville
Habitat Management Plan
Porterville Mitigation Area No. 1
Valley Elderberry Longhorn Beetle

I. Background and Introduction

A. Habitat Management

The City of Porterville proposes to preserve portions of the City-owned Headgate property to compensate for impacts to Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) habitat which would occur from the implementation of the proposed Orange Avenue Neighborhood Improvement Project (O.A.N.I. Project), the Plano Street Bridge Project (P.S.B. Project), and other as yet unidentified projects within the City of Porterville, Tulare County, California. Designation of a habitat preserve represents the basis of the compensatory mitigation set forth in the Biological Opinion issued by the U.S. Fish and Wildlife Service (USFWS) for the O.A.N.I. Project and the Biological Opinion issued for the P.S.B. Project. The Biological Opinions were issued as a result of formal Section 7 Consultations conducted between the USFWS and the U.S. Army Corps of Engineers for impacts on Valley elderberry longhorn beetle (VELB) habitat as a result of implementation of these two projects.

Approximately 7.3 acres (Mitigation Area) of the Headgate property will be enhanced and preserved as Valley elderberry longhorn beetle (VELB) habitat. This area will be named the "Porterville Mitigation Area No. 1." The Headgate property is located at the easterly edge of the City of Porterville on both the north and south sides of the Tule River (Figures 1, 2, and 3). The City of Porterville is proposing the Headgate property as a Mitigation Area for the VELB and its habitat as part of the City's proposed Habitat Conservation Plan (HCP) for potential future impacts on VELB within the City limits. When the HCP is completed, the Porterville Mitigation Area No. 1 may be combined with the rest of the Headgate property to form a single VELB habitat preserve protected in perpetuity.

At the Headgate Property, VELB have been observed as recently as 2001 in the riparian corridor adjacent to the Tule River (Dunlap, 2001). Planting elderberries and associated plant species will increase available habitat for VELB, and provide an opportunity for the known VELB population on site to expand. The City intends to plant and maintain VELB habitat across the entire 7.3-acre Porterville Mitigation Area No. 1. The O.A.N.I Project mitigation will account for 1.37 acres and the P.S.B. Project will account for an additional 0.66 acre within the Porterville Mitigation Area No. 1. The remainder of the site will be held available as "pre-mitigation" for future projects that will be described in individual Section 7 or Section 10 permits or as a component of the HCP.

The Porterville Mitigation Area No. 1 will be designed and managed to maximize habitat benefits for VELB and follow the directions and conditions listed in the two Biological Opinions (Attachment 1) as well as in the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle, 9 July 1999* (Conservation Guidelines), published by the USFWS (Attachment 2). It is understood that the management conditions for future projects to be mitigated by current plantings at the Porterville Mitigation Area No. 1 will be substantially similar to the directions given in the O.A.N.I. and P.S.B. Section 7 permits.

This Habitat Management Plan (HMP) incorporates and implements in large measure the requirements of the Biological Opinions issued by the USFWS for the O.A.N.I. and P.S.B. Projects. The HMP is intended to provide overall direction and guidance for the short- and long-term management and stewardship of the Porterville Mitigation Area No. 1 to ensure that all planting and habitat enhancement objectives are successfully met and that existing habitat values are maintained. The HMP includes two management periods: the Initial Management Period and Long-Term Stewardship. The Initial Management Period consists of the first 10 years after initial vegetation planting and habitat enhancement on the Porterville Mitigation Area No. 1 is established. Long-term Stewardship begins in the eleventh year after successful planting is established, and continues on in perpetuity.

B. U.S. Fish and Wildlife Service Conditions

The USFWS, in its Biological Opinions for the O.A.N.I. and P.S.B. Projects and in its *Conservation Guidelines* for the species, has set forth a set of conditions to ensure that any mitigation for loss of VELB habitat will be successful. In cases where the *Conservation Guidelines* and the Biological Opinions differ, the Biological Opinions were used as the default. The conditions and guidelines from these documents that pertain to Mitigation Area habitat enhancement, monitoring, and/or maintenance are hereby incorporated into the HMP and are summarized as follows:

- 1) The proposed conservation area must be protected in perpetuity through the use of a conservation easement or deed restriction. A true, recorded copy of the conservation easement or deed restriction must be provided to USFWS before project implementation.
- 2) The City shall closely monitor the Porterville Mitigation Area No. 1 for an initial period of 10 years to ensure survival of transplants, cuttings, and/or seedlings. Monitoring will be conducted twice annually thereafter. An annual report of the monitoring efforts will be submitted to the USFWS no later than December 31 of each year. Any reported occurrences of VELB (actual sightings or presence of exit holes) will be reported to the Natural Diversity Data Base (NDDB) as well as to the USFWS.
- 3) A minimum survival rate of at least 60% of the elderberry plants must be maintained throughout the monitoring period. At least 60% of the replacement plantings must survive to the end of the 10-year monitoring period. Within one

year of discovery that the survival rate has dropped below 60%, the City shall replace the failed plantings to bring survival above this level.

- 4) Planting of associated plant species in the Porterville Mitigation Area No. 1 as mitigation associated with the O.A.N.I. Project was not considered necessary by the USFWS due to the presence of existing riparian species and the overall high quality of habitat at the site; however, planting of associated species was required as mitigation for the P.S.B. Project. In cases where individual Biological Opinions for projects utilizing the Mitigation Area will require associated species, supplemental plantings will be conducted at the time of development of individual projects.
- 5) Weeds and other plants that are not native to the Porterville Mitigation Area No. 1 must be removed at least once a year, or at the discretion of the USFWS and the California Department of Fish and Game (CDFG). Mechanical means should be used; herbicides are prohibited unless approved by the USFWS.
- 6) Measures must be taken to insure that no pesticides, herbicides, fertilizers, or other chemicals agents enter the Porterville Mitigation Area No. 1. No spraying of these agents must be done within 100 feet of the area, or if they have the potential to drift, flow, or be washed into the area in the opinion of biologists or law enforcement personnel from the USFWS or CDFG.
- 7) No dumping of trash or other material may occur within the Porterville Mitigation Area No. 1. Any trash or other foreign material found deposited on site within the Mitigation Area must be removed within 10 working days of discovery.
- 8) Permanent fencing must be placed completely around the Porterville Mitigation Area No. 1 to prevent unauthorized entry by off-road vehicles, equestrians, and other parties that might damage or destroy the habitat of VELB, unless approved by the USFWS. The applicant must receive written approval from the USFWS that the fencing is acceptable prior to initiation of the conservation program. The fence must be maintained in perpetuity, and must be repaired/replaced within 10 working days if it is found to be damaged. Some Mitigation Areas may be made available to the public for appropriate recreational and educational opportunities with written approval from the USFWS. In these cases, appropriate fencing and signs informing the public of the VELB's threatened status and its natural history and ecology should be used and maintained in perpetuity.
- 9) A minimum of two prominent signs must be placed and maintained in perpetuity at the Porterville Mitigation Area No. 1, unless otherwise approved by the USFWS. The signs should note that the site is habitat of the federally threatened VELB and, if appropriate, include information on the VELB's natural history and ecology. The signs must be approved by the USFWS. The signs must be repaired or replaced within 10 working days if they are found to be damaged or destroyed.

II. VELB Description

A. Species Description

The Valley elderberry longhorn beetle is a moderate-sized, brightly colored and sexually dichromatic beetle that is dependant on its host plant, the elderberry (*Sambucus*

spp.). Male VELB exhibit polymorphism in color pattern. Some males resemble the California longhorn beetle (*Desmocerus californicus californicus*), whose elytra are coarsely punctured and dark metallic green, with a bright reddish-orange border. The elytra in beetles is the first pair of wings that are generally hardened and act as protection for the flight wings. In other VELB, the metallic green elytral pattern is generally reduced to four oblong maculations (spots). Intergrades do exist between the two color patterns, but too few collections exist to analyze the frequency of the various morphs (USFWS 1984).

Female VELB are larger than the males and resemble *D. c. californicus* males except that the elytra do not fully cover the abdomen when viewed from above. Also, males possess longer, more robust antennae than females. Both male and female VELB tend to be smaller than *D. c. californicus* (USFWS 1984).

Adult VELB emerge about the same time as the elderberry flowers, from mid-March to early June, but the largest percentage of specimens have been collected in May (USFWS 1991). During this time, the VELB mate and females lay eggs on living elderberry plants. Adult VELB have been observed resting on foliage, or actively flying between the trees where their large size and coloration make them conspicuous (USFWS 1984).

Female VELB place eggs in bark crevices, or at the junctions of stem/trunk or leaf petiole/stem (USFWS 1991), and it is presumed that the eggs hatch shortly after they are laid (USFWS 1984). The larvae bore into the pith of larger stems and roots and, after transforming into an adult, chew an exit hole and emerge from the elderberry.

VELB exit holes are circular or slightly oval and are usually 7-10 mm in diameter. No other insects that burrow in wood for part of their life cycle are known to inhabit live elderberry and make exit holes of a similar size and shape in the Central Valley (USFWS 1991). VELB exit holes have been observed in shoots or branches with diameters as small as 0.5 inches (13mm), to as large as 8 inches.

B. Species Habitat

Elderberry is the host plant of the VELB and is a common component of riparian forests and adjacent grasslands of the Central Valley. Because of problems with the taxonomy of *Sambucus* (Caprifoliaceae), the specific species of elderberry serving as host(s) for the VELB has been in question. Elderberry grows in association with various species of woody plants, depending on locality, such as Fremont cottonwood (*Populus fremontii*), California sycamore (*Platanus racemosa*), willow (*Salix* spp.), oak (*Quercus* spp.), box elder (*Acer negundo*), Oregon ash (*Fraxinus latifolia*), wild grape (*Vitis californica*), and poison oak (*Rhus diversiloba*) (USFWS 1984). *Sambucus mexicana* is the characteristic species of the Elderberry Savanna that borders riparian forests in some areas.

III. Initial Management Period

A. Objective

The primary objective of monitoring and management activities within the Initial Management Period is to ensure the success of all plantings within the Porterville Mitigation Area No. 1 for a period of 10 years after initial plant establishment. Management activities will focus on evaluating plantings with respect to success criteria (below) to determine overall performance of the mitigation. Should remediation be necessary, the Initial Management Period will continue to 10 years after the last replacement elderberry has been planted.

B. Success Criteria & Remediation

A minimum survival rate of at least 60% of the elderberry plants must be maintained. At least 60% of the replacement plantings must survive to the end of the 10-year monitoring period. If the survival rate drops below 60%, the City will replace failed plantings to bring survival above this level within one year of discovery.

C. Easement Holder

To help ensure the legal strength of and enforceability of the terms of the Perpetual Conservation Easement, monitoring must take place at least once per year to ensure compliance with the terms of the easement. The Easement Holder, Sequoia Riverlands Trust (SRT) will conduct this compliance monitoring beginning in the first year of the Initial Management Period and continuing in perpetuity.

D. Preserve Manager

The City will act as the Preserve Manager for the Initial Management Period. The role of the Preserve Manager is to ensure that monitoring and maintenance activities are completed to meet habitat management goals and fulfill the success criteria. The Preserve Manager will be responsible for conducting monitoring evaluations, submitting the annual report, and for making sure that qualified personnel perform all of the management activities. When referring to monitoring and maintenance activities, the term "Preserve Manager" refers to Porterville and its agents, whether it is City of Porterville staff or contracted assistance. The Preserve Manager will receive and administer endowment funds that have been established for the Initial Management Period, with the exception of the endowment funds that will support easement compliance monitoring by the Easement Holder.

E. Monitoring

VELB

At least twice during the time period between mid-March and mid-June (or other appropriate beginning and ending dates as determined by a biologist expert in VELB life history), the Preserve Manager will visually survey the Porterville Mitigation Area No. 1 for VELB. These surveys will involve visually scanning vegetation in the preserve for the presence of VELB and noting VELB locations using a Geographic Positioning System (GPS). The individual shrubs may also be marked by flagging, or some other means, if the Preserve Manager determines it will not disturb the VELB.

During the VELB surveys, the Preserve Manager will also scan all elderberry stems 1" or greater in diameter for exit holes. Should exit holes be discovered on an elderberry stem, that plant will be flagged or marked in some other way that will not be detrimental to the elderberry shrub. The elderberry plant will also be recorded by GPS.

Elderberry Plantings

At the end of each growing season, the Preserve Manager will make an evaluation of the elderberry plants and associated native plants within the Porterville Mitigation Area No. 1. In addition, elderberry plants will be evaluated during VELB surveys and opportunistically during other field visits. This evaluation will typically occur during the month of September and will note the number of plants, their size and their condition. Plant condition will be evaluated into one of four categories: good, fair, poor, or dead. A plant described in "good" condition will have vigorous growth and green foliage. Plants described in "fair" condition will have some sickly young shoots and the foliage will be slightly droopy or yellowish. A plant considered to be in "poor" condition will have many dead or dying young shoots and/or branches, and the foliage will be droopy and yellowish. All "dead" plants will be recorded as such.

From the month of October through the month of March, the Preserve Manager will visit the Porterville Mitigation Area No. 1 once a month and make a general assessment of the Mitigation Area. From the month of April through the month of September, these assessments will increase to once every two weeks. The assessments will include noting any real or potential threats to VELB or its host plants, such as erosion, fire, off-road vehicle use, vandalism, excessive weed growth, etc. Current management does not include grazing as a management tool. If grazing is used to manage the site, then the Preserve Manager will note any areas of excessive grazing. During these visits, the Preserve Manager will make an evaluation of the fencing, signage, and irrigation system.

Evaluating the irrigation system will include inspecting the filters, looking for signs of plant stress (e.g., wilting, leaf drop) or large areas of green vegetation in non-irrigated locations, listening for the sound of running water, and checking all emission devices. Plant stress can indicate a break in an irrigation line or a clogged emitter. In areas that are not being irrigated, a large patch of green vegetation can indicate that a sub-surface pipe has broken. The sound of running water can also indicate a broken pipe, or a blown or malfunctioning emitter.

F. Maintenance

Within 10 working days of discovery, the Preserve Manager will replace or repair any damaged or destroyed fencing or signage according to design plan specifications.

Every month the Preserve Manager will remove any trash found on the Porterville Mitigation Area No. 1. This activity will typically occur when the Preserve Manager visits each month to assess the Mitigation Area. If there is trash that cannot be removed the same day, the Preserve Manager will make arrangements to have the trash removed within 10 working days of the visit.

The Preserve Manager will clean irrigation filters once every two weeks from the month of April through September, and once a month from October through March. If necessary, the Preserve Manager will replace the filter screen.

Once every two weeks during periods when the Preserve Manager is actively irrigating, the Preserve Manager will adjust emission devices. Adjustments include altering the placement or number of emission devices to ensure that wetting patterns are within plant root zones. Other maintenance activities for the irrigation system may be required as listed in the irrigation manual that will be created after the irrigation system has been designed.

At least once a year, the Preserve Manager will work to remove weeds and other non-native vegetation from the Porterville Mitigation Area No. 1. The Preserve Manager will use string-trimming as the preferred method. In cases where a desired plant has a high likelihood of being damaged or destroyed by this method, hand weeding will be conducted. The use of herbicides is prohibited unless approved by the USFWS. This effort should be conducted in the late spring before the seeds have an opportunity to set and therefore build up the seed bank. Another weed control effort may be necessary in mid-summer or early fall. All staff performing weed control will be aware of potential volunteer plants of desired species, and will make efforts to avoid damaging these plants.

Currently there are no plans to graze the Porterville Mitigation Area No. 1. If grazing is used as a management tool, a grazing plan will be developed with written approval from the USFWS and the SRT prior to the start of any grazing program.

G. Reporting

The Preserve Manager will submit a written report to the USFWS by December 31 of each year during the Initial Monitoring Period. A copy of this report will also be provided to the SRT. The report will explicitly address the status and progress of transplanted and planted elderberry and associated native plants and trees. The survival rate, condition, and size of all elderberries and associated plants will be analyzed. Individual VELB or fresh exit holes observed that year must be reported, as well as any failings of mitigation plantings and the steps taken to correct them. Included in this report will be copies of original field notes, raw data, photographs of the site, a vicinity

map, and a map showing where any individual VELB or fresh exit holes were observed. Suggestions for adaptive management, or to address current or potential threats, will also be included in this report. Any observations of individual VELB or fresh exit holes will be reported to the CNDDDB by December 31 of the year of observation.

H. Funding

The City will utilize funds from more than one source, including Certificates of Participation (COP), Department of Housing and Community Development (HUD), and potentially available Redevelopment Agency and FHWA Funds. The city is currently working with a balance of \$300,000 in COP funds to undertake the mitigation effort. Additional funds will pay back initial costs for the pre-mitigation efforts included in this conservation effort.

The City of Porterville will establish a dedicated, interest-bearing account and endowment for purposes to include perpetual monitoring of the Conservation Easement (Endowment Fund) to be held by SRT (see Long-Term Stewardship – Funding, below).

IV. Long-Term Stewardship

A. Objective

Long-term stewardship begins when the Initial Management Period (expected to be 10 years) is completed and continues on in perpetuity. The objective of long-term stewardship is to ensure that the Porterville Mitigation Area No. 1 continues to function and successfully reach the goal of providing high-quality VELB habitat in perpetuity. By the time long-term stewardship is implemented, it is contemplated that active management activities such as irrigation will be completed and no longer necessary.

B. Preserve Manager

Upon completion of the Initial Management Period, the SRT will act as the Preserve Manager for the Porterville Mitigation Area No. 1 in perpetuity. Should the SRT decide to step down in its role as Preserve Manager, its successor must be approved by the USFWS. The SRT will be responsible for receiving and administering endowment funds for monitoring and maintenance activities, reporting requirements, and making sure that qualified personnel conduct all management and monitoring activities. The term "Preserve Manager" refers to the Trust and its agents.

C. Success Criteria

There are no specific success criteria for long-term stewardship. The primary long-term goal is maintaining VELB habitat in perpetuity. This may involve using adaptive management to protect and encourage any "volunteer" elderberry plants that may occur on site. "Volunteers" are plants that were not seeded or planted by the City of Porterville, but may occur on site through natural reproduction or colonization.

D. Monitoring

Twice a year, at a minimum, the Preserve Manager will visit the Porterville Mitigation Area No. 1 to conduct a general assessment of the site. The Preserve Manager will note any real or potential threats to VELB or its host plants, such as erosion, fire, excessive grazing, off-road vehicle use, vandalism, excessive weed growth, etc. The Preserve Manager will also note and record any observations of VELB and will generally evaluate the overall health and condition of all mitigation plantings and compliance with the terms of the Perpetual Conservation Easement.

E. Maintenance

Within 10 working days of discovery, the Preserve Manager will replace or repair any damaged or destroyed fencing or signage according to design plan specifications.

During site visits, the Preserve Manager will remove any trash found on the Porterville Mitigation Area No. 1. This activity will typically occur when the Preserve Manager visits the Mitigation Area to assess overall conditions on the site. If there is trash that cannot be removed the same day, the Preserve Manager will make arrangements to have the trash removed within 10 working days of the visit.

At least once a year, the Preserve Manager will work to remove weeds and other non-native vegetation from the Porterville Mitigation Area No. 1. The Preserve Manager will use string-trimming as the preferred method. In cases where a desired plant has a high likelihood of being damaged or destroyed by this method, hand weeding will be conducted. The use of herbicides is prohibited unless approved by the USFWS. This effort will be conducted in the late spring before the seeds have an opportunity to set and therefore build up the seed bank. Another weed control effort may be necessary in mid-summer or early fall.

F. Reporting

When Long-term Stewardship begins, the new Preserve Manager will send written notification to inform the USFWS of the manager change. The Preserve Manager will submit a written report by December 31 of every 10th year of the Long-term Stewardship to the USFWS and the City of Porterville. This document will report on the general condition of the site, the overall health of the plantings, potential threats, and any suggestions for adaptive management.

G. Funding

The City of Porterville will establish a dedicated, interest-bearing account and endowment for monitoring of the Perpetual Conservation Easement and Long-term Stewardship (Endowment Fund) to be held by SRT. The accrued interest and earnings from the Endowment Fund shall be used exclusively to fund permanent management and

long-term maintenance and monitoring of the Porterville Mitigation Area No. 1 in accordance with this HMP. The initial amount of the Endowment Fund will be \$65,000 and will be deposited when the Initial Management Period begins. The Endowment Fund is a non-wasting account and interest income will be used beginning in the first year for easement compliance monitoring and thereafter for long-term stewardship.

V. Adaptive Management

Adaptive Management is the management philosophy that recognizes the need to constantly monitor restored or created habitats and implement management actions, as necessary, based on the results of monitoring. Over time, as restored habitats mature and more is learned about how the habitats respond to initial management actions, it is likely that adjustments to management actions will be required. New information that results from ongoing research on VELB and its habitat can also lead to changes in management actions. The Preserve Manager for the appropriate habitat management phase will be responsible for implementing any adaptive management changes. Any changes to the Habitat Management Plan will be approved by the USFWS, SRT, and the City of Porterville before they are implemented.

VI. References

A. Printed References

U. S. Fish and Wildlife Service. 1984. Valley Elderberry Longhorn Beetle Recovery Plan. U. S. Fish and Wildlife Service, Portland, Oregon. 62 pp.

U. S. Fish and Wildlife Service. 1991. The Distribution, Habitat, and Status of the Valley Elderberry Longhorn Beetle. U. S. Fish and Wildlife Service, Sacramento, California. 134 pp.

B. Personal Communication

Dunlap, Brad. City Planner. City of Porterville, Porterville, CA. 2001-meeting

ATTACHMENT NO. 1

BIOLOGICAL OPINION FOR ORANGE AVENUE NEIGHBORHOOD PROJECTS

AND

BIOLOGICAL OPINION FOR PLANO STREET BRIDGE



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

IN REPLY REFER TO:

1-1-02-F-0119

January 22, 2003

Ms. Nancy A. Haley
United States Army Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Subject: Formal Section 7 Consultation on the Orange Avenue Neighborhood Improvement Project, Porterville, Tulare County, California (Corp File # 200100375)

Dear Ms. Haley:

This is in response to your February 21, 2002, request for formal consultation with the U.S. Fish and Wildlife Service (Service) on the Orange Avenue Neighborhood Improvement Project, Porterville, in Tulare County, California. Your request was received in our office on February 22, 2002. This document represents the Service's biological opinion on the effects of the action on the federally-threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle) and its elderberry shrub habitat (*Sambucus* spp.), in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act).

Federal funds for a portion of the project, the neighborhood center (Center), are being provided by the Department of Housing and Urban Development (HUD). The Porterville Unified School District (District) is building a new elementary school on an adjacent parcel of land. The City of Porterville (City) is planning to widen Orange Avenue where it is adjacent to the school site. The Corps of Engineers will provide the Federal nexus and function as the lead Federal action agency for this entire project, collectively titled the Orange Avenue Neighborhood Improvement Project.

Because of the potential for significant changes to existing habitat, compensation guidelines, and the species baseline prior to the start of construction for this project, the Terms and Conditions of this biological opinion include a requirement to reinitiate formal consultation if the actual construction start date is greater than 5 years from the date of issuance of this biological opinion.

This biological opinion is based on information provided in the Porterville Urban Area Boundary Biotic Survey, dated August, 1988; *A Reconnaissance Level Biological Assessment of Valley Elderberry Beetle and San Joaquin Kit Fox on Property That Porterville Public Schools Is Contemplating Acquiring Near the Intersection of Plano Ave. and Olive St. in the City of Porterville, Tulare County, California* dated March 20, 1998; a November 27, 2000, letter from

Ms. Nancy A. Haley

2

Live Oak Associates (Live Oak) to the Service; a February 1, 2001, letter from Live Oak Associates to Kevin Roukey, U.S. Army Corps of Engineers; February 8, 2001, and October 3, 2001, meetings with the Porterville City Planning Department; biological assessments dated October 7, 1998, February 1, 1999, November 9, 2000, and January 18, 2002; subsequent information received in this office; field investigations; and other sources of information. A complete administrative record of this consultation is on file in this office.

Consultation History

On November 13, 2000, the Service received a request for initiation of consultation dated November 9, 2000, from the City of Porterville. The Department of Housing and Urban Development (HUD), as a Federal action agency, had delegated consultation authority on a portion of the proposed project to the City of Porterville (City). Another portion of the project is owned by the Porterville Unified School District (District) and was not being approved, funded, or carried out by HUD. The third portion of the project was a non-contiguous street widening that also was not being approved, funded, or carried out by HUD. HUD declined to act as a Federal action agency for the complete project. Examination of the complete project description disclosed that portions of the facilities on the school site and the neighborhood center site would be shared and impacts could not be segregated. On January 5, 2001, the Service declined to consult with the City due to a lack of a Federal nexus for portions of the total project (the widening of Orange Avenue and the school). A meeting between the Service, City, District, and Live Oak Associates, Inc. was held February 8, 2001, and it was suggested that the United States Army Corps of Engineers (Corps) be contacted to discuss the feasibility of providing a nexus for initiating consultation on the two parcels where impacts will occur. Further discussions culminated in a meeting October 3, 2001, wherein the Corps agreed to serve as a Federal nexus for the entire project. The Corps initiated consultation on February 22, 2002.

BIOLOGICAL OPINION

Description of the Proposed Action

Site Description

The total area of the project will be approximately 25 acres located north of Orange Avenue, west of Plano Street, and south of Olive Avenue, in the City of Porterville, Tulare County, California (figure 1). The Center will be constructed upon the northeasterly 15 acres and will consist of an approximately 10,000 square foot community building, recreational facilities including 2 baseball fields, a restroom facility, and parking. The school will be erected upon the southwesterly approximately 10 acres of the combined site and will include 5 buildings totaling approximately 42,500 square feet. Parking facilities will be shared between the two facilities. Porter Slough, a seasonal wetland, passes along the northerly property line of both the school site and the Center site.

Ms. Nancy A. Haley

3

The project footprint is defined as the 25 acres where the project construction will take place. This is also the area where the elderberries to be impacted are found. The action area is defined as those portions of the City of Porterville lying adjacent to the project site that will be serviced by the elementary school and neighborhood center.

Construction Methods and Equipment

The construction of the neighborhood center is expected to be accomplished with normal construction methods. Earth moving and grading equipment, delivery trucks and cement trucks, personal vehicles of inspectors and workers, and bulldozers can be expected to occur on site. Due to the close proximity of residential areas, work will be restricted to daylight hours.

Existing Habitats on the Project Site

Biological surveys conducted during 1988, 1998, 1999, 2000, and 2001, have disclosed four habitat types present upon the project site. These are described as:

- I. Non-native grassland/Ruderal: This habitat was determined to be present throughout the project site. Much of the site is highly disturbed due to unauthorized human activity. A children's play-site as well as an indigent person's camp were observed on the site. Bushes and shrubs have apparently been broken or pulled down to facilitate campfires or the construction of shelters.
- II. Residential/Commercial landscaping: Those portions along Orange Avenue are subject to landscaping by the City. The impacts from the widening of Orange Avenue will be addressed separately through informal consultation, and will not be addressed further in this opinion.
- III. Mixed riparian woodland: Riparian habitats are scattered and non-contiguous throughout the project site, but occur mainly along Porter Slough. Several elderberry shrubs occur within these areas.
- IV. Seasonal wetland: Porter Slough is classified as a seasonal wetland. The slough branches from the Tule River to the south, and seasonally contains excess water from the river as well as seasonal runoff from adjacent properties.

Proposed Conservation and Avoidance Measures

The City and District have proposed the following conservation and avoidance measures to compensate for the loss of beetle habitat:

- I. Designate a conservation area where all transplanted elderberry plants and replacements will be located: The City has identified and designated a 7.3-acre site to be protected as a conservation area. The site is owned by the City, and its location is shown on figure 2.

Ms. Nancy A. Haley

4

The conservation area is located approximately 2 miles east of the project site adjacent to Porter Slough and the Tule River. The City will record a conservation easement on this entire parcel prior to start of construction. The Orange Avenue Neighborhood Project will require conservation of 1.37 acres within this 7.3 acre site. The remaining acreage will be utilized to compensate for future projects.

- II. Transplant all elderberries that cannot be avoided: Impacts will occur to 5 elderberry shrubs with a total of 104 stems that are currently on the project site. This includes one shrub that is on the property line between the school and the widening of Orange Avenue. Impacts to that shrub will be addressed through this consultation. Two of the shrubs are located upon the school site and two are located on the Center property. Two of the 5 shrubs are expected to be transplanted to the conservation area; one of the remaining shrubs will not be transplanted. The two remaining shrubs are not expected to survive transplanting due to previous damage.
- III. Plant replacement seedlings or cuttings: Impacts to the shrubs will be compensated for by planting seedlings or cuttings in the conservation area at a ratio set forth in *The Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS, 1999b).
- IV. Implement avoidance and conservation measures: The City and District will implement measures as set forth in *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (USFWS, 1999b).
- V. Monitor survival: The City and District propose to monitor the conservation area for a period of 10 years to ensure survival of transplants, cuttings, and seedlings. Monitoring will be conducted twice annually.
- VI. Reporting: An annual report of the monitoring efforts will be submitted to the Service no later than December 31 of each year. Any reported occurrences of the beetle (actual sightings or the presence of exit holes) will be reported to the Natural Diversity Data Base (NDDB) as well as to the Service.
- VII. Success Criteria: A minimum survival rate of at least 80% of the elderberry plants must be maintained. At least 87% of the replacement plantings must survive to the end of the 10 year monitoring period. Within one year of the discovery that the survival rate has dropped below 80%, the City and District shall replace the failed seedlings.
- VIII. Associated Plantings: The City and District do not propose to plant associated species in the conservation area due to the presence of existent riparian species and the overall high quality of the habitat at the site.

The biological conservation measures as proposed above and in the project materials reviewed by the Service are considered part of the proposed actions evaluated by the Service in this biological opinion. Any change in these plans or their implementation that might adversely affect listed

Ms. Nancy A. Haley

5

species, either directly or indirectly, requires reinitiation of consultation with the Service, as set forth in the final paragraphs of this letter.

Status of the Species

Valley elderberry longhorn beetle:

Species Description and Life History: On August 8, 1980, the beetle was listed as a threatened species (45 FR 52803). Two areas along the American River in the Sacramento metropolitan area have been designated as critical habitat for the beetle. In addition, an area along Putah Creek, Solano County, and the area west of Nimbus Dam along the American River Parkway, Sacramento County, are considered essential habitat, according to the Recovery Plan for the beetle (USFWS 1984). These areas support large numbers of mature elderberry shrubs with extensive evidence of use by the beetle.

The beetle is dependent on its host plant, elderberry, which is a common component of the remaining riparian forests of the Central Valley. Use of the plants by the animal, a wood borer, is rarely obvious. Frequently, the only exterior evidence of the shrub's use by the beetle is an exit hole created by the larva just prior to the pupal stage. Recent field work along the Cosumnes River, and in the Folsom Lake area indicates that larval galleries can be found in elderberry stems with no evidence of exit holes; the larvae either succumb prior to constructing an exit hole or are not far enough along in the developmental process to construct an exit hole. Larvae appear to be predominantly distributed in stems which are 1.0 inch or greater in diameter at ground level. The *Valley Elderberry Longhorn Beetle Recovery Plan* (USFWS 1984) and Barr (1991) contain further details on the beetle's life history.

Population densities of the beetle are probably naturally low (USFWS 1984); and it has been suggested, based on the spatial distribution of occupied shrubs (Barr 1991), that the beetle is a poor disperser. Low density and limited dispersal capability may cause the beetle to be vulnerable to the negative effects of the isolation of small sub-populations due to habitat fragmentation.

Distribution: Historical distribution was assumed, in 1984, to consist of primarily the Sacramento and American River watersheds in central California. Subsequent surveys increased the known range to include areas as widely spread as the Sacramento River near Redding in the north, Caliente Creek in Kern County on the south, the western Sierra Nevada foothills to elevations as high as 2000 feet on the east, and, presumably, the foothills of the Coastal Ranges on the west. The beetle may intergrade with the more common coastal subspecies in the foothills along the western edge of the Central Valley.

Reasons for Decline: The Service believes that the beetle, though wide-ranging, is in long-term decline due to widespread alteration and fragmentation of its riparian upland habitats by human activities.

Ms. Nancy A. Haley

6

Extensive destruction of California's Central Valley riparian forests has occurred during the last 150 years due to agricultural and urban development (Thompson 1961, Smith 1977, Katibah 1984, Katibah et al 1984). Based on a 1979 aerial survey, only about 102,000 acres out of an estimated 922,000 acres of Central Valley riparian forest remain (Katibah et al. 1984). More extreme figures were given by Frayer et al. (1989), who reported that approximately 85% of all wetland acreage in the Central Valley was lost before 1939; and that from 1939 to the mid-1980's, the acreage of wetlands dominated by forests and other woody vegetation declined from 65,400 acres to 34,600 acres. Differences in methodology may explain the differences between the studies. In any case, the historical loss of riparian habitat in the Central Valley strongly suggests that the range of the beetle has been reduced and its distribution greatly fragmented. Loss of non-riparian habitat where elderberry occurs (e.g. savanna and grassland adjacent to riparian areas, oak woodland, mixed chaparral-woodland), and where the beetle has been recorded (Barr 1991), suggests further reduction of the beetle's range and increased fragmentation of its upland habitat.

Widespread use of pesticides by agriculture undoubtedly has impacted the beetle to an unknown extent. Elderberries commonly grow along drainage and irrigation ditches and, therefore, are subject to overspray and pesticide drift. Direct spraying and drift of pesticide, including herbicides and/or insecticides, in or near riparian areas (which is done to control mosquitos, crop diseases, invasive and/or undesirable plants, or other pests) is likely to adversely affect the beetle and its habitat. Although there have been no studies specifically focusing on the effects of pesticides on the beetle, evidence suggests that the species is likely to be affected by pesticides. Bee populations may take years to recover from a spraying incident due to the low fecundity of bees (Kevan, 1975; Johansen, 1977; and Plowright, et al, 1978, all as cited in Karron, 1987). Specifically, Tepedino (1979) found that bumblebee populations may require as long as 3 to 4 years to recover from pesticide treatments. As of 1980, the prevalent land use adjacent to riparian habitat in the Sacramento Valley was agriculture, even in regions where agriculture was not generally the most common land use (Katibah et al. 1984); therefore the species is likely vulnerable to pesticide contamination from adjacent agricultural practices. Recent studies of major rivers and streams documented that 96% of all fish, 100% of all surface water samples, and 33% of major aquifers contained one or more pesticides at detectable levels (Gilliom 1999). Pesticides were identified as one of the 15 leading causes of impairment for streams included on the *Clean Water Act* section 303(d) lists of impaired waters. As the beetle occurs primarily in riparian habitat, the contamination of rivers and streams affects this species and its habitat. Pesticides have been identified as one of a number of potential causes of pollinator species' declines and declines of other insects beneficial to agriculture (Ingraham et al. 1996), therefore it is likely that the beetle, typically occurring adjacent to agricultural lands, has suffered a decline due to pesticides.

Grazing by livestock damages or destroys elderberry plants and inhibits regeneration of seedlings. Cattle readily forage on new growth of elderberry, which may explain the absence of beetles at manicured elderberry stands (USFWS 1984). Habitat fragmentation exacerbates problems related to exotic species invasion and cattle grazing by increasing the edge-to-interior ratio of habitat patches, facilitating the penetration of these influences.

Ms. Nancy A. Haley .

7

Recent evidence indicates that the invasive Argentine ant poses a risk to the long-term survival of the beetle. Surveys along Putah Creek found beetle presence where Argentine ants were not present or had only recently colonized, and beetle absence from otherwise suitable sites where Argentine ants had become established (Huxel, in prep.). The Argentine ant has negatively impacted populations of other native arthropod species (Holway 1998; Ward 1987). Predation on eggs, larvae, and pupae are the most likely impacts these ants have on the beetle. In Portugal, Argentine ants have been found to be significant egg predators on the eucalyptus borer, a cerambycid beetle like the beetle. Egg predation on the beetle could lead to local extirpations, as indicated by a population viability study suggesting that egg and juvenile mortality are significant factors affecting probability of extinction for the beetle (Huxel and Collinge, in prep.). The Argentine ant has been expanding its range throughout California since its introduction around 1907, especially in riparian woodlands associated with perennial streams (Holway 1998, Ward 1987). Huxel (in prep.) states that, given the potential for Argentine ants to spread with the aid of human activities such as movement of plant nursery stock and agricultural products, this species may come to infest most drainages in the Central Valley, where the beetle is found.

Illegal damage to elderberries is also believed to have a sizeable but unknown impact upon the beetle. Various public and private entities are known to periodically trim elderberry shrubs for road maintenance, pole line repair, road construction, and brush clearing purposes. Additional losses occur through the removal of shrubs during new home construction or home alterations. Few of these activities are reported or permitted; therefore, the magnitude of the impact of such loss is unknown.

Environmental Baseline

Due to the secretive nature of the beetle, little is known about distribution of the beetle. The known range of the beetle is largely based upon the presence of beetle exit holes in elderberry stems. Because of this secretive lifestyle, most analysis of beetle range and impacts to the beetle are based largely upon the loss of requisite habitat: the elderberry.

The beetle's current distribution is patchy throughout the remaining habitat of the Central Valley from Redding to Bakersfield. The beetle appears to be only locally common, *i.e.*, found in population clusters which are not evenly distributed across available elderberry shrubs. Surveys conducted in 1991 (Barr 1991) found evidence of beetle activity at 28 percent of the 230 sites with elderberry. Previously, Jones and Stokes (1987) had found evidence of occupancy in 65% of a total of 4,800-acres of riparian habitat along the Sacramento River. Frequently only particular clumps or plants in the study areas were found to harbor the beetle. Plants used by the beetle usually show evidence of repeated use over a period of several years, but sometimes only one or two exit holes are present. Similar observations on the clustered distribution of exit holes were made by Jones and Stokes (1987). Barr (1991) noted that elderberry shrubs and trees with many exit holes were most often large, mature plants; young shrubs were seldom occupied.

Certain drainages or areas appear to contain clusters or groupings of occupied shrubs. Areas where the beetle has been found include, in the San Joaquin Valley, the Kaweah and Tule Rivers

Ms. Nancy A. Haley

8

in Tulare County, the Stanislaus River in San Joaquin and Stanislaus Counties, the Tuolumne River in Stanislaus County, and the area near the community of Coarsegold in Madera County.

As of July, 2000, the Service has processed 172 consultations that involved the beetle with a total of 17,372 stems greater than one inch under section 7 and 6 permits under section 10 of the Act since 1980 (Service file 1-1-00-F-0131). It is estimated that 3784 elderberry shrubs were impacted through section 7 consultations. This approximates the loss of 31 acres of riparian habitat. An estimated total of 50 shrubs, with a total of 479 stems over one inch in diameter, were impacted through 5 section 10 (a)(1)(B) permits. Data are lacking for one 10 (a)(1)(B) project. Since January, 2001, at least 956 stems over 1-inch at the base have been impacted through additional section 7 consultations within the San Joaquin Valley and adjacent foothills.

Less study has been done on the loss of riparian areas within the Sierra Nevada foothills. Threats to riparian areas there include mining operations, hydroelectric generation plants, housing development, diversions for irrigation water or for flood control, and the building of roads and railroads, which often follow riparian corridors (Kondolf et al 1996).

Mining operations, some dating to the 1850's, impact riparian areas through alteration of the hydrology, changing of flood regimes, and sediment deposition (Kondolf et al 1996). Within Inyo National Forest alone, over 42,000,000 cubic meters of sediment have been introduced into riparian areas since 1850 (Kondolf et al 1996). A debris plain of over 64 square kilometers has been created along the Yuba River, burying many elderberry shrubs in an area known historically to have been inhabited by the beetle (Kondolf et al 1996). In a similar fashion, gravel mining may produce siltation, flooding, and other impacts to elderberry shrubs. It is estimated that 100,000,000 metric tons of aggregates may be mined annually in California, largely from alluvial plains at the base of the foothills (Kondolf et al 1996).

Hydroelectric plants and diversions have changed previous hydrology in several ways. Inundation of riparian areas can drown shrubs and beetles alike. Flood regimes are altered, impacting shrubs by increasing summer flows and reducing winter flows. Sediment load, necessary for periodic scouring of riparian areas, is typically reduced, supporting encroachment by non-native species and increasing stress upon native species, thereby reducing their competitive vigor. Accompanying hydroelectric facilities are direct and indirect impacts caused by road construction, increased public access (both legal and illegal) through these roads, and potential growth inducements to local areas. The reservoirs created further fragment habitat already interrupted by the dams themselves. Stream narrowing through reduced flows is another impact that may occur in areas such as the North Fork of the Kings River (Kondolf et al 1996). Streamflow reduction through erosion, in turn, can reduce alluvial water tables, further stressing riparian vegetation (Kondolf et al 1996). Diversions for irrigation purposes or for flood control produce similar impacts (Kondolf et al 1996), both in the Sierra foothills and downstream in the Central Valley.

As the phenomenon of urban flight becomes more prevalent, additional beetle habitat is lost through conversion. Foothill riparian areas are often impacted the most by development projects

Ms. Nancy A. Haley

9

(Kondolf et al 1996). Increased recreational activities, growth of suburban areas into the foothills along riparian corridors, fragmentation, increased road building, and development of new areas contribute to the loss of elderberries. Additionally, urbanization increases drainage areas and decreases areas available for water absorption and aquifer replenishing (Kondolf et al 1996). Little or no protection of listed species occurs through the local permitting processes. Flood control and diversions for downstream urbanization also impacts water levels, flood regimes, and subsurface flow dynamics (Kondolf et al 1996).

As stated previously, little or no analysis of the loss of riparian habitat has been conducted within the Sierra Nevada foothills. Even less work has been done on the quantification of such loss. While loss of beetle habitat occurs on an annual basis, few records are kept.

Within the area near or adjacent to the project site, the Service is aware of several occurrences of the beetle. The Service is also aware of numerous occurrences of the beetle at, near or adjacent to the conservation area.

Effects of the Proposed Action

The proposed project may incidentally take valley elderberry longhorn beetles inhabiting 104 stems 1-inch or greater in diameter at ground level of 5 elderberry plants on the project sites. Incidental take will be in the form of habitat destruction incurred by trimming or removal of elderberry shrubs. Shrubs may also die or be reduced in quality for egg laying or feeding by the beetle due to project manipulations. Beetles may be crushed, disturbed, or otherwise killed during construction activities.

Transplantation of an elderberry shrub that is used by beetle larvae is expected to adversely affect the beetle. Beetle larvae may be killed, or the beetles' life cycle interrupted during or after the transplanting process. For example:

- I. Transplanted elderberry shrubs may experience stress or become unhealthy due to changes in soil, hydrology, microclimate, or associated vegetation. This may reduce their quality as habitat for the beetle, or impair their production of habitat-quality stems in the future.
- II. Elderberry shrubs may die as a result of transplantation.
- III. Branches containing larvae may be cut, broken, or crushed as a result of pruning or the transplanting process.

Elderberry plants that are too small to support larval beetles (i.e., consist of no stems measuring 1.0 inch or greater in diameter at ground level) could be destroyed without transplantation or compensation. However, were they not destroyed, such small plants could grow larger and produce stems capable of serving as habitat for the beetle.

Ms. Nancy A. Haley

10

Temporal loss of habitat is expected to occur due to the project. Although mitigation for impacts on the beetle involve creation or restoration of habitat, it generally takes five or more years for elderberry plants to become large enough to support beetles, and it generally takes 25 years or longer for riparian habitats to reach their full value. Temporal loss of habitat will temporarily reduce the amount of habitat available to beetles and may cause fragmentation of habitat and isolation of subpopulations.

Proposed actions in this consultation may have indirect effects on the beetle. Effects to the beetle from construction actions, in relative proximity to elderberry host plants, may include but are not limited to: (1) fragmentation of habitat, (2) trampling by increased pedestrian traffic, (3) disturbance of mating or dispersal by increased activity in spray fields, and (4) increased fungal parasitism due to elevated humidity within the project area. Other indirect effects include an inducement to human population growth.

Based on the available information, the Service anticipates that beetles may be harassed when:

- I. Construction and survey crews begin work;
- II. When elderberries are transplanted; and,
- III. When monitoring and maintenance work is performed at the conservation site.

The Service has determined that growth inducing impacts may often result from the building of new schools and neighborhood centers. However, the building of a primarily inner city school is often done to accommodate a capacity that has already been reached and to reduce overcrowding. The City of Porterville has, in some areas, reached maximum density. The Service has also determined that many other factors, many cumulative in nature, may contribute to urban growth. These factors are discussed under "Cumulative Effects," below.

The conservation area will provide for shrub restoration and management. In implementing the proposed action, the Service expects that there will be no net loss of elderberry shrubs within the project area. Service personnel have examined the proposed conservation site and determined that the quality of habitat already present is high. As a result, it can be reasonably expected that the overall gain in good quality habitat will adequately compensate for the loss of marginal to fair quality habitat on the project site. Additional benefits will result from the creation of the conservation area:

- I. Protection in perpetuity of high quality habitat;
- II. Creation of high quality habitat;
- III. Creation and protection of a greater amount of habitat than is lost;

Ms. Nancy A. Haley

11

- IV. The habitat being created/protected may be occupied habitat versus habitat that is apparently unoccupied;

Cumulative Effects

Cumulative effects include the effects of future State, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

The Service is currently in discussion with the City of Porterville with regard to the creation of a city-wide habitat conservation plan to compensate for future impacts upon sensitive species. Other projects currently under consultation or in discussion include a County-wide habitat conservation plan, and the creation of other conservation sites through section 7 consultations. In addition, several private conservation sites have been created, or are in the process of being created, near or adjacent to the City of Porterville.

The Service is aware of other projects currently under review by State, county, and local authorities where biological surveys have documented the occurrence of the valley elderberry longhorn beetle. These projects include commercial, residential, industrial, mineral, and energy development. Flood control and reservoir construction projects are also being considered. Because of ongoing cumulative impacts, we believe that the decline of beetle populations continues. However, the proposed project would have no appreciable effect on the conservation status of the beetle.

The creation of an approximately 1.37-acre conservation site would, however, preserve and protect known habitat for the beetle. During March, 2001, the beetle was observed and photographed upon elderberries at the proposed conservation site.

Conclusion

After reviewing the current status of the valley elderberry longhorn beetle, the environmental baseline for the action area, the effects of the proposed Orange Avenue Neighborhood Improvement Project and the cumulative effects, it is the Service's biological opinion that the Orange Avenue Neighborhood Improvement Project, as proposed, is not likely to jeopardize the continued existence of the valley elderberry longhorn beetle, and is not likely to destroy or adversely modify designated critical habitat. Critical habitat for this species has been designated at the American River in Sacramento County, however, this action does not affect that area and no destruction or adverse modification of that critical habitat is anticipated.

Ms. Nancy A. Haley

12

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with this Incidental Take Statement.

The measures described below are non-discretionary, and must be implemented by the agency so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, in order for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

Amount or Extent of Incidental Take

The Service expects that incidental take of the valley elderberry longhorn beetle will be difficult to detect or quantify for the following reasons: the relatively small body size make the finding of a dead specimen unlikely, the secretive nature of the species, losses may be masked by seasonal fluctuations in numbers or other causes, and the species occurs in habitat that makes them difficult to detect. Due to the difficulty in quantifying the number of valley elderberry longhorn beetles that will be taken as a result of the proposed action, the Service is quantifying take incidental to the project as the number of elderberry stems over 1-inch in diameter at the base that will become unsuitable for the species as a result of the action. Therefore, the Service estimates that 5 elderberry shrubs with a total of 104 stems 1-inch or greater at ground level on 25 acres of land will become unsuitable as a result of the proposed action. Upon implementation of the following reasonable and prudent measure(s) incidental take associated with (project name) on these shrubs in the form of harm, harassment, or killing of (species) from habitat loss and crushing, will become exempt from the prohibitions described under section 9 of the Act for direct impacts; in addition, incidental take in the form of harm, harassment, or killing associated with Porter Slough Neighborhood Center and Elementary School, Orange Avenue on these elderberry stems will be exempt from the prohibitions described under section 9 of the Act for indirect impacts as a result of the management activities described.

Ms. Nancy A. Haley

13

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measure

The Service believes the following reasonable and prudent measures are necessary and appropriate to minimize impacts to the valley elderberry longhorn beetle:

- I. Minimize the potential for impacts on the species due to loss of important on-site habitat.
- II. Minimize the potential for incidental take and habitat destruction on compensation lands.
- III. Compensate for loss of beetle habitat at the project site.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, the Corps shall ensure that the City and District comply with the following terms and conditions, which implement the reasonable and prudent measure described above. These terms and conditions are nondiscretionary.

- I. Implement the project as described in the biological assessments dated October 7, 1998, February 1, 1999, November 9, 2000, and January 18, 2002.
- II. Provide a copy of the recorded conservation easement to the Service before the start of construction.
- III. Implement a worker education program on the importance of protecting valley elderberry longhorn beetle habitat with the intent of minimizing take of the threatened valley elderberry longhorn beetle.
- IV. Ensure that all on-site construction personnel receive instruction from a qualified biologist regarding the presence of beetle habitat. The City and the District shall show a training video prior to the beginning of pruning. The qualified biologist shall be available to answer questions. The video shall be provided to the Service. Prior to onset of any ground-disturbing activities at the project site, a qualified biologist shall: (1) note the location of the 104 elderberry stems that could be removed; (2) identify any shrub with exit holes, and (3) brief all supervisory personnel and other workers on the occurrence and distribution of beetle habitat on the site and measures being implemented to maintain the habitat during operations and maintenance activities.

Ms. Nancy A. Haley

14

- V. Plant all conservation areas with elderberry seedlings or shrubs during the first planting season following the date of disturbance at pruning areas.
- VI. Based on the proposed action, the City and the District shall plant 560 seedlings/cuttings at the mitigation site if 104 stems are removed.
- VII. Report to the Service annually for a period of 10 years of the status and success of the project conservation measures (see Reporting Requirements below).
- VIII. Because of the potential for significant changes to existing habitat, compensation guidelines, and the species baseline prior to the start of construction for this project, the Corp shall reinitiate formal consultation if the actual construction start date is greater than 5 years from the date of issuance of this biological opinion.

The reasonable and prudent measure, with its implementing terms and conditions, is designed to minimize the impact of incidental take that might otherwise result from the proposed action. With implementation of this measure and the proposed conservation measures previously identified, the Service believes that there would be no net loss of elderberry habitat. Actions on land containing elderberry habitat would be offset by avoidance of elderberry shrubs, transplantation, and installation of replacement seedlings.

Avoidance actions and conservation measures are designed to minimize and minimize the effects of the proposed actions. If, during the course of the action, the above level of incidental take is exceeded, such incidental take would represent new information requiring review of the reasonable and prudent measure provided. The Federal agency must immediately provide an explanation of the causes of the taking and review with the Service the need for possible modification of the reasonable and prudent measure.

Reporting Requirements

Any dead or severely injured beetles found (adults, pupae, or larvae) shall be deposited in the Entomology Department of the California Academy of Sciences. The Academy contact is the Senior Curator of Coleoptera at (415) 750-7239. All observations of valley elderberry longhorn beetles—live, injured, or dead— or fresh beetle exit holes shall be recorded on California Natural Diversity Data Base (NDDDB) field sheets and sent to the Department of Fish and Game, Wildlife Habitat Data Analysis Branch, 1416 Ninth Street, Sacramento, California 95814.

The Corps must provide the Service with annual reports to describe the progress of implementation of all the commitments in the Conservation Measures and Terms and Conditions sections of this biological opinion. The first report is due January 31, the first year after groundbreaking, and annually thereafter according to the monitoring plan set forth in the project description.

Ms. Nancy A. Haley

15

The Sacramento Fish and Wildlife Office is to be notified within three working days of the finding of any dead listed wildlife species or any unanticipated harm to the species addressed in this biological opinion. The Service contact person for this is the Chief, Endangered Species Division at (916) 414-6620.

The Corps must require the City to report to the Service immediately any information about take or suspected take of listed wildlife species not authorized in this opinion. The Corps must notify the Service within 24 hours of receiving such information. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal. The Service contact is the Service's Law Enforcement Division at (916) 414-6660.

Any contractor or employee who during routine operations and maintenance activities inadvertently kills or injures a listed wildlife species must immediately report the incident to their representative. This representative must contact the California Department of Fish and Game immediately in the case of a dead or injured. The California Department of Fish and Game contact for immediate assistance is State Dispatch at (916) 445-0045.

The U.S. Fish and Wildlife Service Regional Office in Portland, Oregon, must be notified immediately if any dead or sick listed wildlife species is found in or adjacent to pesticide-treated areas. Cause of death or illness, if known, also should be conveyed to this office. The appropriate contact is Richard Hill at (503) 231-6241.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or development of information and data bases.

The Service recommends the following actions to protect federally listed species and their habitats in conjunction with the proposed project at this time:

- I. Reduce the impact of beetle habitat modification, degradation, or loss (Recovery Task 1.11).
- II. Preserve and protect newly discovered beetle habitat to provide suitable conditions for the species (Recovery Task 1.4)

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects, or actions benefitting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

Ms. Nancy A. Haley

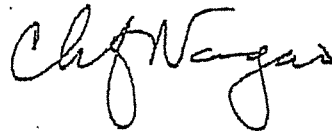
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REINITIATION--CLOSING STATEMENT

This concludes formal consultation on the action(s) outlined in the initiation request. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease, pending reinitiation.

If you have any questions regarding this biological opinion for the Orange Avenue Neighborhood Improvement Project, please contact Gary Burton or Susan Jones of my staff at (916) 414-6630

Sincerely,



 Cay C. Goude
Assistant Field Supervisor

enclosures:

cc:

United States Fish and Wildlife Service, Ecological Services Division, Portland, Oregon

(Attn: C. Barry)

California Department of Fish and Game, Fresno, California (Attn: A. Tenneboe)

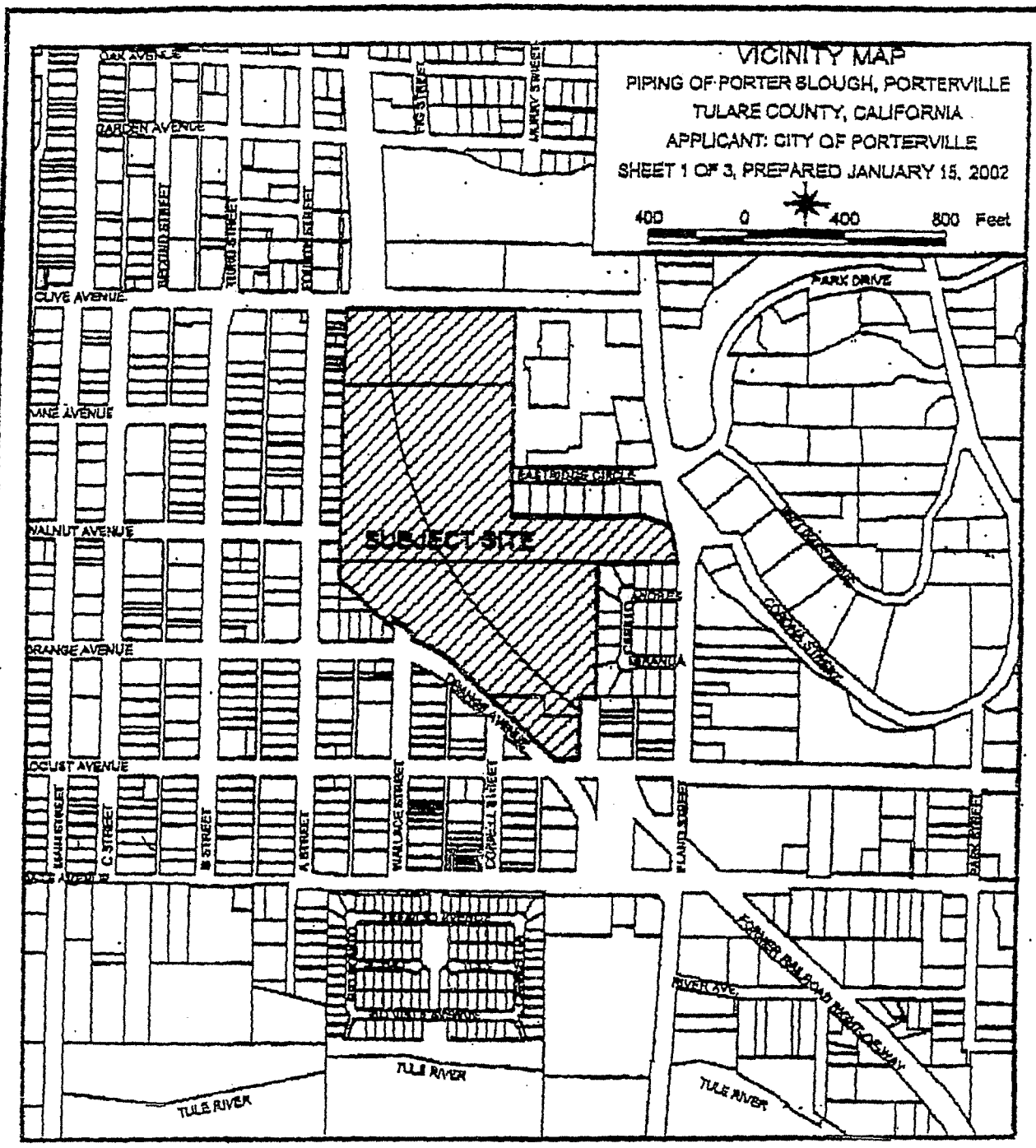
California Department of Fish and Game CDFG, Sacramento, California (Attn: D. Warenycia)

Planning Department, City of Porterville, Porterville, California (Attn: B. Dunlap)

Literature Cited

- Barr, C. B. 1991. The distribution, habitat, and status of the valley elderberry longhorn beetle *Desmocerus californicus dimorphus*. U.S. Fish and Wildlife Service; Sacramento, California.
- Frayser, W. E., D. D. Peters, and H. R. Pywell. 1989. Wetlands of the California Central Valley: Status and Trends, 1939 to mid-1980's. U.S. Fish and Wildlife Service, Region 1. Portland, Oregon.
- Gilliom, Robert, J. 1999. Pesticides in the Nation's Water Resources. U.S. Geological Survey. Water Environment Federation Briefing Series Presentation. Capitol Building, Washington D.C. March 19, 1999.
- Holway, D.A. 1995. Distribution of the Argentine ant (*Linepithema humile*) in Northern California. *Conservation Biology* 9:1634-1637.
- Huxel, G.R. in review Effects of Argentine Ant on the Threatened Valley Elderberry Longhorn Beetle. *Biological Invasions*.
- Ingram, m., G. Nabhan, and S. Buchmann. 1996. Our forgotten pollinators: Protecting the birds and bees. *Global Pesticide Campaigner*, 6:4-13
- Jones & Stokes Associates. 1987. Final Report: survey of habitat and populations of the valley elderberry longhorn beetle along the Sacramento River. Prepared for the U. S. Fish and Wildlife Service; Sacramento, California.
- Karron, J. 1987. The pollination ecology of co-occurring geographically restricted and widespread species of *Astragalus* (Fabaceae). *Biological Conservation*, 39:179-193.
- Katibah, E. F. 1984. A brief history of riparian forests in the Central Valley of California. pp. 23-29. In: R.E. Warner and K. M. Hendrix, eds. *California riparian systems: ecology, conservation, and productive management*. University of California Press, Berkeley.
- Katibah, E. F., K. J. Dummer, and N. Nedeff. 1981. Evaluation of the riparian vegetation resource in the Great Central Valley of California using remote sensing techniques. *Technical Papers of the American Society of Photogrammetry*. pp. 234-246. ASP-ACSM Fall Tech. Mtg., San Francisco, Sept. 9-11 and Honolulu Sept. 14-16, 1981.
- _____. 1984. Current condition of riparian resources in the Central Valley of California. pp. 314-321 In: R.E. Warner and K. M. Hendrix, eds. *California riparian systems: ecology, conservation, and productive management*. University of California Press, Berkeley.
- Kondolf, G. Mathias, R. Kattelmann, M. Embury, and D. C. Erman. 1996. Status of Riparian Habitat In: Don C. Erman team leader Status of the Sierra Nevada. Sierra Nevada Ecosystem Project Final report to Congress. University of California, Davis, California.

- Smith, F. 1977. A short review of the status of riparian forests in California. pp. 1-2 *In*: Riparian forests in California: their ecology and conservation. A. Sands, ed. Institute of Ecology Publication No. 15, Davis, California.
- Thompson, K. 1961. Riparian forests of the Sacramento Valley, California. *Annals of the Association of American Geographers* 51: 294-315.
- Tepedino, V. 1979. The importance of bees and other insect pollinators in maintaining floral species composition. *Great Basin Naturalist Memoirs*, 3:139-150.
- USFWS. 1984. Recovery plan for the valley elderberry longhorn beetle. Endangered Species Program, Portland, Oregon.
- _____. 1994. An evaluation of selected wetland creation projects authorized through the Corps of Engineers section 404 program. Ecological Services Division, Sacramento, California.
- _____. 1999a. Mitigation guidelines for the valley elderberry longhorn beetle. Ecological Services Division, Sacramento, California. September 19, 1999.
- _____. 1999b. Conservation guidelines for the valley elderberry longhorn beetle. Ecological Services Division, Sacramento, California. July 23, 1999.
- Ward, P.S. 1987. Distribution of the Introduced Argentine Ant (*Iridomyrex humilis*) in Natural Habitats of the Lower Sacramento Valley and its Effects on the Indigenous Ant Fauna. *Hilgardia* 55:1-16



From: City of Porterville Planning Department



Live Oak Associates, Inc.

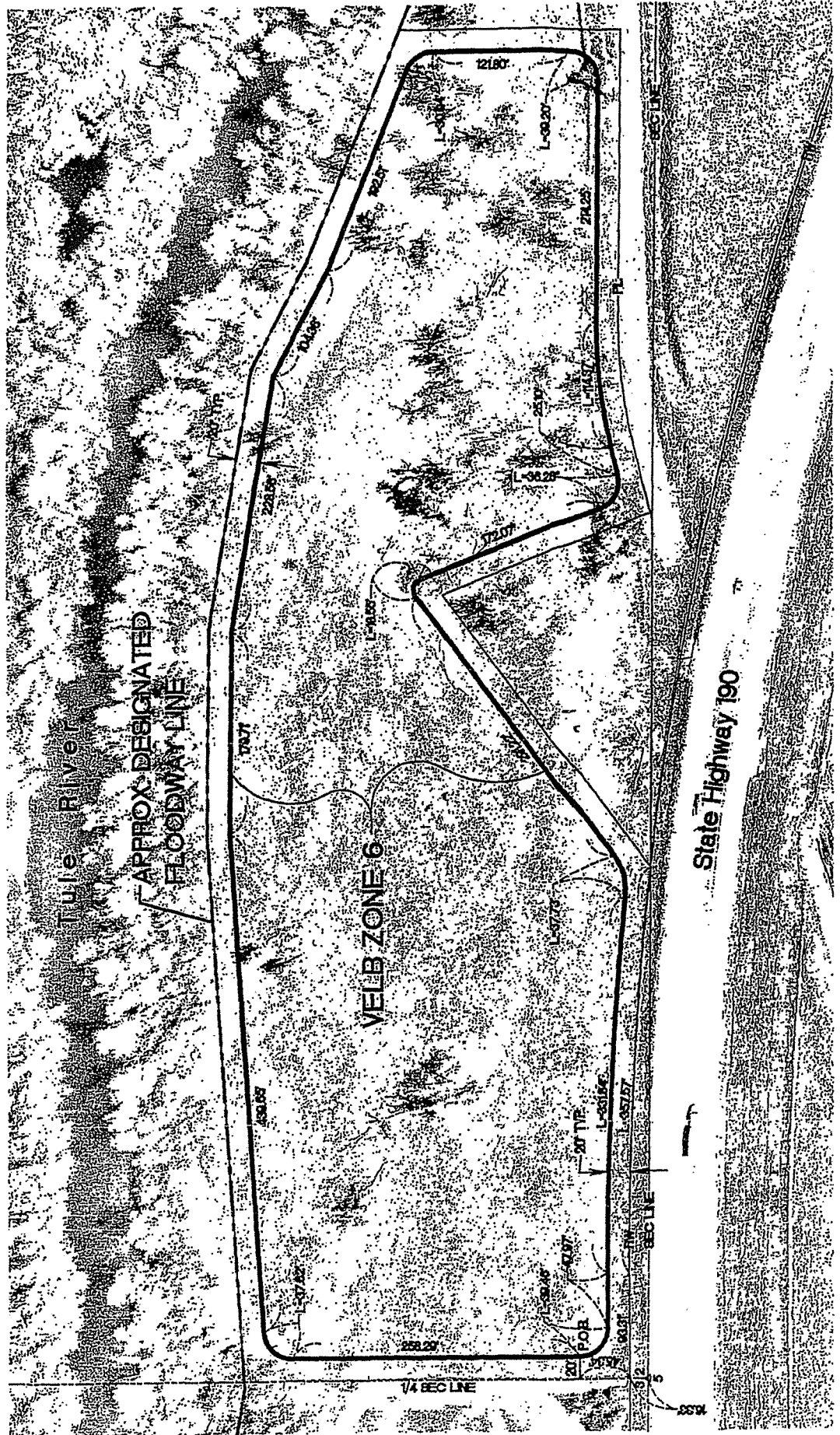
Orange Ave. Neighborhood Improvement Project,
Porterville, CA: In-Town Vicinity Map

File No. 256-03	Date: 01/16/02	Fig. 1
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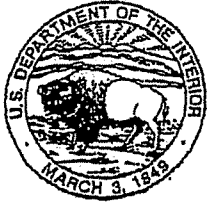
Figure 1 Project Location

Protected Property

Exhibit 'A'



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

IN REPLY REFER TO:
1-1-03-F-0049

March 18, 2003

Mr. Gary N. Hamby
Division Administrator
Federal Highway Administration
U.S. Department of Transportation
980 Ninth Street, Suite 400
Sacramento California 95814-2724

Subject: Review of the Proposed Widening of Plano Street Bridge in the City of Porterville, Tulare County, California, for Inclusion in the Valley Elderberry Longhorn Beetle (*Desmocerus californicus dimorphus*) Formal Programmatic Consultation (File number 1-1-96-F-0156) and Potential Effects to the San Joaquin Kit Fox (*Vulpes macrotis mutica*)

Dear Mr. Hamby:

This document has been prepared in response to your December 23, 2002, request to append the proposed project to the *Formal Programmatic Consultation Permitting Projects with Relative Small Effects on the Valley Elderberry Longhorn Beetle* (file number 1-1-96-F-0156) (Programmatic Consultation) and your request for concurrence with your determination of not likely to adversely affect the San Joaquin kit fox (*Vulpes macrotis mutica*) (kit fox). The U.S. Fish and Wildlife Service (Service) received your request on December 26, 2002.

Although elderberry plants (*Sambucus* spp) are not considered endangered, threatened, or rare, they are the sole host of the threatened valley elderberry longhorn beetle (VELB). A direct or indirect effect on the elderberry shrub may have an effect on the VELB. The compensation guideline includes various protections for the elderberry shrub to protect the continued existence of the VELB.

After reviewing the information included with the request, the Service has determined it is appropriate to append the proposed project to the September 19, 1996, Programmatic Consultation. Also, the Service concurs with your determination that this proposed project may affect, but is not likely to adversely affect the kit fox. The Service believes the project may affect kit fox because the Service has records of recent sightings of kit fox in the City of Porterville within a 10-mile radius of the proposed project site, and annual grassland between Tule River and Poplar Ditch may serve as marginal foraging habitat and a potential movement corridor. The Service believes the project is not likely to adversely affect kit fox because no burrows greater

Mr. Gary N. Hamby

2

han 4 inches in diameter were found in the project area, the project is located in a riparian area not typically utilized by kit fox, and there would be only a short-term temporary disturbance of 0.6 acre of marginal foraging habitat and movement corridor. This response has been prepared in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)(Act).

If initiation of groundbreaking activities has not begun in two years, effects to the beetle may increase from elderberry stem growth (in size and quantity). As such, the Administration will need to resurvey the elderberry shrubs and reinitiate consultation with the Service if groundbreaking activities have not begun in two years.

The determination and recommendations in this biological consultation are based on: (1) the December 2001 Biological Assessment for the Plano Street Bridge Widening Project; and (2) other information contained in Service files.

Consultation History

September 8, 2000: Federal Highway Administration (FHWA) received a list of threatened and endangered species from the Service.

February 27 and April 12, 2001: Electronic mail correspondence between FHWA and Service biologist Greg Van Stralen and Maryann Owens evaluated the proposed project's potential affects to the VELB and San Joaquin kit fox.

Project Description

The California Department of Transportation (Caltrans) proposes to widen the Plano Street Bridge in the City of Porterville, Tulare County, California. Plano Bridge crosses the Tule River and Poplar Ditch, 0.5 miles north of State Route 190. The proposed project is located in the southeastern portion of the City of Porterville between East Date Street and East Vandalia Street (figure 1). Both the Plano Street Bridge and 196 feet of roadway on each side of the bridge would be widened from two lanes to four lanes. The proposed project would widen this section of roadway from approximately 33 feet wide to 80 feet to accommodate two additional lanes of travel, bicycle lanes, and widening the sidewalk. Plano Street is a four lane roadway except for the location of Plano Street Bridge and 60 feet of roadway on each side of the bridge.

The widened bridge would be approximately 489 feet long and would include two abutments and 14 intermediate bents. The pier walls and associated pile caps would be lengthened to support the widened bridge. Each abutment would be lengthened to support the wider bridge using diaphragm abutments for the widened section of the bridge. The existing abutment walls would be tied and strengthened to the diaphragm abutments for increased seismic load strength. A temporary earthen ramp would be constructed from the top of the Tule Rive/Poplar Ditch bank down to the channel bottom. The temporary ramp would be constructed to allow for equipment to move into and out of the river/ditch channel. Temporary culverts would be placed in the temporary ramp to allow for water to flow through the temporary ramp and around the in-channel construction site.

During the widening of the bridge piers, local de-watering would be done to allow for in-channel construction. De-watering of the construction site would be done by placing sheet piling around each pier widening site and using a portable sump pump to remove water from within the inclosed area. Cutting into the river bank would be prohibited. Equipment that the contractor may use

Mr. Gary N. Hamby

3

includes but is not limited to; large flat bed truck, front end loaders, graders, fork lifts, concrete trucks, concrete pump trucks, hydraulic cranes, pile drivers, and water trucks.

The staging area is located in an open field approximately 200 feet north of the Tule River and immediately west of Plano Street Bridge. The staging is located in the northern section of the temporary construction area. The staging is approximately 115 feet wide by 300 feet long. The widening of Plano Street Bridge would occur during two construction seasons for a total of 10 months for both construction seasons. Construction in the Tule River/Popular Ditch would occur between June 15 and October 15 during each construction season. The eastern half of Plano Street Bridge would be constructed during the first construction season and the western half of the bridge would be constructed during the second season. The earthen ramp would be built at the beginning of each construction season and removed at the end of the construction season.

The habitat within the construction site consists of two intermittent waterways, the Tule River and Popular Ditch, and Great Valley willow scrub, ruderal land, and annual grassland. There are 19 elderberry shrubs that are within the action area of the project site. Fifteen of the elderberry shrubs will be affected by the construction activities, six elderberry shrubs are proposed to be transplanted, and one of the shrubs does not have any stems that are 1 inch or greater in diameter at ground level. All the elderberry shrubs are located in riparian habitat. No exit holes were found on the elderberry shrubs.

Conservation Measures

This project incorporates the avoidance and minimization measures described in the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle*, Dated July 9, 1999 (VELB Guidelines) appended to the Programmatic Consultation. The project also incorporates the conservation measures found in the *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (Standard Recommendations), dated June 1999.

The City has identified and designated a 7.3-acre site to be protected as a conservation area. The site is owned by the City, and its location is shown on figure 2. The conservation area is located approximately 2 miles east of the project site adjacent to Porter Slough and the Tule River. The City will record a conservation easement on this entire parcel prior to start of construction. The Plano Street Bridge Project will require conservation of 0.66 acre within this 7.3 acre site. The remaining acreage will be utilized to compensate for future projects.

Programmatic Consultation Requirements

This document and the Programmatic Consultation represents the Service's biological opinion on the effects of the proposed action. Minimization of effects for projects appended to the Programmatic Consultation involves the implementation of avoidance and minimization measures described in the VELB Guidelines.

In accordance with the Programmatic Consultation, projects that are appended to that biological opinion will be compensated according to the VELB Guidelines unless otherwise approved by the Service. The compensation identified in the Programmatic Consultation includes the following:

Protection and compensation for the VELB include:

1. transplantation of affected elderberry plants to the compensation area;

Mr. Gary N. Hamby

4

- 2. Planting of additional elderberry seedlings or cuttings and planting of associated native species at the compensation area;
- 3. Management and monitoring of the compensation area for either ten (10) consecutive years or seven (7) years over a 15-year period with monitoring reports submitted for each monitoring year; and
- 4. A management plan for long-term protection of the compensation area to protect the area in perpetuity as habitat for the elderberry longhorn beetle.

There are a total of 18 elderberry shrubs with stems greater than or equal to 1 inch at ground level located within the action area. Three of these shrubs are greater than 100 feet from the construction area, and will be completely avoided in accordance with the VELB Guidelines. Nine shrubs are located at greater than 20 feet, but less than 100 feet from the construction area. Orange barrier fencing will be installed around these nine shrubs, and no ground-disturbing activities or vegetation disturbances will be permitted within 20 feet of these shrubs. In addition, dust control measures will be implemented to protect VELB.

There are six elderberry shrubs with stems greater than or equal to 1 inch at ground level that are proposed for transplanting due to their vicinity to the bridge construction site. Construction effects on these shrubs likely will have an adverse effect on the VELB. The six shrubs have a total of 28 stems between 1-3 inches in diameter at ground level, 2 stems between 3-5 inches in diameter at ground level, and 4 stems greater than 5 inches in diameter at ground level. The six shrubs were surveyed and no exit holes were found. All six shrubs are located within riparian habitat. The Programmatic Consultation requires that each elderberry stem 1.0 inches or greater at ground level be replaced with elderberry seedlings or cuttings at a ratio shown on Table 1. Native trees and/or shrubs are required to be planted with the elderberry seedlings. The conservation area must provide an 1,800 square foot area for a maximum of five elderberry plantings and up to five associated native plant species. The ratio for the native plants that are required depends on the absence or presence of exit holes on the elderberry stems. The ratio for native plants required for mitigation is found on Table 1.

Table 1: Replanting ratios for adverse effects to elderberry shrubs

Location	Stems (maximum diameter at ground level)	Exit hole on shrub	Elderberry Seedling Ratio	Associate d Native Plant Ratio	Stem Count	Required Elderberry Plantings	Required Vegetation Plantings
non-riparian	stems ≥ 1" & ≤ 3"	No	1:1	1:1			
		Yes	2:1	2:1			
non-riparian	stems ≥ 3" & ≤ 5"	No	2:1	1:1			
		Yes	4:1	2:1			

Mr. Gary N. Hamby

5

non-riparian	stems ≥ 5"	No	3:1	1:1			
		Yes	6:1	2:1			
riparian	stems ≥ 1" & ≤ 3"	No	2:1	1:1	28	56	56
		Yes	4:1	2:1			
riparian	stems ≥ 3" & ≤ 5"	No	3:1	1:1	2	6	6
		Yes	6:1	2:1			
riparian	stems ≤ 5"	No	4:1	1:1	4	16	16
		Yes	8:1	2:1			
Total replacement plantings						78	78
Total Elderberry Plants to be transplanted							6
Total mitigation area required							0.66
Required VELB units							16

Compensation for the adverse affects to the VELB resulting from the proposed Plano Street Bridge project will require the planting of 78 elderberry seedlings or cuttings and 78 native trees or shrubs. One 1,800 square area is equivalent to a VELB unit. A total of sixteen (16) VELB units are required to compensate for this project.

Terms and Conditions

To be exempt from the prohibitions of section 9 of the Act, the FHWA must ensure that the permittee complies with the following terms and conditions, which implements the reasonable and prudent measures described in the programmatic biological opinion:

1. FHWA or the permittee shall implement the conservation measures for the VELB, as described in the biological assessment for the proposed project dated December, 2001.
2. The VELB Guidelines, as revised in 1999, are hereby incorporated into the Terms and Conditions for this project.
3. A Service-approved biologist will be on site during initial ground disturbance; and will supervise any transplanting of elderberry shrubs.
4. Prior to initiation of any site preparation/construction activities, a Service-approved biologist will conduct a training session about the beetle for all construction personnel. All individuals that will be involved in the site preparation or construction must be present, including the Service-approved biologist responsible for reporting take to the Service and California Department of Fish and Game. Training sessions will be repeated for all new employees before they access the proposed project site. A sign-up sheet identifying attendees and contract/company they represent will be provided to the Service with the post-construction compliance report. At a minimum, the training will include a description

Mr. Gary N. Hamby

6

of the history of the beetle, its habitat, the penalties for non-compliance, and the boundaries (work area) within which the proposed project must be accomplished.

5. If initiation of groundbreaking activities has not begun in two years, effects to the beetle may increase from elderberry stem growth (in size and quantity). As such, the FHWA will need to resurvey the elderberry shrubs and reinitiate consultation with the Service if construction has not begun in two years.
6. A post-construction compliance report, prepared by the Service-approved biologist shall be submitted to the Sacramento Fish and Wildlife Office no later than 30 days after the completion of the construction activities. The report shall include an accounting of the final area affected by the project; brief description of materials provided to the contractors and employees; sign-up sheet from the training sessions; sightings of any listed species in the vicinity of the proposed project; harassment, injury, or death of any listed species; and any non-compliance by employees or contractors.

The Service is tracking losses of VELB habitat permitted under the Programmatic Consultation, and minimization measures for those losses, in each County under the jurisdiction of the Sacramento Fish and Wildlife Office and within the range of the VELB. The Service reevaluates the effectiveness of this Programmatic Consultation at least every six (6) months to ensure continued implementation will not result in unacceptable effects to the VELB or the habitats upon which it depends.

Reporting Requirements

All written correspondence to the Service concerning this biological opinion shall reference the Service file number 1-1-03-F-0049. The Sacramento Fish and Wildlife Office is to be notified via letter/facsimile within one (1) working day of the finding of any dead listed wildlife species. Notification must include the date, time, and location of the finding of the dead or injured animal. Any contractor or employee who, during routine operations and maintenance activities, inadvertently kills or injures a listed wildlife species must immediately report the incident to their representative. This representative must contact the California Department of Fish and Game (CDFG) and the Service immediately in the case of a dead or injured listed species. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. The Service contact person is the Chief of Endangered Species Division, at (916) 414-6600.

Conservation Recommendations

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities that can be implemented to further the purposes of the Act, such as preservation of endangered species habitat, implementation of recovery actions, or development of information and databases. The actions that the FHWA and Caltrans can take to improve habitat for the VELB include the following.

When developing the revegetation plan for the project, Caltrans should incorporate plantings of elderberry shrubs and associated riparian species identified in the 1999 VELB Guidelines to the maximum extent feasible.

Mr. Gary N. Hamby

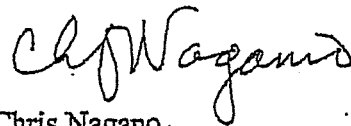
7

Reinitiation-Closing Statement

This concludes formal consultation with the FWHA on the proposed Caltrans highway improvements for the Plano Street Bridge Widening Project. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded [e.g., if initiation of groundbreaking activities does not occur within the next two years and effects to beetle habitat may increase through increased stem growth and/or numbers]; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions concerning this biological opinion for the Plano Street Bridge Widening Project (File Number 1-1-03-F-0049), please contact Gary Burton or Susan Jones of my staff at the address above or at (916).414-6630.

Sincerely,



Chris Nagano
Chief, Endangered Species Division

cc:

Federal Highway Administration, Sacramento, California (attn: Larry Vinzant and Steve Healow)
California Department of Fish Game, Region 4, Fresno, California (attn: Annette Tenneboe)

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: CONSIDERATION OF STREET CLOSURE FOR PORTERVILLE LIBRARY SUMMER READING PROGRAM KICK-OFF EVENT

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: A Library Summer Reading Program Kick-Off event is being planned and scheduled for June 2, 2014, from 5:00 – 8:00 p.m. The event will take place in Centennial Park. In support of this event, it is recommended that the City Council approve the temporary closure of Cleveland Street between the alley just east of Centennial Park and Main Street.

RECOMMENDATION: That the City Council authorize the temporary closure of Cleveland Street between the alley just east of Centennial Park and Main Street on June 2, 2014, in support of the planned Library Summer Reading Program Kick-Off Event.

ATTACHMENTS: Internal Civic Event Form
Locator Map

rs Director N/A Appropriated/Funded

J City Manager

ITEM NO.: 6

CITY OF PORTERVILLE

Internal Community Civic Event

(For events primarily sponsored and organized by City Departments)



Application Date: 5/6/14 Event Date: 6/2/2014

Location of Event: Centennial Plaza Park

Name of Event: Summer Reading Kickoff Carnival

Sponsoring Department: Porterville City Library

Department Contact: Juliana Andrade 782-7479

Affiliated Organizations: _____

City Services Requested:

Barricades (Quantity)		Refuse Pickup:	Yes	<input checked="" type="radio"/> No
Amplified Noise Permit	<input checked="" type="radio"/> Yes <input type="radio"/> No	Police Assistance:	Yes	<input checked="" type="radio"/> No
Parks Facility Application	<input checked="" type="radio"/> Yes <input type="radio"/> No	Street Sweeping:	Yes	<input checked="" type="radio"/> No
Assembly Permit	Yes <input checked="" type="radio"/> No			
Other:	_____			

Staff Comments (list special requirements or conditions for event):

Street closure will be on Cleveland. From main street to Alley.

P&LS Director: _____

Public Works Director: _____

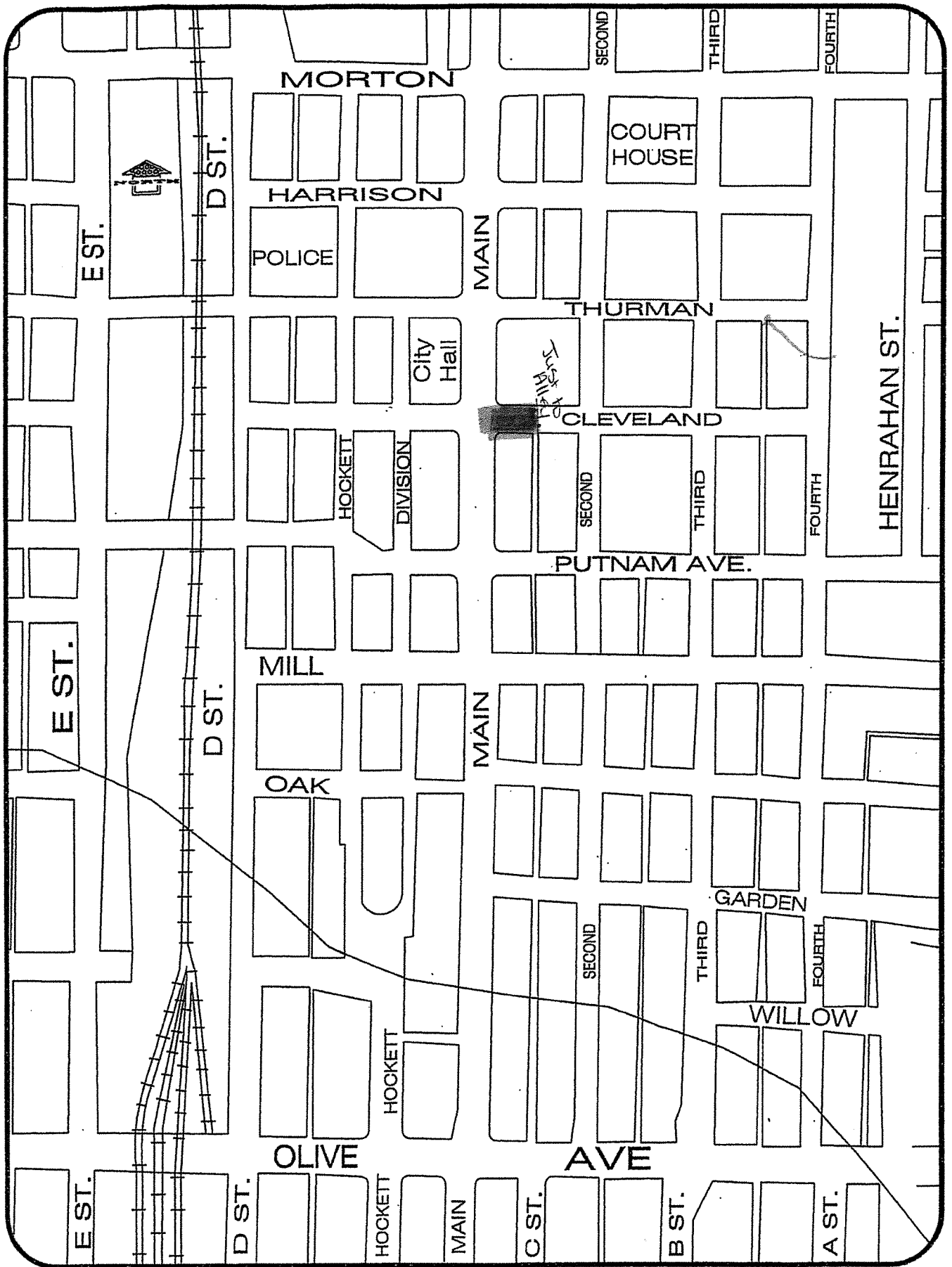
Community Dev. Director: _____

Field Services Manager: _____

Fire Chief: _____

Police Chief: _____

Administrative Services Mgr.: _____



REQUIREMENTS FOR INTERNAL COMMUNITY CIVIC EVENT

CITY LIBRARY

SUMMER READING KICKOFF CARNIVAL

JUNE 2, 2014

Finance Director: M. Bemis	No comment
Public Works Director: B. Rodriguez	No comment
Community Development Director: J. Byers	No comment
Field Services manager: B. Styles	No comment
Fire Chief: G. Irish	No comment
Parks and Leisure Services Director: D. Moore	No comment
Police Captain: D. Haynes	Completion of a permit to utilize sound amplification equipment.
Administrative Services Director: P. Hildreth	Proof of Liability Insurance from E&M Reptile Family and Funtastic Attractions. Completion of "release of Liability" from E&M Reptile Family and Funtastic.

CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1 Name and home address of the applicant: DONNIE HOOKER

291 N MAIN ST.

2 Address where amplification equipment is to be used: CENTENNIAL PARK

3 Names and addresses of all persons who will use or operate the amplification equipment: YLIANA ANDRADE

41 W. THURMAN AVE.

4 Type of event for which amplification equipment will be used: SUMMER READING PROGRAM

KICK-OFF EVENT

5 Dates and hours of operation of amplification equipment: 6/2/14 5-8 PM

6 A general description of the sound amplifying equipment to be used: PA SYSTEM

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort,

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2)

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Donnie Hooker
Signature of Applicant

5/13/14
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

City of Porterville, Chief of Police/Designee

Date

SUBJECT: STATE HOMELAND SECURITY GRANT PROGRAM, 2013

SOURCE: Fire Department

COMMENT: On April 28, 2014, the Fire Department was notified of a unique funding opportunity involving disencumbered State Homeland Security Grant Program funds from fiscal years 2010, 2011 and 2012. These funds may become available within the next 60 days and amended grant applications have been requested by interested sub-grantees. The Fire Department has submitted amendments for additional projects in the amount of \$106,541 for portable radios, automatic external defibrillators and thermal imaging cameras.



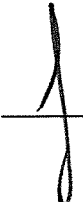
Not all proposals will be awarded and some may only receive a partial award. If additional grant funds are awarded, the project performance period is anticipated to be 30 to 60 days. This would require all grant-funded equipment to be ordered, delivered and paid for, and for all grant documents to be completed and returned to Cal OES within 30 to 60 days. The normal project performance period is 2 years.

In light of the accelerated project performance period, the Fire Department is requesting that Council pre-authorize acceptance of an additional grant award or any portion thereof. The State Homeland Security Grant Program does not require local matching funds but does require the initial purchase be made with local funds, which are then reimbursed with grant funds.

RECOMMENDATION: That the City Council:

- 1) Pre-authorize acceptance of any or all State Homeland Security Grant Program disencumbered funds from fiscal years 2010, 2011 and 2012;
- 2) In the event of award, authorize the use of local funds from the Fire Department's equipment replacement account for initial equipment purchase in an amount not to exceed the grant award; and
- 3) Authorize a budget adjustment to reflect the addition of any grant award to the Fire Department budget.

ATTACHMENTS: Project Proposal Cover Sheet

DD  Appropriated/Funded  CM  Item No. 7.

TULARE OPERATIONAL AREA
PROJECT PROPOSAL COVER SHEET

Applicant Agency/Dept:	City Of Porterville Fire Department
Date:	April 28, 2014
Program Selection:	Year:
State Homeland Security Grant Program (SHSGP)	2013

Project Ledger:				
Discipline	Solution Area	Solution Area Sub-Category	Amount Requested	Amount Approved
EMS-F - Emergency Medical Services (Fire-based)	Equipment	Medical	24,226	
FS - Fire Service	Equipment	Detection	35,620	
FS - Fire Service	Equipment	Interoperable Communications Equipment	46,695	
Total Amount Requested			\$106,541.00	

Presenter(s) Contact Information:							
Name	Title	Mailing Address	City	State	Zip	Phone	Email
Glenn S. Irish	Interim Fire Chief	40 W. Cleveland Ave.	Porterville	CA	93257	559-782-7526	gairish@ci.porterville.ca.us
Rick Land	Fire Captain	40 W. Cleveland Ave.	Porterville	CA	93257	559-782-7526	rland@ci.porterville.ca.us

Point Of Contact Information (if other than presenter):							
Name	Title	Mailing Address	City	State	Zip	Phone	Email

Statement of Certification - Authorized Agent

By signing below, I hereby certify that I am duly authorized to submit this request for Homeland Security Grant Program funds on behalf of my agency. I agree that any equipment acquired or obtained with grant funds will be made available for mutual aid within the Tulare Operational Area and deployed with trained personnel in accordance with the California Disaster and Civil Defense Mutual Aid Agreement, and shall be forfeited to Tulare County upon request if, during the useful life of the equipment, my agency cannot comply with, or chooses not to comply with, mutual aid requests, or if we cease to provide service(s) to the Operational Area for which the equipment was originally purchased.

Authorized by:		
Printed Name	Signature	Date
Rick Land	<i>Rick Land</i>	5-12-14

<i>For Administrative Use Only</i>	
Proposal Approved or Declined?	_____
Total Amount Approved:	_____
Date:	_____

SUBJECT: ASSISTANCE TO FIREFIGHTERS GRANT AWARD

SOURCE: Fire Department

COMMENT: In April 2014, the Porterville Fire Department submitted a grant proposal/application to the Federal Emergency Management Agency and the Department of Homeland Security requesting funding to replace an aging radio communications repeater. This hilltop repeater serves as the primary radio communications system for dispatching emergency incidents and for recall of off-duty firefighters. On May 9, 2014, the Fire Department received notice of award for this Assistance to Firefighters Grant, for a project cost of \$20,584.


The federal share of the grant award is 90% of the project cost, or \$18,526, and the local share is 10%, or \$2,058. Funds required for the local share are available in the Fire Department's radio and pager equipment replacement account.

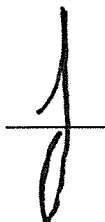
RECOMMENDATION: That the City Council:

- 1) Accept the Assistance to Firefighters Grant award from the Federal Emergency Management Agency and the Department of Homeland Security for a project cost of \$20,548;
- 2) Authorize the use of the local 10% share (\$2,058) from the Fire Department's radio and pager equipment replacement account; and
- 3) Authorize a budget adjustment to reflect the addition of \$18,526 to the Fire Department budget.

ATTACHMENTS: Award Letter

Dir 

Appropriated/Funded 

CM 

Item No. 8.

U.S. Department of Homeland Security
Washington, D.C. 20472



FEMA

Mr. Glenn Irish
Porterville Fire Department
City of Porterville
Porterville, California 93257-3737

Re: Grant No.EMW-2013-FO-03751

Dear Mr. Irish:

On behalf of the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS), I am pleased to inform you that your grant application submitted under the FY 2013 Assistance to Firefighters Grant has been approved. FEMA's Grant Programs Directorate (GPD), in consultation with the U.S. Fire Administration (USFA), carries out the Federal responsibilities of administering your grant. The approved project costs total to \$20,584.00. The Federal share is 90 percent or \$18,526.00 of the approved amount and your share of the costs is 10 percent or \$2,058.00.

Before you request and receive any of the Federal Grant funds awarded to you, you must establish acceptance of the Grant and Grant Agreement Articles through the Assistance to Firefighters Grant Programs' (AFG) e-grant system. Please make sure you read and understand the articles as they outline the terms and conditions of your grant award. By accepting the grant, you agree not to deviate from the approved scope of work without prior written approval, via amendment request, from FEMA. Maintain a copy of these documents for your official file.

If your SF 1199A has been reviewed and approved, you will be able to request payments online. Remember, you should request funds when you have an immediate cash need.

If you have any questions or concerns regarding the process to request your grant funds, please call 1-866-274-0960.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Kamoie".

Brian E. Kamoie
Assistant Administrator
Grant Programs Directorate

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: AUTHORIZATION TO APPLY FOR FEDERAL TRANSIT ADMINISTRATION SECTION 5311 FUNDING

SOURCE: Public Works Department - Transit

COMMENT: The Federal Transit Administration (FTA) Section 5311 is a non-urbanized area formula funding program authorized by United States Code (U.S.C) Section 5311. This federal grant program provides funding for public transit in non-urbanized areas with a population under 50,000. FTA apportions funds to the California State Department of Transportation (Department) Division of Mass Transportation (DMT) and is the delegated grantee.

At this time, the California Department of Transportation, Division of Mass Transportation, has issued a call for projects for 5311 funding for rural operational and capital assistance.

The City has received a Regional allocation of \$400,000 for capital assistance for the fixed route services to the Tule River Indian Reservation.

Staff is now requesting authorization to apply for financial assistance from the 5311 program to purchase one replacement compressed natural gas (CNG) bus for use on this route.

RECOMMENDATION: That the City Council:

1. Approve the attached Resolution authorizing staff to act on behalf of the City to apply for financial assistance; and
2. Authorize the Mayor to execute the Resolution.

ATTACHMENT: Resolution

P:\pubworks\General\Council\Transit - Authorization to Apply for Section 5311 program funding - 2014-05-20.doc

Dir AKC
AKD Appropriated/Funded MP CM J

Item No. 9

RESOLUTION # _____ - 2014

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE AUTHORIZING STAFF TO ACT ON BEHALF
OF THE CITY TO APPLY FOR FINANCIAL ASSISTANCE
UNDER FTA SECTION 5311 WITH THE
CALIFORNIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the U. S. Department of Transportation is authorized to make grants to States through the Federal Transit Administration to support capital/operating assistance projects for non-urbanized public transportation systems under Section 5311 of the Federal Transit Act (FTA C 9040.1F and FTA C 9050.1); and

WHEREAS, the California Department of Transportation (Department) has been designated by the Governor of the State of California to administer Section 5311 grants for transportation projects for the general public for the rural transit and intercity buses; and

WHEREAS, the City of Porterville desires to apply for said financial assistance to permit operation of service/purchase of capital equipment (one CNG bus) in the City of Porterville; and

WHEREAS, the City of Porterville has, to the maximum extent feasible, coordinated with other transportation providers and users in the region (including social service agencies).

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the City Council of the City of Porterville does hereby authorize Baldomero Rodriguez, Public Works Director, or Richard Tree, Transit Manager, to file and execute applications on behalf of the City of Porterville with the Department to aid in the financing of capital assistance projects pursuant to Section 5311 of the Federal Transit Act (FTA C 9040.1F and FTA C 9050.1); as amended; and

That John D. Lollis, City Manager, is authorized to execute and file all certification of assurances, contracts or agreements or any other document required by the Department; and

That Baldomero Rodriguez, Public Works Director, or Richard Tree, Transit Manager, is authorized to provide additional information as the Department may require in connection with the application for the Section 5311 projects; and

That Baldomero Rodriguez, Public Works Director, or Richard Tree, Transit Manager, is authorized to submit and approve requests for reimbursement of funds from the Department for the Section 5311 project(s).

PASSED, ADOPTED AND APPROVED this 20th day of May, 2014.

Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

COUNCIL AGENDA: May 20, 2014

SUBJECT: PARKS AND LEISURE SERVICES COMMISSION MEETINGS

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Parks and Leisure Services Commission is interested in not meeting June and July 2014. The City Council approved the same request in 2013, though ended up requesting the Commission to reconvene in July 2013. The Commission is willing to schedule a meeting if needed. A seventy-two hour notice would be posted should a meeting need to take place in June or July. The Library and Literacy Commission and the Youth Commission do not meet during the summer months. This item was discussed at the May 1, 2014, Parks and Leisure Services Commission meeting. The motion to not meet in June or July 2014, but be available to meet if needed, was unanimous.

Per the Municipal Code, the Commission is permitted to designate its date and time for meetings. "The commission shall hold meetings regularly and shall designate the time and place thereof. It shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings and records of the commission shall be public. Five (5) members shall constitute a quorum for the transaction of business". (Ord. 1114 B, 8-5-1977. 1686 5, 1-17-2006)

RECOMMENDATION: That the City Council approve the Parks and Leisure Services Commission not meet June and July 2014, with the Commission being available to meet if necessary.

 Director

 Appropriated/Funded

 City Manager

ITEM NO.: 10

SUBJECT: SUPPORT FOR REQUEST BY TULE RIVER TRIBE TO PROVIDE TRAINING AND WORK EXPERIENCE SUPPORT FOR WASTEWATER TREATMENT FACILITY OPERATORS

SOURCE: Administration

COMMENT: The Tule River Tribe is currently under construction of a new Waste Water Treatment Plant (WWTP), to provide sewage treatment for the Tule River Indian Reservation. At an estimated cost of more than \$8 million and funded by grants from the U.S. Environmental Protection Agency (\$6.3 million) and Indian Health Services (\$1.8 million), the WWTP is more than fifty percent (50%) complete, with the completion of construction expected this calendar year. Once completed, the WWTP will treat an average daily flow of 100,000 gallons per day, include an effluent storage pond, and a 7.5-acre leach field for effluent disposal.

As the City of Porterville operates the most proximate sewer treatment facility to the Reservation, and especially given the cooperative and productive working relationship that exists between the City and the Tribe, the Tribe has requested that the City support the provision of training and work experience necessary for the licensing of its Wastewater Treatment Plant Operators. The Tribe is in the process of recruiting two individuals to be employed as Wastewater Treatment Plant Operator Trainees, which will require one year of full-time experience involving the operation of a wastewater treatment facility before being eligible for Grade I certification. The Tribe is also recruiting for a Grade III Operator, which will require continued training and support from a higher Grade III or better Operator. The new Operators would be employees of the Tribe, who would pay all compensation and provide required benefits, including Worker's Compensation coverage and indemnification. For information and reference, the City currently employs two Operator I's, three Operator II's, one Operator III and an Operator IV.

RECOMMENDATION: That the City Council support the request of the Tule River Tribe to provide training and work experience support for their Wastewater Treatment Facility Operators.

ATTACHMENT: State Water Resources Control Board Operator Certification Table

C/M 

Item No. 11

**OPERATOR CERTIFICATION
REQUIREMENTS TABLE**
(Effective April 1, 2013)

Note: Applicants must take and pass the Office of Operator Certification Wastewater Treatment Plant Operator Examination before applying for Certification:

PATH	EXAMINATION EDUCATION REQUIREMENTS		CERTIFICATION QUALIFYING EXPERIENCE REQUIREMENTS
GRADE I			
1	High school diploma or equivalent and 6 educational points	and	1 year of full-time qualifying experience
GRADE II			
1	High school diploma or equivalent and 9 educational points	and	18 months of full-time qualifying experience as a Grade I operator
2	High school diploma or equivalent and 12 educational points	and	2 years of full-time qualifying experience
3	Associate's degree, a higher degree, or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	1 year of full-time qualifying experience
GRADE III			
1	High school diploma or equivalent and 12 educational points	and	3 years of full-time qualifying experience as a Grade II operator
2	High school diploma or equivalent and 18 educational points	and	4 years of full-time qualifying experience
3	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	2 years of full-time qualifying experience
4	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	1 year of full-time qualifying experience

GRADE IV			
1	High school diploma or equivalent and 32 educational points	and	6 years of full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	4 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	3 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, territory, or Indian tribe	and	2 years of full-time qualifying experience
GRADE V			
1	High school diploma or equivalent and 48 educational points	and	10 years full-time qualifying experience
2	Associate's degree or a minimum of 60 college semester units, including a minimum of 15 semester units of science courses	and	6 years of full-time qualifying experience
3	Bachelor's degree or a higher degree, including a minimum of 30 semester units of science courses	and	5 years of full-time qualifying experience
4	Valid registration as a chemical, civil, or mechanical engineer issued by the California Board for Professional Engineers and Land Surveyors or by another state, a territory, or an Indian tribe	and	4 years of full-time qualifying experience

CITY COUNCIL AGENDA: MAY 20, 2014

CONSENT CALENDAR

SUBJECT: STATE DEPARTMENT OF FINANCE – POPULATION ESTIMATES

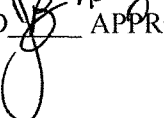

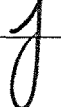
SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The Planning Division has received a summary report of Porterville's estimated population and housing data prepared by the State Department of Finance (DOF). The DOF prepares these estimates based upon information supplied by the City during the previous year, such as new housing units, demolitions, conversions, annexations and other factors, and comparing figures from the 2013 benchmark or a prior year's estimate. Annually, the Planning Division reviews these estimates and forwards them to the City Council for review and adoption. After Council adoption, the City submits a request for certification to the State Controller.

After certification by the State, the January 1, 2014, population estimate of 55,697 for the City of Porterville becomes the basis used to distribute certain State subvention revenues to the City. The 2013 estimate was 55,526. This is an increase of .3% or 171 persons.

RECOMMENDATION: That the City Council authorize the Mayor to sign a request for State certification for the City of Porterville, January 1, 2014, at a population of 55,697.

ATTACHMENTS: 1. Department of Finance Tables dated 2014 and 2013 showing population change
2. Draft Letter

DD  Acting APPROPRIATED/FUNDED  CM 

ITEM NO. 12

Table 2: E-5 City/County Population and Housing Estimates, 1/1/2014

COUNTY/CITY	POPULATION			HOUSING UNITS					MOBILE HOMES	OCCUPIED	PCT VACANT	PERSONS PER HOUSEHOLD
	TOTAL	HOUSEHOLD	GROUP QUARTERS	TOTAL	DETACHED	ATTACHED	2 TO 4	5 PLUS				
Tulare County												
Dinuba	23,666	23,504	162	6,377	4,661	135	620	664	297	6,078	4.7%	3.87
Exeter	10,539	10,466	73	3,614	2,788	212	289	162	163	3,391	6.2%	3.09
Farmersville	10,932	10,932	0	2,771	2,218	110	204	159	80	2,638	4.8%	4.14
Lindsay	12,650	12,554	96	3,381	2,303	118	279	538	143	3,191	5.6%	3.93
Porterville	55,697	54,690	1,007	16,992	11,904	441	1,931	1,645	1,071	15,884	6.5%	3.44
Tulare	61,857	61,579	278	19,380	15,148	424	1,844	1,352	612	18,207	6.1%	3.38
Visalia	129,582	128,212	1,370	45,316	34,175	1,474	5,029	3,034	1,604	42,387	6.5%	3.03
Woodlake	7,711	7,711	0	2,155	1,440	153	139	365	58	2,051	4.8%	3.76
Balance Of County	146,812	144,851	1,961	44,884	34,682	826	1,711	1,169	6,496	39,483	12.0%	3.67
Incorporated	312,634	309,648	2,986	99,986	74,637	3,067	10,335	7,919	4,028	93,827	6.2%	3.30
County Total	459,446	454,499	4,947	144,870	109,319	3,893	12,046	9,088	10,524	133,310	8.0%	3.41

ATTACHMENT
ITEM NO. 1

Table 2: E-5 City/County Population and Housing Estimates, 1/1/2013

COUNTY/CITY	POPULATION			HOUSING UNITS					MOBILE HOMES	OCCUPIED	PCT VACANT	PERSONS PER HOUSEHOLD
	TOTAL	HOUSEHOLD	GROUP QUARTERS	TOTAL	DETACHED	ATTACHED	2 TO 4	5 PLUS				
Tulare County												
Dinuba	23,082	22,920	162	6,231	4,563	135	620	616	297	5,939	4.7%	3.86
Exeter	10,487	10,414	73	3,604	2,778	212	289	162	163	3,382	6.2%	3.08
Farmersville	10,886	10,886	0	2,765	2,212	110	204	159	80	2,632	4.8%	4.14
Lindsay	12,376	12,280	96	3,354	2,276	118	279	538	143	3,166	5.6%	3.88
Porterville	55,490	54,443	1,047	16,950	11,862	441	1,931	1,645	1,071	15,845	6.5%	3.44
Tulare	61,199	60,921	278	19,212	15,038	424	1,798	1,340	612	18,049	6.1%	3.38
Visalia	128,443	127,082	1,361	45,008	33,871	1,474	5,025	3,034	1,604	42,099	6.5%	3.02
Woodlake	7,665	7,665	0	2,147	1,432	153	139	365	58	2,043	4.8%	3.75
Balance Of County	145,971	144,032	1,939	44,720	34,632	822	1,709	1,105	6,452	39,339	12.0%	3.66
Incorporated	309,628	306,611	3,017	99,271	74,032	3,067	10,285	7,859	4,028	93,155	6.2%	3.29
County Total	455,599	450,643	4,956	143,991	108,664	3,889	11,994	8,964	10,480	132,494	8.0%	3.40

May 21, 2014

Department of Finance
Demographic Research Unit
915 "L" Street, 8th Floor
Sacramento, CA 95814

To Whom It May Concern:

On May 1, 2014, the City of Porterville received Porterville's estimated population and housing data for 2014 from the State Department of Finance.

On May 20, 2014, the Porterville City Council adopted Porterville's new estimated population of 55,697 and authorized transmittal of this correspondence requesting the State Controller to certify Porterville's January 1, 2014, population as 55,697 by Minute Order No. _____.

Sincerely,

Cameron J. Hamilton, Mayor

ATTACHMENT
ITEM NO. 2

COUNCIL AGENDA: May 20, 2014

SUBJECT: RENEWAL OF AIRPORT LEASE AGREEMENT – LOT 34F

SOURCE: FINANCE DEPARTMENT – AIRPORT DIVISION

COMMENT: Messrs. Steven Huth and Michael Quatacker are the current leaseholders of Lot 34F at the Porterville Municipal Airport. The lease expires on June 30, 2014. We have received a request from Messrs. Huth and Quatacker dated March 28, 2014, to renew their lease for a period of fifteen (15) years with a five (5) year option to extend the lease. This lot is approximately 2,350 square feet in area and will rent for a rate of \$0.286 per square foot with an annual adjustment according to the change in the Consumer Price Index. The Lease will begin on July 1, 2014 and expire on June 30, 2029.

RECOMMENDATION: That City Council approve the Lease Agreement between the City of Porterville and Messrs. Steven Huth and Michael Quatacker for Lot 34F at the Porterville Municipal Airport.

ATTACHMENT: Locator Map
Letter from Messrs. Huth & Quatacker requesting renewal
Lease Agreement

D.D. MB Appropriated/Funded MB C.M. J

Item No. 13

AIRPORT LEASE SITES



TAXIWAY

TAXIWAY

HANGAR ROAD

HOPE ROAD

THUNDERBOLT DR.

ADMIN.
BLD.

44A 44B 44C

40	41	42	43
36	37	38	39

45

46A 46B 46C 46D

35

47

A B C ³⁴ D E F

50

33

32A

B C

31C

31A

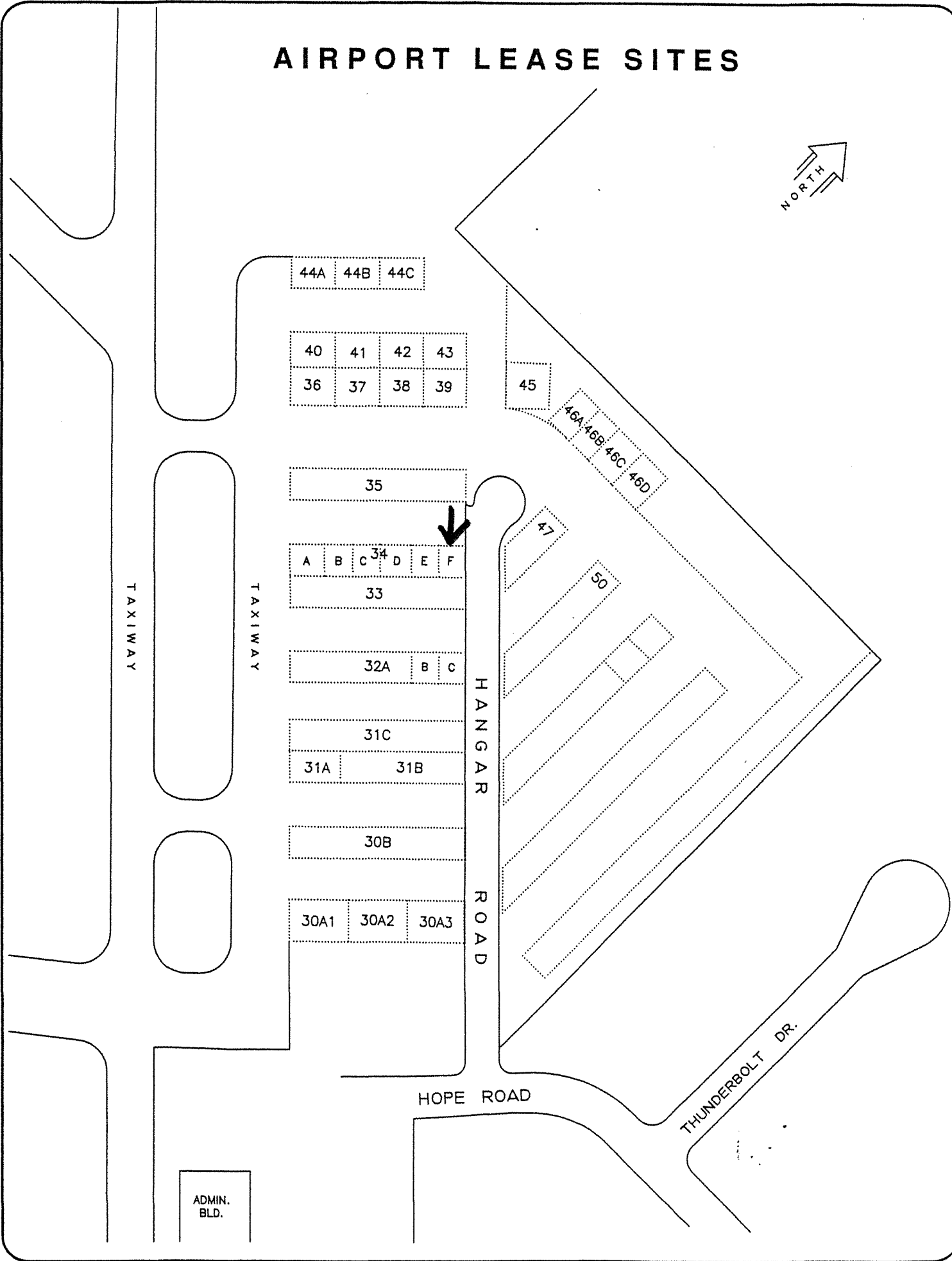
31B

30B

30A1

30A2

30A3



Steven Huth & Mike Quatacker
PO Box 1448
Porterville, CA 93258

March 28, 2014

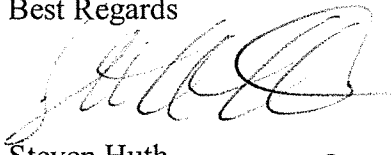
City of Porterville
Porterville Airport
Janie Rodriguez
291 No Main Street
Porterville, Ca 93257

Subject: Renewal of Lease of Hanger 34F

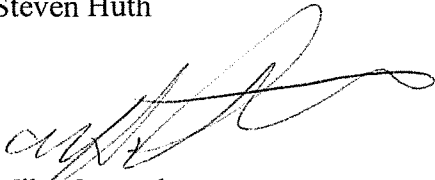
Dear Susan:

We are requesting to renew for 5 additional years on hanger lot 34F.
If you need to contact me my day number is 783-1207 or cell 359-0379.

Best Regards



Steven Huth



Mike Quatacker

15 yrs w/
5 yr option

LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT (“Lease”), executed at Porterville, California the first day of July, 2014, by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as “City” and Steven Huth and Michael Quatacker, hereinafter referred to as “Lessee.”

WHEREAS, City owns and operates an airport in the City of Porterville, State of California, commonly known and described as “Porterville Municipal Airport”; and

WHEREAS, Lessee desires to lease a portion of said airport for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto; and

WHEREAS, it is the desire of City to utilize said airport for the general public by its development and use in providing aeronautical-related facilities and service.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 34F at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. Term: The term of this Lease shall commence on July 1, 2014, both parties having executed the same, and shall terminate on June 30, 2029, provided Lessee is not in default with respect to any of the conditions or covenants of this lease. Lessee shall have an option to request an extension of the terms hereof for an additional period of five (5) years, by giving written notice thereof to Lessor not less than 120 days prior to expiration of this agreement. Lessor is not obligated to grant any extension but said option shall not be unreasonably withheld.

3. Rental and Business Privilege Consideration: Lessee agrees to pay to City in lawful

money of the United States without deductions or offset, to the Finance Director, City of Porterville, 291 N. Main Street, Porterville, California, 93257, or to such person or persons and at such place or places as may be designated from time to time by City, a rental rate of \$0.286 per square foot per year. Inasmuch as the lease site (See Exhibit "A" attached) contains approximately 2,350 square feet of land area, said rental rate will be \$672.10 annually, or \$56.01 per month, payable in advance.

Beginning January 1, 2015, and each January 1 thereafter for the term of this Lease, the rate shall be adjusted by a percentage equal to the annual percentage increase or decrease in the Consumer Price Index (CPI). The CPI used shall be a twelve (12) month average of the San Francisco CPI and the Los Angeles CPI as published for October of the prior year. The CPI index will be "All Urban Consumers."

4. Purpose: This Lease is made for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto. Lessee shall not use the premises or any part thereof or permit them to be used for any purpose or purposes other than stated above. The City reserves the right to conduct on-site inspections for the purpose of compliance with Building Code, Fire Code, and Zoning Ordinance. Lessee shall not do or permit any act or thing to be done upon the premises which constitutes a nuisance or which may disturb the quiet enjoyment of City or any tenant of City on adjacent neighboring property.

Lessee further agrees that, within 72 hours from receiving written notice by the City that a nuisance exists, to abate or otherwise cause said nuisance to be cured.

In the event Lessee has not (a) taken corrective action within 72 hours, or (b) filed an appeal with the City Council, City of Porterville, within 72 hours, then City may enter and abate said nuisance at the expense of Lessee without any liability whatsoever to City for monetary loss or anticipated profits of Lessee or others.

Said appeal to the City Council must be made in writing and be received by the City Clerk, 291 N. Main Street, Porterville, California, 93257, within 72 hours after Lessee received notice of said nuisance.

5. Right of Ingress and Egress: Lessee shall have the right-of-way to property owned and

controlled by City for ingress thereto and egress therefrom for pedestrian, vehicular, and air travel, together with the right to use in common with other Lessee or licensees of City the airplane landing field adjacent to the demised premises. None of these rights are exclusive, but shall be exercised in common with and subject to possible similar rights of other users of said airport. All of the foregoing is subject to such reasonable rules and regulations as the City or its authorized agents may make from time to time. Such rules and regulations, however, shall be reasonable and shall not conflict in any way with similar rules and regulations adopted from time to time by the Federal Aviation Administration or its successor.

6. Condition of Premises: Lessee has inspected the demised premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent and/or patent.

7. Alteration: Lessee shall make no structural modifications to existing structures or make permanent improvements or additions in or on the demised premises without the written consent of the City Airport Manager first being obtained.

8. Maintenance: Lessee agrees to keep the improvements in a good state of repair by periodic maintenance and painting as the same are required and to keep the grounds of Lessee in a good state of maintenance and repair. During the term of this Lease, the City Airport Manager shall have the right to notify Lessee in writing wherein Lessee has failed to maintain said structure and improvements in a good state of repair. Lessee shall make such corrections in the time and manner prescribed by said Airport Manager, or in the event Lessee disagrees, Lessee shall have the right to appeal within fifteen (15) days from date of notice from said Airport Manager to the City Council concerning the request for maintenance made to Lessee by said Airport Manager; it being understood and agreed that the decision of the City Council shall be final.

9. Utilities: Lessee agrees to pay during the term of the Lease, or any holding over, any and all utilities utilized by it to said demised premises. The term "utilities" as used herein shall include, but is not limited to, telephone, electrical, water, sewer, gas, janitorial, heating, cooling, and trash and refuse disposal service.

10. Utility Extension or Modification: Lessee shall pay any and all expenses that may be

incurred in obtaining the extension of public utility services to the demised premises from existing utility facilities or any modifications of same.

11. Taxes and Assessments: Lessee understands that the Lease of the premises creates a possessory interest subject to taxation by the County of Tulare. Lessee agrees to pay all taxes and /or assessments levied by any governmental agency upon any interest acquired by Lessee under the terms of this Lease.

12. Compliance with Law: Lessee shall, at its expense, promptly comply with any and all laws, ordinances, rules, regulations, requirements, and order whatever, present or future, of the national, state, county or city government which may in any way apply to the use, maintenance or occupation of, or operations on the premises.

13. Liens and Encumbrances: Lessee shall keep the premises and all structures and improvements situated thereon free from any liens or encumbrances arising out of any work performed, material furnished, or obligations incurred by Lessee, or from any other cause.

14. Negation of Partnership: City shall not become or be deemed a partner or joint venturer with Lessee or associate in any relationship with Lessee's operations thereon. City reserves all rights in and with respect to the premises, not inconsistent with Lessee's use of the premises as in this Lease provided, including (without limiting the generality of the foregoing) the right of City to enter upon the premises for the purpose of installing, using, maintaining, renewing, and replacing such underground oil, gas, water, sewer, and other pipelines, and such underground or aboveground telephone, telegraph, and electric power conduits or lines as City may deem desirable in connection with the development or use of any other property in the neighborhood of the premises. City shall compensate Lessee for any and all damage to Lessee's improvement and personal property caused by the exercise of the rights reserved in this paragraph.

15. Indemnification: Lessee agrees to indemnify, defend (upon request by the City) and save harmless the City, its agents, officers, and employees, and each of them, from any and all losses, costs, expenses, claims, liabilities, action, or damages, including liability for injuries to person or persons, or damage to property of third persons arising out of or in any way connected with (a) the conducting or operation of Lessee's business on the demised premises during the term of the Lease or

any holding over, or (b) the construction or the removal of any facilities or improvements on the demised premises during the term of this Lease or any holding over.

16. Liability Insurance: Lessee, in order to protect the City, its agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Lessee's (a) use and operations on the demised premises or in connection therewith, or (b) construction or removal of any improvements on the demised premises or in connection therewith, shall name the City as additional insured on Lessee's aircraft insurance policy or policies in the amount of not less than ONE MILLION DOLLARS (\$1,000,000). Coverage shall include General Liability combined Bodily Injury and Property Damage, Single Limits and Aggregate, with a reliable insurance carrier authorized to do such public liability and property damage insurance business in the State of California. Said insurance shall not be subject to cancellation or coverage reduction without thirty (30) days prior written notice to City. Within (10) days from the date of this Lease, Lessee shall file with the City Clerk, City of Porterville, a duly certified Certificate of Insurance evidencing that the herein above mentioned public liability and property damage provisions have been complied with, and setting forth that City, its agents, officers, and employees are named as additional insured. In the event that Lessee shall fail to take out and keep in effect such policy or to furnish evidence thereof to City, City may, at City's option, procure the same, pay the premium thereof and collect same with the next payment of rental due from Lessee or immediately terminate this Lease. The limits of insurance coverage set forth herein may be reviewed by City each January and may be adjusted at such reviews in order to protect the interests of the City.

17. Nondiscrimination: Lessee for itself, its heirs, personal representatives, successors in interest and assigns as part of the consideration hereof does hereby covenant and agree that (1) no person on the grounds of race, color, sex or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that Lessee shall use the premises in compliance with other requirements imposed by or pursuant to Title 49, Code

of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally - Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge a fair, reasonable and not unjustly discriminatory price for each unit or service; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or similar type of price reductions to volume purchasers.

In the event of breach of any of the above nondiscriminatory covenants, City shall have the right to terminate this Lease and to re-enter and repossess the demised premises and the facilities thereon and hold the same as if the Lease had never been made or issued.

Lessee agrees that it shall insert the above nondiscrimination provisions in any sublease or other agreement by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein leased.

18. Improvement of Land Area: City reserves the right to further develop or improve the landing area of the airport as it sees fit regardless of the desires or views of Lessee and without interference or hindrance.

19. Maintenance of Landing Area: City reserves the right to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the Lessee in this regard; providing further, City shall keep and maintain in a safe and operable condition the taxiways, runways (including the lighting thereof) and roadways on the airport during such hours and to such extent as City may determine is reasonably required for the operation of the airport.

20. Lease Subordinate to Agreements with the United States Government: This Lease shall be subordinate to the provisions and requirements of any existing or future agreement between the City and the United States relative to the development, operation or maintenance of the airport.

21. Non-Exclusive Right: It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308

(a) of the Federal Aviation Act of 1958. (49 U.S.C. 1349).

22. Rights of United States Government: This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, or taking over of said airport.

23. Notices: All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, postage prepaid and addressed as follows:

To the Lessee: Steven Huth
Michael Quatacker
P.O. Box 1448
Porterville, CA 93258

To the City: Airport Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257

The address to which the notices shall be or may be mailed, as aforesaid, to either party shall or may be changed by written notice given by such party to the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

24. Authorized Agent of the City: The Airport Manager of the City of Porterville is the duly authorized agent of the City for purposes of this Lease; and as to any obligations assumed herein by Lessee, they shall be performed to the satisfaction of said Airport Manager.

25. Assignment and Subletting: This Lease shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, successors, and assigns of the respective parties hereto. Lessee shall not, and Lessee herewith agrees that it will not, sublet the premises, or any part thereof or assign, transfer, mortgage, or otherwise convey the premises or its rights and interest hereunder without the prior written consent of the City. In the event the Lessee shall sublet, assign, transfer, mortgage, or otherwise convey the premises or its rights and interest hereunder, or any part thereof, or attempt to do so in violation to the foregoing provision, then in addition to any and all

other rights and remedies available to it, the City may, at its option by written notice to Lessee, either declare such sublease, assignment, transfer, mortgage or other conveyance void or terminate this Lease and all rights and interest of Lessee and all other persons hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a transfer, mortgage, or conveyance. This clause shall not be construed to limit right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

26. Hypothecation: Lessee may, with the consent of the City, give, assign, transfer, mortgage, hypothecate, grant control of, or encumber Lessee's interest under this Lease and the leasehold estate so created to a bona-fide lender on the security of the leasehold estate. Any such bona-fide lender shall have the right at any time during the term of the loan and while this Lease is in full force and effect:

(a) To do any act or thing required of Lessee in order to prevent a forfeiture of Lessee's rights hereunder, and all such acts or things so done shall be as effective to prevent a forfeiture of Lessee's rights hereunder by Lessee.

(b) To succeed to the interest of Lessee hereunder and thereafter at such lender's option to convey, assign or sublease the interest or title to said leasehold estate to another person acceptable to City, subject to all the terms, conditions, and covenants of this Lease. Two (2) copies of any and all security devices or instruments shall be filed with City's Airport Manager prior to the effective date thereof, and Lessee shall give Airport Manager prior written notice of any changes or amendments thereto.

Any bona-fide lender shall have the right, if so permitted by the terms and conditions of the concerned instrument of hypothecation between lender and Lessee, to remove any or all of Lessee's improvements under said hypothecation from the demised premises, subject only to the restriction that in the event of such removal, the demised premises herein above described be restored by Lessee to a condition satisfactory to the City's Airport Manager, and that said removal be done in a manner and at a time satisfactory with said Airport Manager.

27. Breach by Lessee: In the event of the breach by Lessee of any term, condition, or agreement herein contained, and the failure to cure such breach within thirty (30) days after written

notice has been given to Lessee by City, this Lease and all privileges herein granted shall be terminated and be of no other force or effect, and Lessee shall immediately surrender possession of the premises hereby granted, and in the event City has to resort to legal action to enforce any provision hereof, or to obtain restitution hereunder, the Lessee shall pay all costs and expenses, including attorney's fees of such action. Providing further, that in the event Lessee breaches this Lease and abandons the demised premises before the end of the term, or if Lessee's right to possession is terminated by City because of a breach of this Lease, City shall have the right to recover from Lessee, as provided in State of California Civil Code Section 1951.2. Damages City may recover shall include the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that the Lessee proves could be reasonably avoided. This clause shall not be construed to limit any right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

28. Waiver of Breach: The waiver by City of any breach by Lessee of any provision contained herein shall not be deemed to be a waiver of such provision, or a waiver of any breach of any other provision contained herein.

29. Bankruptcy: In the event the (a) Lessee shall file a voluntary petition in bankruptcy proceeding; (b) any voluntary or involuntary proceeding for the reorganization of Lessee shall be instituted by anyone other than the City under any of the provisions of the bankruptcy laws of the United States; or (c) a receiver or judicial trustee or custodian shall be appointed for Lessee, or any alien or any writ of attachment, garnishment, execution, or distraint shall be levied upon any of Lessee's rights or interest under this Lease; or (d) there shall be any other assignment of any of Lessee's rights or interest under this Lease by operation of law, then in addition to any and all other rights and remedies available to it, City may, at its option by written notice to Lessee, terminate this Lease and all rights and interest of Lessee and all other persons under this Lease. The term "Lessee," as used in this paragraph, includes any individual, partnership, or corporation who is a Lessee hereunder, even though several individuals, partnerships, or corporations are such, and includes each partner of any partnership who is a Lessee hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a consent to any

other different or subsequent sublease, assignment, transfer, mortgage, or conveyance.

30. Quiet Possession: Notwithstanding any other provision in this Lease, City covenants that Lessee, on paying the rent and performing the covenants herein contained, shall and may peaceably and quietly have and enjoy the demised premises for the term hereof.

31. Surrender of Premises: On the last day of said term, or extension thereof, or sooner termination of the Lease, Lessee will peaceably and quietly leave, surrender, and yield up to the City the demised premises in as good condition and repair as at the commencement of Lessee's occupancy, reasonable use and wear thereof, and damage by earthquake, public calamity, by the elements, by acts of God, or by fire or other circumstances over which Lessee has no control, excepted.

32. Removal of Improvement at Termination: Upon the termination of this Lease, or any holding over, for any reason other than Lessee's failure to perform its obligations under the terms and conditions of this Lease, Lessee shall have the right at Lessee's sole cost and expense, to remove all improvements and/or furniture, furnishings, equipment, and fixtures of whatsoever kind or nature placed on the demised premises by Lessee or its contractors so long as they could be removed without damage or disfigurement to the demised premises. Full restoration of the demised premises as it existed prior to the construction of said improvements or the installation of said furniture, furnishings, equipment, and fixtures shall be made by Lessee. If after the termination of this Lease Lessee has not removed said improvements, furniture, furnishings, equipment, and fixtures, the City shall have the option to claim the ownership thereof or to remove same and restore the demised premises as set forth above at the expense of Lessee. Said expense shall also include consideration for the additional time Lessee or its improvements occupy the premises beyond the termination date and disallow the City's total utilization of the premises pursuant to its ownership of the property.

In the event of a termination by City of this Lease because of Lessee's failure to faithfully perform the terms and conditions of this Lease, the City may accept cash or other satisfactory security for the amount of its costs, expense, loss and damage accruing from Lessee's failure to perform and thereupon the Lessee shall have the right to remove the said improvements.

33. Incorporation of Prior Agreements and Amendments: This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or

understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification.

34. Severability: The invalidity of any provision of this Lease as determined by a Court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

35. Construed Pursuant to California Law: The parties hereto agree that the provisions of this Lease will be construed pursuant to the laws of the State of California.

36. Venue: If either Lessee or City initiates an action to enforce the terms hereof or declare rights hereunder, including actions on any bonds and/or surety agreements, the parties agree that the venue thereof shall be the County of Tulare, State of California. Lessee hereby waives any rights he might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

37. Covenants and Conditions: Each provision of this Lease performable by Lessee shall be deemed both a covenant and a condition.

38. Captions: The use of Paragraph headings in this Lease is solely for convenience, and they shall be wholly disregarded in the construction of this Lease.


39. Time of Essence: Time is hereby expressly declared to be the essence of this Lease and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Lease.

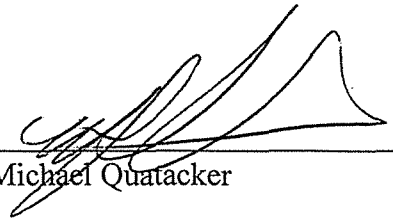
IN WITNESS WHEREOF, the parties hereto have executed this Lease on the day and year first herein above written.

CITY OF PORTERVILLE

LESSEE

By: _____
Cameron J. Hamilton, Mayor

By: 
Steven Huth

By: 
Michael Quatacker

ATTEST:

By: _____
John D. Lollis, City Clerk

APPROVED AS TO FORM:

By: _____
Julia Lew, City Attorney

SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT – THE ELEMENTAL AWARENESS FOUNDATION, GOLDEN STATE YMCA AND YMCA CAMP SEQUOIA LAKE – SKATE THE LAKE CONTEST – MAY 31, 2014

SOURCE: Finance Department

COMMENT: The Elemental Awareness Foundation and Golden State YMCA are requesting approval to hold a skateboard contest at the Skate Park on May 31, 2014 from 12:00 p.m. to 3:00 p.m. The Elemental Awareness Foundation conducts a series of skateboard contests each year. Winners of the competition receive a full scholarship to YMCA Camp Sequoia Lake.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the Application, Agreement and Exhibit A.

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from The Elemental Awareness Foundation, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit A of the Community Civic Event Application.

ATTACHMENT: Community Civic Event Application and Agreement, Map, Outside Amplifier Permit and Certificate of Liability Insurance.

D.D. MB Appropriated/Funded MB C.M. J

Item No. 14

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? ^{yes} E-mail address? ^{Eric@CampSequialake.org} Website? ^{SkateCamp.ORG}
Application date: 5-13-14 Event date: 5-31-14
Event time: 12:00 - 3:00 P.M.

Name of Event: Skate The Lake Contest (free contest)

Sponsoring organization: YMCA Camp Sequia Lake Phone # 739-7819

Address: 211 W. Tulare Ave Visalia Ca 93277

Authorized representative: Evan Gelsing Phone # 572-8408

Address: 211 W. Tulare Ave Visalia Ca 93277

Event chairperson: Eric Sanchez Phone # 786-5479

1700 W. Whitendale Visalia Ca 93277

Location of event Porterville Skate Park

(Location map must be attached)

Type of event: Free skate contest. Prizes include (3) week long scholarships to skate camp (\$3,000.00 Dollar Value)

Non-profit organization status: YMCA - 94-14-59198

(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): 0 Street sweeping Yes No ✓

Police protection Yes No ✓ Refuse pickup Yes No ✓

Other:

Parks facility application required: Yes No Attached ✓

Assembly permit required: Yes No Attached

STAFF COMMENTS (list special requirements or conditions for event):

<u>Appr.</u>	<u>Deny</u>		
<u> </u>	<u> </u>	Bus. Lic. Spvr:	<u> </u>
<u> </u>	<u> </u>	Pub. Works Dir	<u> </u>
<u> </u>	<u> </u>	Comm. Dev. Dir.	<u> </u>
<u> </u>	<u> </u>	Field Svcs. Mgr.	<u> </u>
<u> </u>	<u> </u>	Fire Chief	<u> </u>
<u> </u>	<u> </u>	Parks Dir.	<u> </u>
<u> </u>	<u> </u>	Police Chief	<u> </u>
<u> </u>	<u> </u>	Admin. Svcs. Dir.	<u> </u>

CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted **NO LESS THAN 30 DAYS PRIOR** to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.


Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

 Authorized Representative Initials

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include **full liquor liability** in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**

 Authorized Representative Initials


Health permit: Organization/Applicant will **obtain or ensure** that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

 Authorized Representative Initials

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

 Authorized Representative Initials

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

YMCA Sequoia Lake <small>(Name of Organization)</small>	 <small>(Signature)</small>	5-13-14 <small>(Date)</small>
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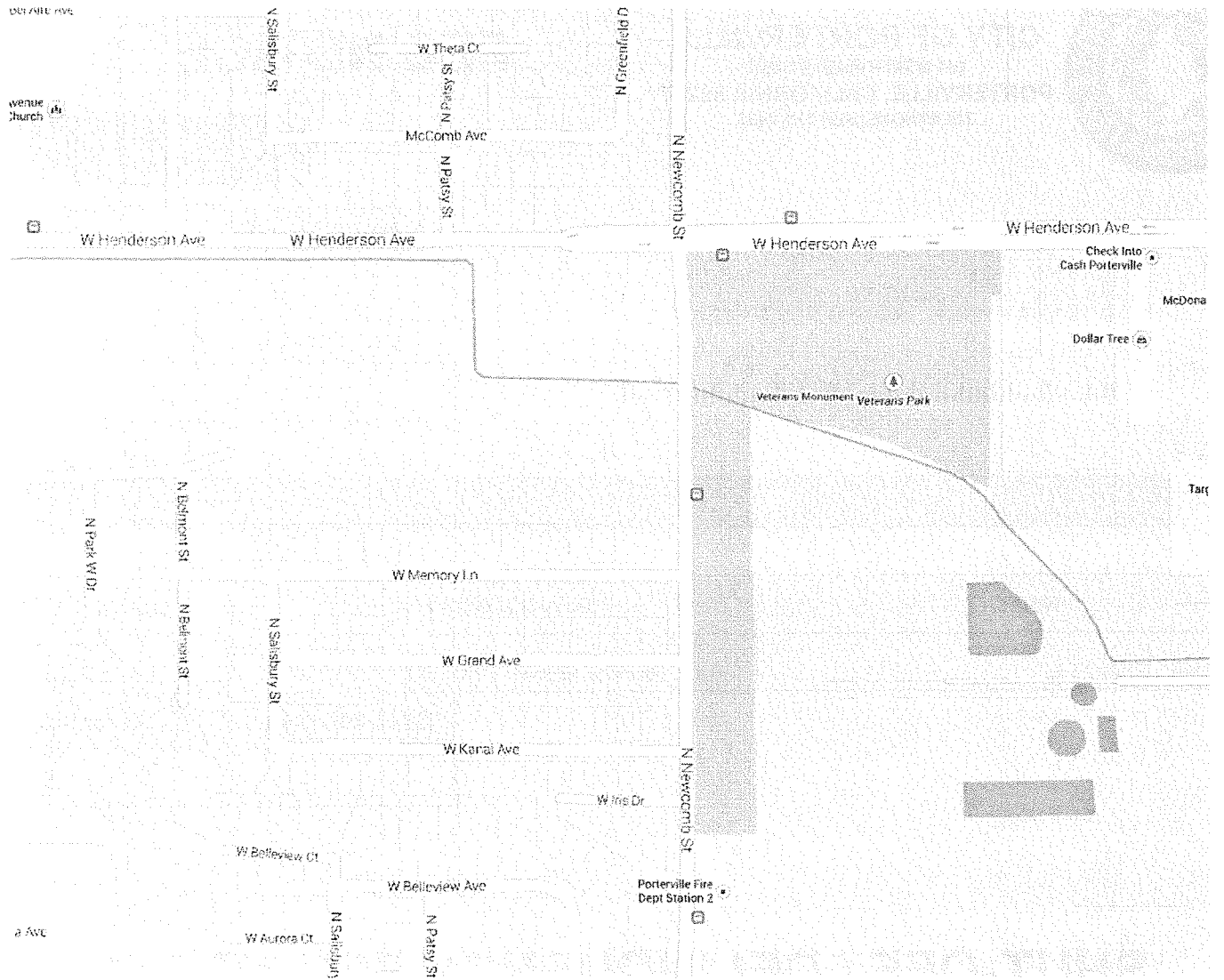
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Elemental Awareness Foundation and Golden State YMCA
Event: Skate the Lake Contest
Event Chairman: Eric Sanchez
Location: Skate Park
Date of Event: May 31, 2014
Time of Event: 12:00 p.m. to 3:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Elemental Awareness Foundation provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as "Additional Insured" against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.

- A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A:VII, and the insurance company must be an "admitted" insurer in the State of California.



CITY OF PORTERVILLE OUTSIDE AMPLIFIER PERMIT (City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: 1700 W. Whitendale Visalia Ca
93277 - Eric Sanchez
- 2 Address where amplification equipment is to be used: Skate Park
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Eric Sanchez
1700 W. Whitendale Visalia Ca 93277
- 4 Type of event for which amplification equipment will be used: Skate contest - Announcing
- 5 Dates and hours of operation of amplification equipment: 5-31-14 12:00 - 3:00 P.M.
- 6 A general description of the sound amplifying equipment to be used: 600 watt amp, two speakers
1 microphone

Section 18-9 It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100) from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 8311)

Section 18-14 It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 8312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

[Signature]
Signature of Applicant

5-13-14
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

[Signature]
City of Porterville, Chief of Police/Designee

5-14-13
Date

SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT – CENTRAL VALLEY FAMILY CRISIS CENTER - MUD RUN – JUNE 7, 2014

SOURCE: Finance Department

COMMENT: The Central Valley Family Crisis Center is requesting approval to hold a Mud Run event, from 7:00 a.m. until 2:00 p.m., on Saturday, June 7, 2014 at the Off Highway Vehicle Park at 2701 W. Scranton Avenue. This fundraising event will be a one mile course through many different types of obstacles for participants of all ages and skill levels. No street or sidewalk closures have been requested.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the Application, Agreement, Exhibit A and Exhibit B.

RECOMMENDATION: That the Council approve the attached Community Civic Event Application and Agreement submitted by the Central Valley Family Crisis Center, subject to the stated requirements contained in Exhibit A.

ATTACHMENT: Community Civic Event Application, Agreement, Exhibit A, Exhibit B, Map, Outside Amplifier Permit and Insurance Certificate.

DD MB

Appropriated/Funded MB

CM JA
ACTING

Item No. 15

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?
Application date: 5-5-14 Event date: 6-7-14
Event time: 7am - 2pm
Name of Event: Family Crisis Center Mud Run

Sponsoring organization: Family Crisis Center Phone # 781-7462
Address: 770 N. Main Street Porterville, CA 93257
Authorized representative: Stephanie Carter Phone # 784-8324
Address: 244 W. Olive Ave
Event chairperson: Stephanie Carter Phone # 784-8324

Location of event 2701 W Scranton Ave Porterville, CA 93257 (OHV Park)
(Location map must be attached)

Type of event: Mud Run, Race on foot through muddy obstacles.

Non-profit organization status: 501(c)(3) BL# 4815
(IRS Determination)

City services requested (fees associated with these services will be billed separately):
Barricades (quantity): X Street sweeping Yes No X
Police protection Yes No X Refuse pickup Yes No X
Other:

Parks facility application required: Yes X No Attached
Assembly permit required: Yes No X Attached

STAFF COMMENTS (list special requirements or conditions for event):

Appr.	Deny	
_____	_____	Bus. Lic. Spvr: _____
_____	_____	Pub. Works Dir _____
_____	_____	Comm. Dev. Dir. _____
_____	_____	Field Svcs. Mgr. _____
_____	_____	Fire Chief _____
_____	_____	Parks Dir. _____
_____	_____	Police Chief _____
_____	_____	Admin. Svcs. Dir. _____

CITY OF PORTERVILLE


APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?


A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted **NO LESS THAN 30 DAYS PRIOR** to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.


Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

 Authorized Representative Initials


Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include **full liquor liability** in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**

 Authorized Representative Initials

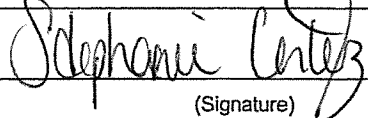
Health permit: Organization/Applicant **will obtain or ensure** that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

 Authorized Representative Initials

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

 Authorized Representative Initials

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

Family Crisis Center		5/16/14
(Name of Organization)	(Signature)	(Date)

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Family Crisis Center Mud Run

Sponsoring organization: Family Crisis Center

Event date: June 7, 2014 Hours: 7am - 2pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed No Street Closures

<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Sidewalks</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Parking lots and spaces</u>	<u>Location</u>		<u>Activity</u>

REQUIREMENTS FOR COMMUNITY CIVIC EVENT

CENTRAL VALLEY FAMILY CRISIS CENTER

MUD RUN

JUNE 7, 2014

Finance Director:

M. Bemis

Public Works Director:

B. Rodriguez

Community Development Manager:

J. Phillips

Field Services Manager:

B. Styles

No comments.

Fire Chief:

G. Irish

No comment.

Parks and Leisure Services Director:

D. Moore

Facility reservation and payment handled at the Heritage Center. Remove all trash and obstacles after the race in a timely manner. Advanced coordination required with Parks Division regarding race area preparation.

Police Lieutenant:

D. Haynes

Please see conditions/requirements in Exhibit B.

Administrative Services Director:

P. Hildreth

Risk Management requires all participants to sign a Liability Waiver form. If event allows minors to participate, then the minor's guardian must sign a waiver of liability specifically for the minor.

REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Central Valley Family Crisis Center
Event: Mud Run
Event Chairman: Stephanie Cortez
Location: OHV Park
Date of Event: June 7, 2014

RISK MANAGEMENT: Conditions of Approval

That the Central Valley Family Crisis Center, provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event

- A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an "admitted" insurer in the State of California.

PORTERVILLE POLICE DEPARTMENT
Conditions/Requirements for Special Event

Family Crisis Center Mud Run, 2014
2701 W. Scranton – Sports Complex
June 7, 2014

- ▶ Aid stations and check points must be out of the roadway and not in a position to interfere with traffic.
- ▶ Staff at aid stations and check points should have a means of communication by which they may summon assistance in the event of an emergency.
- ▶ Event staff on the race route should wear highly visible attire.
- ▶ Participants should be directed to stay to the side of the roadway and not disrupt the normal flow of traffic.
- ▶ Event organizers should contact the Police Dept. (Special Events Coordinator) to obtain police support and/or assistance, with the goal of ensuring a safe event. Please contact Sergeant Rick Carrillo at 782-7408 if you have any questions or require further assistance.

Dan Haynes, Captain
Porterville Police Department

EXHIBIT B

CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: Stephanie Cortez 244 West Olive Ave
Porterville CA 93257
- 2 Address where amplification equipment is to be used: 2701 W. Scranton Ave
- 3 Names and addresses of all persons who will use or operate the amplification equipment: _____
- 4 Type of event for which amplification equipment will be used: Mus. Run
- 5 Dates and hours of operation of amplification equipment: 7am - 2pm
- 6 A general description of the sound amplifying equipment to be used: DS equipment of PA system

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2)

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Stephanie Cortez
Signature of Applicant

5/6/14
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

[Signature]
City of Porterville, Chief of Police/Designee

5-13-14
Date



CERTIFICATE OF LIABILITY INSURANCE

CENTR-1

OP ID: XA

DATE (MM/DD/YYYY)

04/23/14

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER DLL Insurance Agency II 5088 N. Fruit Ave. #101 Fresno, CA 93711 Greg Anderson	559-451-3411	CONTACT NAME: Rebecca Bejarano	
	559-451-3415	PHONE (A/C, No, Ext): 559-451-3411	FAX (A/C, No): 559-451-3415
		E-MAIL ADDRESS: rbejarano@dllinsurance.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Nonprofits' Insurance Alliance	
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED
 Central California Family
 Crisis Center
 770 Main Street
 Porterville, CA 93257

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

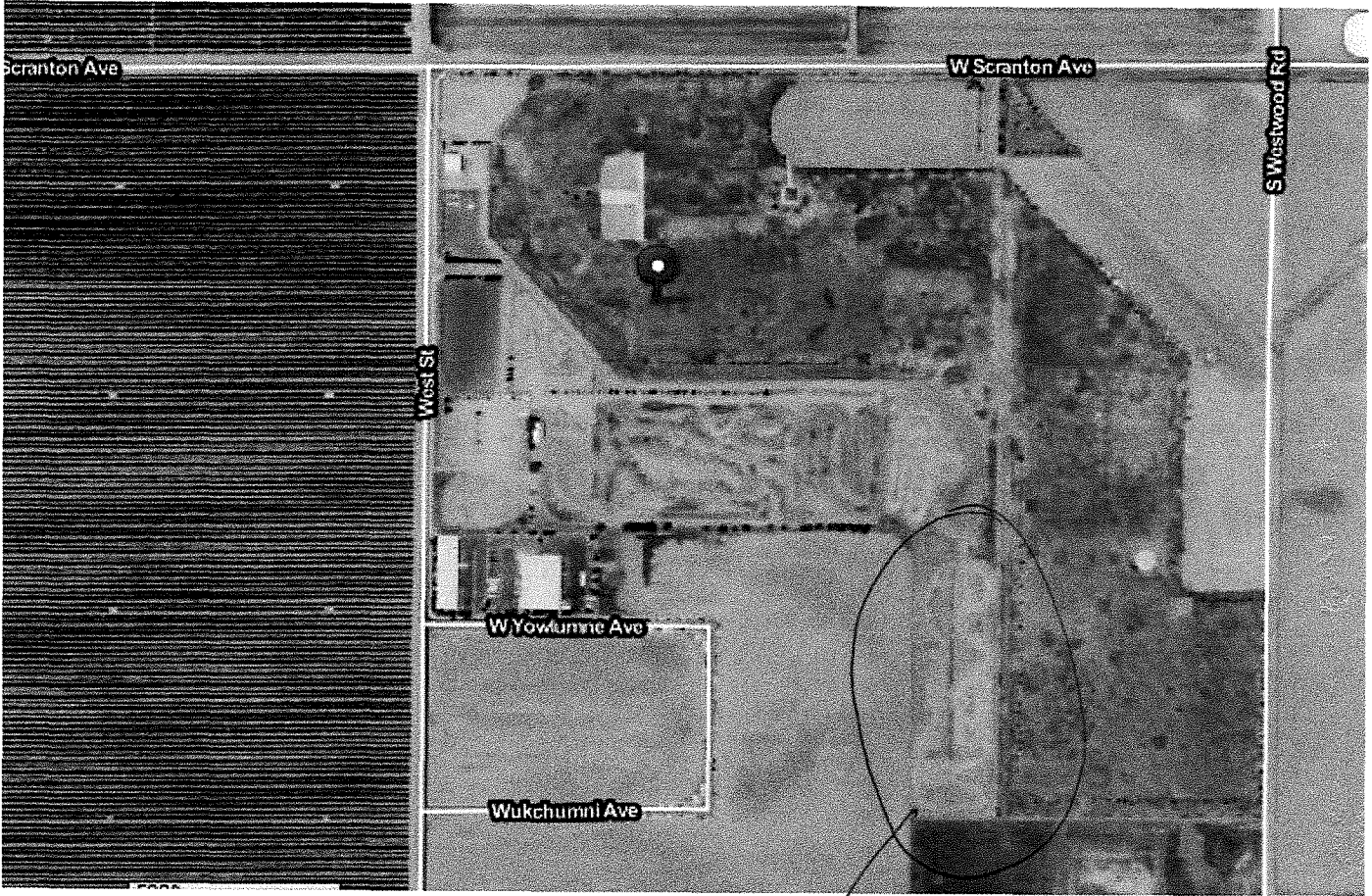
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY	X	201400631NPO	01/01/14	01/01/15	EACH OCCURRENCE \$ 1,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB					EACH OCCURRENCE \$
	EXCESS LIAB					AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY					WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Notice of Cancellation is 30 days except in the event of cancellation for non-payment or premium which is 10 days. RE: Mud Run at the Sports Complex, Porterville, CA June 7, 2014. The City of Porterville & the Successor Agency to the Porterville Redevelopment Agency is named as Additional Insured.

CERTIFICATE HOLDER	CANCELLATION
CITYPOR	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
The City of Porterville; Successor Agency to the Porterville Redevelopment Agen 291 N. Main Street Porterville, CA 93257	AUTHORIZED REPRESENTATIVE

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Mud
Run
Site



**Nonprofits' Insurance
Alliance of California**
A HEAD FOR INSURANCE . . . A HEART FOR NON-PROFITS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of this policy, in consideration of food contributions or client referrals you receive from them.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.

COUNCIL AGENDA – MAY 20, 2014

SUBJECT: AMENDMENT TO EMPLOYEE PAY AND BENEFIT PLAN –
PORTERVILLE CITY EMPLOYEES ASSOCIATION

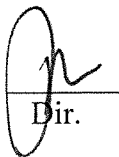
SOURCE: ADMINISTRATIVE SERVICES/ HUMAN RESOURCES

COMMENT: The City and Porterville City Employees Association (PCEA) previously entered into a Memorandum of Understanding (MOU) covering the period between July 1, 2011 and June 30, 2014. The MOU was amended on January 15, 2014 providing PCEA with a one percent (1%) salary increase and the right to re-open negotiations no later than April 1, 2014 to discuss an additional one percent (1%) salary increase. PCEA exercised its right to re-open and the City and PCEA have met and conferred, and reached an agreement on modifications to the existing MOU.

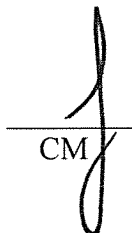
City Council acceptance and approval of a Memorandum of Understanding is most commonly demonstrated by Council authorization, via resolution, to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the Memorandum of Understanding.

RECOMMENDATION: That the City Council approve the attached draft resolution amending the Employee Pay and Benefit Plan for all PCEA employees.

Attachment: Draft Resolution


Dir.


Approp./
Funded


CM

Item No. 116

RESOLUTION NO. _____-2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN

WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City's affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of keeping provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, the Porterville City Employees Association ("PCEA") has utilized its right to re-open negotiations with the City of Porterville pertaining to an additional one percent (1%) salary increase; and

WHEREAS, the City and PCEA have met and conferred and reached concurrence on modifications to the existing Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan, for employees holding positions represented by the aforementioned recognized employee organization, is hereby amended as follows:

I. SALARIES

Effective July 1, 2014, PCEA employees shall receive a one percent (1%) salary increase in addition to the one percent (1%) salary increase received on January 1, 2014.

II. CONTINUING BENEFITS

All other terms and conditions of the July 1, 2011 to June 30, 2014 Memorandum of Understanding shall remain in full force and effect.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED, AND ADOPTED this _____ day of May, 2014.

Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS – DECEMBER 26, 2013

SOURCE: Administration

COMMENT: In its adoption of the Resolution of Local Emergency on December 26, 2013, the City Council declared the existence of a local emergency as a result of a significant fire event that occurred at the Porterville Hotel (14 N. Main Street) during the early morning hours of December 26, 2013, and found that the remaining damaged structure posed a serious threat to the health, safety and welfare of the public and as such required immediate safety mitigation of the structure. In accordance with the Resolution and per the Council's authorization, a Contractor (Bowen Engineering & Environmental) was secured to perform the emergency demolition of the burned structure sufficient to mitigate the immediate threat to public safety.

Due to the damaged structure's proximity to public right-of-way, the adjacent roadways and intersection of Main Street and Olive Avenue were closed to the public. With the demolition and mitigation of the threat to public safety, the intersection and roadways were opened to the public by approximately 6:00 PM on December 26, 2013. City staff continued its coordination with the San Joaquin Valley Air Pollution Control District and the Contractor on additional mitigation measures to protect the safety of the public, and minor additional demolition work subsequently occurred in an effort to open affected pedestrian walkways.

The property owner has continued his coordination with his insurance company toward the removal of the existing debris, as well paying the costs of mitigation from December 26, 2013. The property owner solicited bids from qualified contractors, with his selection of local firm Valley Cleaning & Restoration, Inc. (VCR) as the lowest bidding contractor. VCR began the debris removal on Monday, May 5, 2014, and is expected to last for approximately two weeks.

RECOMMENDATION: That the Council receive the status report and review of the designated local emergency.

ATTACHMENT: Resolution No. 85-2013


Dr


App/Fund


CM

Item No. 17

RESOLUTION NO. 85-2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
DECLARING THE EXISTENCE OF A LOCAL EMERGENCY

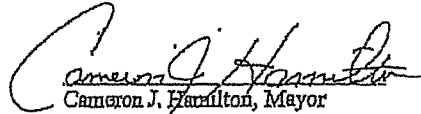
WHEREAS, the Porterville Hotel, 14 North Main Street, sustained major damage in a fire that occurred in the early morning hours of December 26, 2013; and

WHEREAS, the remaining structure poses a serious threat to the health, safety and welfare of the public due to the remaining damaged structure's proximity to public right-of-way at a major City Intersection and as such requires immediate demolition to remove that threat; and

WHEREAS, the City Council has found that the aforementioned conditions of extreme peril warrant and necessitate the proclamation of a local emergency so as to take immediate actions to remove said threat.

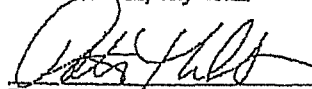
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville does hereby declare the existence of a local emergency as a result of a significant fire that occurred at the Porterville Hotel, 14 North Main Street, during the early morning hours of December 26, 2013, and that the remaining damaged structure poses a serious threat to the health, safety and welfare of the public and as such requires immediate safety mitigation of the structure, which includes demolition of the remaining standing structure, potential removal of asbestos, and fencing of site to secure the property.

PASSED, APPROVED AND ADOPTED this 26th day of December, 2013.


Cameron J. Hamilton, Mayor

ATTEST:

John D. Lellis, City Clerk



By: Patrice Hildreth, Chief Deputy City Clerk

SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS – DECEMBER 21, 2010

SOURCE: Administration

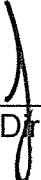
COMMENT: In accordance with the City Council's Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8630 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination whether to continue or terminate the local emergency declaration.

Since its last review on May 6, 2014, City staff has continued its coordination with both State and Federal representatives in having made claims for reimbursement for public areas reported as suffering flood damage. An estimated total of \$361,750 in damage repair projects were defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, which after final FEMA administrative review, a total of approximately \$270,000 was approved. Although all repair projects were originally to be completed by no later than July 2012, the City received a one (1)-year extension to July 2013.


At its meeting on October 16, 2012, the Council awarded a contract in the amount of \$95,391.71 to Greg Bartlett Construction (Porterville), beginning CEMA repairs to Plano Street (south of Thurman Avenue), El Granito Street (near Zalud Park), E. Grand Avenue (at Henrahan Street), and W. Grand Avenue (at Hawaii Street). At its meeting on December 18, 2012, the Council accepted the completion of these identified CEMA repairs, including \$90,295.53 in final construction costs.

At its meeting on March 5, 2013, the Council awarded a contract in the amount of \$29,997.25, also to Greg Bartlett Construction (Porterville), for CEMA repairs of West Street and related storm drain improvements between Scranton and Tea Pot Dome Avenues. At its meeting on May 7, 2013, the Council accepted the completion of these identified CEMA repairs, including \$19,392.25 in final construction costs.

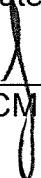
At its meeting on April 2, 2013, the Council awarded a contract in the amount of \$138,350 to Intermountain Slurry Seal, Inc. (Reno, Nevada), for the CEMA repair of Henderson Avenue between Patsy and Balmoral Streets. At its meeting on August 6, 2013, the Council accepted the completion of the identified CEMA repairs, which staff continues to work with the State to finalize repair reimbursements.



DJ



App/Fund



CM

Item No. 18

RECOMMENDATION:

That the Council:

1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of Article 14, Section 8630 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

ATTACHMENT: None

COUNCIL AGENDA: May 20, 2014

SUBJECT: COUNCIL MEMBER REQUESTED AGENDA ITEM – Request for the City Council to Consider Establishing Domestic Water Filling Stations

SOURCE: City Manager

COMMENT: Council Member Shelton has requested that the City Council consider establishing domestic water filling stations in the community.

RECOMMENDATION: Council Member Shelton makes the motion that the City Council authorize a Scheduled Matter on the next Council Agenda to consider establishing domestic water filling stations in the community.

ATTACHMENT: None

C/M 

Item No. 19

SUBJECT: PROPOSED DRAFT REVISIONS TO CITY ANIMAL CONTROL ORDINANCE

SOURCE: Administration


COMMENT

This item was presented to the City Council for consideration during the May 6, 2014, Council Meeting. Department staff were directed to obtain additional historical information related to rabies control and vaccination efforts required by local jurisdictions. Attached for consideration are memorandums outlining State Mandated requirements, historical dog bite data, and licensing efforts to assist in support of the adoption of the revised Animal Control Ordinance.


The Animal Control Unit of the City of Porterville Police Department has been providing animal control services for the city of Porterville since January 1, 2009. Prior to that date, animal control and sheltering services were contracted with the City of Lindsay.

Since its inception, the Animal Control Unit has grown to employ four full-time employees, one part-time employee, operates three animal control trucks, several support vehicles, maintains a temporary sheltering facility at the City of Porterville Corporation Yard and the recently purchased animal shelter facility near the city of Lindsay. A new animal shelter facility is planned to be built in the city of Porterville this next year. Personnel currently address approximately 500 animal-related incidents per month. In addition to enforcing animal control laws, personnel provide other services such as care and boarding of impounded animals, dog licensing, adoptions, hearings, inspections, etc.

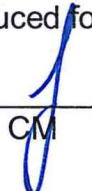
The City has not updated its Animal Control Ordinance since 2007, and yet, since that time, has assumed animal control responsibilities in 2009, recently purchased the animal shelter facility near the city of Lindsay, and plans to build a new animal shelter facility in Porterville this next year. Given these facts, it was determined the Animal Control Ordinance for the City of Porterville was inadequate and in need of update to support the control and enforcement efforts necessary to ensure the citizens of Porterville continue to receive the quality, efficient, and effective animal control services they expect to receive. Personnel from several City Departments were called upon for input, and the draft of proposed revisions to the current Animal Control Ordinance has been produced for the City Council's review, consideration and direction.



Dir



App/Fund



CM

Item No. 20

The draft of the proposed Ordinance includes current Ordinance verbiage (black), newly-proposed verbiage (blue), and recommendations of the City Attorney (red). The proposed Ordinance is in an extremely preliminary form and is extensive and substantial in detail, which the list provided below attempts to summarize by subject:

- Description/Definition of Certain Animals
- Mandatory Spay/Neuter Requirements
- Term of Dog Licenses – Single Calendar Year
- Exemptions for Service or Assistance Animals
- Leash Requirements
- Keeping of Animals
- Annexations/Compliance/Transition Period
- Public Nuisance
- Nuisance/Inspection
- Prohibitions re Killing/Slaughtering Animals
- Authority to Develop Rules and Regulations for Dog Parks
- Implementation of Administrative Citation Process
- Establishment of a Revised Fee Schedule

Staff has also provided sample regulations regarding animal care and control requirements, which include but are not limited to regulations covering hydration, feeding/nutrition, housing, veterinary, and exercise requirements. Additionally, many communities have adopted regulations addressing urban farming, and information from the American Planning Association is also attached.

RECOMMENDATION: That the City Council consider the proposed draft revisions to the City's Animal Control Ordinance, and provide direction to staff as appropriate.

ATTACHMENTS:

- 1) Draft Ordinance with Changes
- 2) Ordinance 1726 with Markings Including Changes
- 3) American Humane Association: Spaying/Neutering
- 4) Sample Regulations Regarding Animal Care and Control
- 5) Urban Farming Regulations – American Planning Association
- 6) Police Department Memorandum 14-221-attachments
- 7) Police Department Memorandum 14-237

[NOTE – SECTION NUMBERING AND REFERENCES IN THE DRAFT HAVE NOT BEEN VERIFIED AND MAY BE INCORRECT UNTIL FINALIZED]

WHEREAS, the City desires to adopt comprehensive modifications to the regulations pertaining to animal control within the City; and

WHEREAS, in adopting this ordinance the City Council desires to clarify the requirements, violations, and remedies regarding the control of animals within the City limits;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN, AS FOLLOWS:

SECTION 1: Chapter 5, Sections 5-1 through 5-4.6, of the Porterville Municipal Code is repealed in its entirety and replaced with the following:

**Chapter 5
ANIMAL CONTROL**

**Article I
General Provisions**

Sections:

- 5-1.0 Definitions**
- 5-1.1 Shelter Supervisor**
- 5-1.2 Records**
- 5-1.3 Animal Shelter**
- 5-1.4 Impounding / *Collection of Animals***
- 5-1.5 Right to Enter Premises**
- 5-1.6 Interference with Duties**

5-1.0 DEFINITIONS.

- (a) The term "owner," or "handler" as used in this Chapter, means any person, firm or corporation owning, harboring, having an interest in, or having control, custody or possession of an animal. In the case of an animal, which is owned by a minor, the parent or guardian of the minor shall constitute the "owner" of such animal for the purposes of this Chapter.
- (b) The term "at large," *as used in this Chapter, means any animal that is off the premises of its owner and not under restraint by leash or chain, or which is wandering or running freely on public property or property belonging to a person not the owner or person in control of the animal and without supervision, accompaniment and adequate restraint.*

- (c) The term "dangerous animal," as used in this Chapter, means a dog or other animal which has attacked, bitten or injured any human being or other animal without reasonable provocation, or which has been so declared pursuant to this Chapter, or under the facts and circumstances has acted in a threatening manner towards any human being *or other animal* or *has* displayed characteristics of being trained for fighting, or there is other evidence to show such training or fighting.
- (d) The term "attack," as used in this Chapter means any unprovoked aggressive behavior toward a person or animal. Aggressive behavior in defense of property or territory of the owner shall constitute an attack unless the dog or other animal is securely contained within an enclosure sufficient to prevent physical contact with a person or animal outside such enclosure.
- (e) The term "field officer" as used in this Chapter shall mean *any officer of the police department. [Note – do we want to define "field officer" more broadly to include other individuals designated by the City?]*
- (f) *The term "competition dog" as used in this Chapter shall mean any animal which is used to show, to compete, or to breed which is of a breed recognized by the American Kennel Club, United Kennel Club, or American Dog Breeders Association and meets the following requirements:*
 - (1) *The dog has competed in at least one (1) dog show or sporting competition sanctioned by the national registry or approved by the department within the last 365 days.*
 - (2) *The dog has earned a confirmation, obedience, agility, carting, herding, protection, rally, sporting, working, or other title from a purebred dog registry or dog sport association.*
 - (3) *The owner or custodian of the dog is a member of a purebred dog breed club, approved by the department, which maintains and enforces a code of ethics for dog breeding that includes restrictions from breeding dogs with genetic defects and life threatening health problems that commonly threaten the breed.*
- (g) *The term "competition cat" as used in this Chapter shall mean any show cat (also known as a purebred cat or pedigreed cat) that is recognized by the Cat Fanciers' Association and/or The International Cat Association and meets the following requirements:*

- (1) The owner or custodian of the dog is a member of a purebred cat breed club, approved by the department that encourages its members to be owners and breeders of cats who work together to promote the preservation of pedigreed cats and the health and welfare of domestic cats.
- (2) maintains a certified pedigree registry.
- (3) Have participated in a cat show in the last 365 days, which promotes both pedigreed and non-pedigreed cats.
- (4) The owner or custodian of the cat is a member of a purebred cat breed club, approved by the department, which maintains and enforces a code of ethics for cat breeding that includes restrictions from breeding cats with genetic defects and life threatening health problems that commonly threaten the breed.

(h) The term "service animal," as used in this Chapter, means any animal which shall include but not be limited to assistance dogs, guide dogs, signal dogs, police dogs, search and rescue animals, or other service animals as defined by applicable State or Federal law, or being trained for such use. *[Note – include definition for "therapy animals?"]*

(i) The term "altered animal," as used in this Chapter, means any animal that has been surgically altered (spayed/neutered) or by means of written proof from a licensed veterinarian that the animal does not possess the capability of reproduction.

(j) The term "unaltered animal," as used in this Chapter, means any animal capable of reproduction.

5-1.1 SHELTER SUPERVISOR ANIMAL CONTROL UNIT. Supervision of the Animal Control Unit shall be any supervisor of the police department at the direction of the Chief of Police and / or his designee. The Police Department shall carry out the duties of Animal Control.

(a) Any police department employee *[consider broadening this to potentially include other city employees]* acting in the capacity of animal control duties shall have the following powers:

1. To enforce the provisions of this chapter and state laws relating to the care, treatment, impounding and destruction of animals. These provisions will also

encompass the adoption of animals and / or safe return of animals to their rightful owner.

2. The Chief of Police may formulate rules and regulations in conformity with and for the purposes of carrying out this chapter.

(b) The Chief of Police or his designee shall have authority to determine whether any animal has engaged in the behaviors or exhibits any of the characteristics of a dangerous animal.

5-1.2 RECORDS. The Shelter Supervisor police department shall keep a record of every animal impounded pursuant to this Chapter which shall include a description of the animal, the date of receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees, charges and proceeds of sales received on account of said animal, and any additional records as may be required. ~~by the City Council from time to time.~~

5-1.3 ANIMAL SHELTER. There shall be provided by the *police department* a suitable building, or enclosure, *or other support facility* to keep and safely hold all animals to be impounded pursuant to the provisions of this Chapter, and said building or enclosure shall be known and designated as the "Shelter."

5-1.4 IMPOUNDING / COLLECTION OF ANIMALS. The *police department may pick* up, impound and safely keep any *animal* that is found running at large contrary to the provisions of this Chapter within the incorporated territory of the City.

5-1.5 RIGHT TO ENTER PREMISES. *Any police department employees performing animal control duties* shall be authorized to enter upon any premises for the purpose of enforcing the provisions of this Chapter.

5-1.6 INTERFERENCE WITH DUTIES. It shall be unlawful for any person to interfere with *police department employees engaged in the performance of animal control duties.*

Article II

Dogs / *Licensable Animals*

Sections:

- 5-2.1 License Required
- 5-2.2 Issuance of License and Tag
- 5-2.3 Time Limits
- 5-2.4 Vaccination Certificate Required
- 5-2.5 Term of License
- 5-2.6 License Fees: *Unaltered*

5-2.7	License Fees: <i>Altered</i>
5-2.8	Exemption: Service or Assistance Dog
5-2.9	Delinquent Penalties
5-2.10	Extension of Time: Dogs too Ill to be Vaccinated
5-2.11	Replacing Lost or Stolen Tags
5-2.12	License Transferable
5-2.13	Affixing Dog Tag
5-2.14	Impounding Dogs without Tags
5-2.15	Impounding Biting or Attacking Animals
5-2.16	Notice to Owner of Licensed Dog or Other Animal
5-2.17	Redemption of Impounded Dogs or Other Animals
5-2.18	Fees for Impounding and Keeping Dogs and Other Animals
5-2.19	Sale and Destruction of Impounded Dogs and Other Animals Wearing Tags
5-2.21	Sale of Impounded Dogs
5-2.22	Licensing Impounded Dogs
5-2.23	Removal of Tag
5-2.24	Display of Tag
5-2.25	Keeping Dangerous Dogs or Other Animals
5-2.26	Interference with Highways
5-2.27	Permitting Dogs to Run At Large
5-2.28	Barking Dogs
5-2.29	Hearing to Determine if Animal is Dangerous
5-2.30	Hearing: Conduct
5-2.31	Hearing: Decision
5-2.32	Disposition of Dangerous Animal
5-2.33	Dog or Other Animal Declared Not Dangerous

5-2.1 LICENSE REQUIRED. Every owner of a dog *or licensable animal*, within the City, shall secure a license from *a* Police Department *facility* for each dog or *licensable animal* within the time limits set forth in this Chapter. It shall be unlawful for any owner to fail to secure said license in accordance with the provisions of this Chapter. A license need not be secured for a dog *or licensable animal* which is brought into the City *by its visiting owner* or for the purpose of being entered in a show or exhibition, provided that *the owner* of such *animal provides proof of current license and/or current rabies vaccination from the jurisdiction of origin, and the animal is removed from the city limits no more than (30) days after entry.*

5-2.2 MANDATORY SPAY / NEUTER REQUIREMENT. *It has been shown that mandatory spaying / neutering has been effective in reducing the population of animals in the city. By requiring mandatory spaying/neutering, the police department is working to reduce the number of euthanizations conducted in the City of Porterville each year necessary to maintain a manageable animal population. Spaying/neutering has been shown to be effective in reducing animals*

running at large and also reduces aggressive behavior in animals. As an additional benefit, this requirement will cut costs to the community in managing the pet population.

- (a) **Requirement for Altered Animals:** No person may keep, own or harbor an unaltered dog or cat over four (4) months of age within the city limits, unless an unaltered license has been properly obtained. An owner or custodian of an unaltered dog or cat must have the animal spayed or neutered or obtain an unaltered license in accordance with the exceptions to the spay/neuter requirements as described in section (b) "Unaltered Animals."
- (b) **Unaltered Animal License:** An owner or custodian of an unaltered dog or cat over the age of four (4) months must obtain an annual unaltered animal license. The license shall be issued if the department has determined that all of the following conditions have been met:
 - (1) The dog or cat qualifies as an exempt animal as described in section 3.
 - (2) The owner or custodian has submitted the required application for the license and the applicable fees for the license have been paid in accordance with the fee schedule as set by Resolution of the City Council.
 - (3) The following may[??] be exempt animals from the spay/neuter requirements:
 - (a) An animal unable to be spayed/neutered without a high likelihood of suffering serious bodily harm or death due to age or infirmity, which is confirmed in writing from a licensed veterinarian.
 - (b) A competition animal as defined in this Chapter.
 - (c) A service animal which shall include but not be limited to assistance dogs, guide dogs, signal dogs, police dogs, search and rescue animals, or other service animals as defined by applicable State or Federal law, or being trained for such use.
 - (d) An animal associated with a licensed kennel within the city for breeding purposes.

5-2.2 ISSUANCE OF LICENSE AND TAG. Application for a license required by this Chapter shall be filed with the *Police Department*. Upon payment of the required fee and upon compliance with the other requirements of this Chapter, a license shall be issued. The application shall contain a description of the animal including the age, sex, color and breed of the animal, and the name and address of the owner. The license shall contain a serial number, and such other information as the *police department* may determine. The *police department* shall keep a copy of the application on file. With each license issued, the *police department* shall also issue a tag that shall bear the words "City of Porterville," the serial number on the animal license. The tag shall be securely worn by the animal for which the license was issued.

5-2.3 TIME LIMITS.

- (a) An owner of a dog or *licensable animal* shall secure a license for *the animal* within thirty (30) days after ~~she~~ *he/she* acquires ownership of the dog. However, if a dog *or licensable animal* is less than four (4) months of age when the owner acquires it, the owner shall secure a license for the *animal* within ten (10) days after the *animal* becomes four (4) months of age.
- (b) Any person who enters the City and *resides* ~~dwells~~ in the City for a period of thirty (30) days or more, and who has brought a dog *or licensable animal* with him/*her* from outside the City, shall secure a license for the *animal* within thirty (30) days after the person first enters the City.

5-2.4 VACCINATION CERTIFICATE REQUIRED.

- (a) A license for *an animal* shall not be issued unless the owner of the *animal* presents a certificate signed by a veterinarian or other professional as authorized pursuant to applicable State law showing that said *animal* has been vaccinated against rabies. *The certificate shall* indicate that the period of time elapsing from the date of the vaccination to the date of expiration of the license does not exceed *thirty six (36)* months in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.
- (b) Every duly licensed veterinarian or other authorized professional, after vaccinating any dog owned by a resident of the City of Porterville, shall sign a certificate containing the following information pursuant to *1920 of the Health and Safety Code*:
 - (1) The type of vaccination used.
 - (2) The date of the vaccination.
 - (3) The breed, age, color and sex of the vaccinated dog.
 - (4) The serial number of the vaccination tag issued.
 - (5) The name and address of the owner of the dog.

The veterinarian or other authorized professional shall immediately present the original vaccination certificate to the owner of the dog, and shall deliver the duplicate copy to the *police department*. The veterinarian or other authorized professional shall keep a copy.

5-2.5 TERM OF LICENSE. Dog *Animal* licenses shall be issued *on an annual basis, commencing from January 1st of the current year to December 31st of the current year. Any first time issued license for an animal in the City will receive a prorated rate per month for the current year and will pay the fees in advance for the following year.*

Commencing on the 1st day of January each year, the police department shall collect a delinquent penalty, in addition to the regular license fee, before issuing any license. The delinquent penalty shall be in an amount equal to the regular license fee as set forth in the fee schedule.

5-2.6 LICENSE FEES- UNALTERED:

(a) This section applies only to *licensable animals*, which have not been spayed or neutered, and to *animals* which are *capable of reproduction*. The license fee for each dog / *licensable animal* shall be established by a *Resolution of the City Council* as adopted *in a fee schedule*.

5-2.7 LICENSE FEES – ALTERED:

(a) This section applies only to *licensable animals* which have been spayed or neutered. A certificate from a licensed veterinarian that the *licensable animal* comes within the provisions of this Section shall accompany the application for a license or the fees set forth in this Section shall be paid. The license fee for each *licensable animal* shall be established by a *Resolution of the City Council* as adopted *in a fee schedule*.

5-2.8 EXEMPTION: SERVICE OR ASSISTANCE ANIMALS. Any other provision of this Chapter notwithstanding, *it shall be at the discretion of the police department regarding whether or not there will be a charge for the annual licensing of a service animal as described. Proof of such use or training shall be provided by the applicant at the time of license application in a form satisfactory to the police department City, pursuant to Sections 365.5 and 365.7 of the Penal Code.*

5-2.9 DELINQUENT PENALTIES. Commencing on the 1st day of *January* of each year, a delinquent penalty, *which has been established and adopted as part of a fee schedule*, shall be collected in addition to the regular license fee.

5-2.10 EXTENSION OF TIME: DOGS TOO ILL TO BE VACCINATED. If a *licensable animal* dog is too ill to be vaccinated against rabies at the time that the

time limits, set forth in this Chapter, expire, then the date for securing the dog license is extended until thirty (30) days after the date on which the dog is well enough to be vaccinated, and no delinquent penalties shall be charged for issuance of the dog license during said thirty (30) day period. However, an extension of time shall not be granted pursuant to this section unless the application for the license is accompanied by a certificate signed by a veterinarian setting forth facts, which show that the *licensable animal* comes within the provisions of this chapter.

5-2.11 REPLACING LOST OR STOLEN TAGS. Whenever a tag issued for the ~~the~~ current year has been stolen or lost, the owner of the *animal* for which the tag was issued may, upon the payment of a fee to the *police department* receive a duplicate tag. The fee for a duplicate tag shall be set by Resolution of the City Council as adopted *in a fee schedule*.

5-2.12 LICENSE TRANSFERABLE. The license and tag issued pursuant to this Chapter may be transferred when the ownership of the *animal* is transferred. The new owner or the previous owner of the *animal* shall notify the *police department* in writing of the change in ownership of the *animal* and the name and address of the new owner. If such written notice is not given, *the police department* shall send all required notices concerning said *animal* to the person whose name and address are on file with the *police department*.

5-2.13 AFFIXING LICENSE TAG. It shall be unlawful to *possess a licensable animal in the City Limits* without the tag issued pursuant to this Chapter being securely affixed to the *animal* by means of a collar, harness or other suitable device. It shall be unlawful for any person to affix the tag required by this Chapter to any *animal* except the *animal* for which it was issued and it shall be unlawful for the owner of an *animal* to allow the *animal* to wear a tag other than the tag issued for the current year.

5-2.15 IMPOUNDING BITING OR ATTACKING ANIMALS.

- (a) The *police department* shall have the power to summarily and immediately impound any animal where there is evidence it has attacked, bitten or injured any human being or other animal, or where there is evidence that *an animal* has acted in a threatening manner towards any human being, has exhibited characteristics of being trained for fighting or attacking, or there is other evidence to show such training or fighting, pending any court proceeding or *animal license* or animal permit revocation proceeding arising from the attack, bite or injury; or pending a hearing pursuant to Section 5-2.29 and 5-2.30 of this Chapter. The *police department* may enter and inspect private property to enforce the provisions of this section. Failure to surrender to the *police department* upon demand an animal which is being impounded pursuant to this

section is a misdemeanor. The *police department* shall also, as soon as reasonably possible, notify the bite victim of the rabies vaccination status of the biting *animal*.

An animal wearing a current license tag, impounded pursuant to the authority of this Chapter, shall be returned to the owner or custodian as provided by this Chapter when it is no longer required as evidence, or considered to be vicious by police department. Once the owner is notified the animal is to be returned, he/she has six working days, not including the date of notification to retrieve the animal.

An animal not wearing a license tag, impounded pursuant to the authority of this section *may be destroyed in accordance with applicable state and federal laws, if* within six business days after being impounded, *not including the date of impoundment*, the owner has failed to make application to redeem the animal. If, within six business days after being impounded, *not including the date of impoundment*, the owner has applied to redeem the animal, then the *animal shall be returned to the owner as provided by this Chapter, or when it is no longer required as evidence or considered to be vicious by the police department, and the owner has also satisfied all licensing requirements.*

(b) In lieu of impound, the *police department* may permit the animal to be confined at the owner's or custodian's expense in a licensed kennel or veterinary facility approved by the *police department or at the owner's or custodian's residence provided that the owner or custodian:*

(1) Shall not remove the animal from the kennel *or* veterinary facility without the prior written approval of the *police department*.

(2) Shall make the animal available for observation and inspection by the *police department*.

(c) The *police department* may have animal impounded or confined as provided in (a) or (b) above, permanently identified by means of photo identification prior to release from impound or confinement.

5-2.16 NOTICE TO OWNER OF LICENSED DOG OR OTHER ANIMAL.

Within two (2) days after an animal which is wearing a license tag is impounded, the *police department* shall *contact the owner by phone or in person* at the address shown on the application for the license on file and advise the owner of the

procedure whereby *he/she* may apply to regain custody of the animal. *If the owner cannot be contacted with the first (2) days of impoundment, the police department shall mail a written notice of the impoundment to the mailing address on file for the owner.*

5-2.17 REDEMPTION OF IMPOUNDED DOGS OR OTHER ANIMALS.

- (a) The owner of any animal impounded other than pursuant to this Chapter may redeem the animal at any time prior to its sale or destruction. A person desiring to redeem an animal shall deliver to the *police department* an application for redemption and a statement in a form prescribed by the *police department* which shall contain a description of the animal to be redeemed, the name and address of the claimant, and the statement that he or she is the owner of the animal. The *police department* shall issue to such person a written statement containing the name and address of the claimant, a description of the animal redeemed, the date on which the animal was impounded, and the accrued fees, and said statement shall serve as a certificate of redemption and receipt for the fees paid.
- (b) The owner of any animal impounded pursuant to this Chapter may redeem the animal pursuant to (a) above only after six days from impoundment if he or she has not received notice that the animal has been declared a dangerous animal and of the right to a hearing pursuant to this Chapter or if, after a hearing, an order is made to return the animal to the owner.

5-2.18 FEES FOR IMPOUNDING AND KEEPING LICENSABLE ANIMALS. The owner of an *animal* which has been impounded shall pay to the *police department* an impounding fee and shall also pay a fee for keeping said *animal* ~~dog~~ for each day, or portion thereof, that said *animal* ~~dog~~ has been impounded. The owner of an animal, which has been impounded, shall also pay an impoundment fee and a fee per day for keeping said animal unless the amount required to keep the animal is higher in which case the owner shall pay the actual cost of keeping the animal. *The owner may also be charged for actual costs of veterinarian fees, medications and vaccinations associated with the care of their animal while said animal is under the care and custody of the police department.* Impoundment and associated fees will be set by Resolution of the City Council as adopted *in a fee schedule.*

5-2.19 *ADOPTION / RESCUE* AND / OR DESTRUCTION OF IMPOUNDED ANIMALS.

- (a) Unless an animal has been *claimed* within six (6) days after being impounded, *not including the date of impoundment*, or unless it is being held for evidence in a hearing pursuant to this Sections 5-2.29

through 5-2.33 of this Article, it may be *made available for adoption or rescue* by the *police department* to a person other than the owner. But no animal which has been declared a dangerous animal pursuant to Sections 5-2.29 through 5-2.33 of this Article shall be *made available for adoption or rescue* pursuant to this section nor shall any animal which has been impounded pursuant to Section 5-2.15 and subsequently found not dangerous but improperly trained, handled or maintained be *made available for adoption or rescue*.

- (b) *An animal may be humanely destroyed in accordance with state laws by the police department if within (6) days of impoundment, not including the date of impoundment, the owner has failed to make an application to claim the animal.*
- (c) *All animals coming into the jurisdiction of the police department animal control unit shall be screened for a license tag, microchip, or any other means of locating the owner. After all efforts have been made to locate the owner, the animal will be handled pursuant to (a) and (b) above.*
- (d) *All animals voluntarily surrendered by their owner will be handled in accordance with (a) and (b) above.*

5-2.21 ADOPTION OF IMPOUNDED ANIMALS. When an animal is adopted pursuant to the provisions of this Chapter, the *police department* shall deliver to the *adopting person* of said animal a *contract* containing a description of the dog or other animal, the date of transfer, and the terms of the adoption and the amount of fees paid. Upon the proper adoption of an animal, the previous owner of the animal shall thereafter be barred from all rights to recover the animal.

5-2.22 LICENSING IMPOUNDED DOGS.

- (a) *The police department shall not release any licensable animal to its owner until such time the owner provides proof of application for license in the jurisdiction of their residence.*

5-2.23 REMOVAL OF TAG. It shall be unlawful for any person to remove from a *licensable animal* the attached license tag for the current year.

5-2.24 DISPLAY OF TAG. It shall be unlawful for any person to refuse to show *police department employees* on request, the license certificate and / or the tag for any *licensable animal* kept on the premises under their control.

5-2.25 KEEPING DANGEROUS DOGS OR OTHER ANIMALS. It shall be unlawful for a person to keep *any animal* which has been found to be a dangerous or vicious animal pursuant to this Chapter, *or any other jurisdiction*.

5-2.26 INTERFERENCE WITH HIGHWAYS.

It shall be unlawful for the owner to allow or permit *any animal* to habitually or repeatedly attack, *chase, molest or frighten* pedestrians, cyclists, vehicles or other users of the public *right of ways or roadways*.

5-2.27 PERMITTING ANIMALS DOGS TO RUN AT LARGE. It shall be unlawful for the owner or other person in lawful possession or control of *an animal dog* to allow or permit the *animal* to run at large *upon any property, public or private*, except with the consent of the property owner, or *in a park or other area designated for such activity*. Every *animal* found running at large in violation of the provisions of this section *may be seized and impounded and/or the responsible person may be issued a citation for said violation*.

5-2.28 LEASH REQUIREMENTS. It shall be unlawful for the owner or handler in lawful possession or control of a dog to walk the dog on any public place or right of way without the dog being secured or tethered by a fixed length leash not to exceed six (6) feet and the number of dogs shall not exceed the number of dogs the owner or handler can reasonably and safely control and in no circumstance shall the number of dogs exceed three (3).

5-2.29 KEEPING OF ANIMALS.

Animal keeping is allowed as an accessory use to a primary residential use. Animals may be kept in compliance with the following standards:

- (a) *Residential Household Pets. Household pets such as domestic dogs, cats, or birds, ordinarily permitted inside of a dwelling and kept only for the company and pleasure provided to the occupants shall be permitted. Household pets shall not include horses, cows, goats, sheep or other equine, bovine, ovine or ruminant animals, pigs, chickens, ducks, geese, turkeys, game birds or fowl which normally constitute an agricultural use. At no time shall the combined number of animals kept exceed seven (7) animals. At no time shall the number of cats or dogs exceed three (3) animals. It shall be unlawful to possess a combination of animals kept to exceed (7) residential household pets. [Include snakes/reptiles/other animals as permitted domestic pets?]*
- (b) *Agricultural Animals. The keeping of horses, cows, goats, sheep or other equine, bovine, ovine or ruminant animals is permitted in the AC and RR zone districts on lots one-half (0.5) acre or greater as long as the number of animals does not exceed one (1) per fifteen thousand (15,000)[??] square feet of lot area. The keeping of chickens, ducks, geese, turkeys, game birds or fowl is permitted with the total number not to exceed twelve (12) birds per gross acre. The raising of pigs is permitted in conjunction with an FFA or 4-H project for any recognized Fair, the limit being one (1) animal per student residing on the property. All animals other than household pets shall be housed or penned at a minimum distance of thirty-five (35) feet from property lines and fifty (50) feet from any residence. All areas and structures used in conjunction with the keeping of animals other than household pets shall be maintained and cleaned so as not to*

present a public hazard or nuisance.

(c) Except as permitted in section (b) above, is unlawful for any person to keep, maintain or permit to be maintained bees, swine, llamas, roosters, chickens, pigeons, turkeys, pea fowl, water fowl, ostriches and other "Ratitae," or livestock on any premises within the city. In addition, predatory, wild, or endangered animals are not allowed within the city.

(d) The offspring of any permitted animal may be kept until weaned, as long as they do not exceed the total number of animals allowed herein.

(e) The keeping of animals for commercial purposes shall not violate the provisions of Chapter 21 of the City of Porterville Municipal Code, which regulates kennels, pet stores, veterinary services, and animal raising.

5-2.30 ANNEXATIONS-COMPLIANCE-TRANSITION PERIOD

Prohibited animals brought into the city limits as the result of a property annexation may be maintained on the annexed property for a maximum transitional period of 365 days from the date of annexation as long as the animals in question can legally be owned or possessed by law, are not classified as or presumed to be dangerous, and are in compliance with the ordinances of the County of Tulare at the time of annexation. Subsequent to the transitional period, the animals/property must be brought into compliance with the ordinances of the City of Porterville. [Review time period.... Determine if section should require compliance via attrition, lot size issues.]

5-2.31 ANIMALS IN CITY BUILDINGS AND IN VEHICLES:

(a) It shall be unlawful for any person charged with the care of any animal or animals to cause or permit such animal to enter or remain in city-owned or city-managed buildings other than a building used for the purpose of care, detention, control or treatment of animals, or a building used for training classes, shows or exhibitions. This subsection shall not apply to persons using service animals.

(b) It shall be unlawful, other than an individual actually in the process of working a dog or other animal for ranching purposes, to transport or carry the animal in a motor vehicle on any public highway, public roadway, or lot open to the public unless the animal is safely enclosed within 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 motor vehicle.

(c) It shall be unlawful for any person to leave any dog or other animal in a vehicle or other enclosure without adequate ventilation or in such a manner as to subject the animal to extreme temperatures which may adversely affect the health or well being of the animal.

5-2.32 CONTROL & SEIZURE OF DISEASED ANIMALS:

(a) It shall be unlawful for any person owning or having charge of any animal which that person knows to be infected with any disease transmittable to humans or detrimental to other animals shall permit such animal to remain within the city limits other than at an approved veterinary hospital unless the police department or other appropriate authority approves an alternative means of confinement.

(b) The police department is authorized to seize any animal reasonably believed to be infected with disease transmittable to humans or detrimental to other animals.

5-2.33 CRUELTY TO ANIMALS PROHIBITED:

(a) It shall be unlawful for any person to engage in any activity likely to cause harm or maliciously, willfully, or recklessly kill, maim, wound, mutilate, torment, torture or physically abuse any animal.

[include section preventing animal neglect??]

5-2.34 ABANDONMENT OF ANIMALS PROHIBITED:

It shall be unlawful to abandon any animal within the city limits. "Abandonment" as used herein, refers to acts clearly indicating intent on the part of an owner or person in control of an animal to permanently relinquish control over the animal.

5-2.28 5-2.35 BARKING DOGS. It shall be unlawful for any owner or caretaker of a dog to keep said dog in the City *limits*, which by loud or excessive barking, howling, whining, *crying, yelping* or making any other noise, disturbs the comfort, quiet, or *peace* of any neighborhood or any person *at any time*; provided *the* owner has been made aware *of the disturbance by the police department.*

5-2.36 PUBLIC NUISANCE:

(a) It is declared to be a nuisance, and it shall be unlawful, for any person owning or having control or custody of any animal to do any of the following:

(1) Permit an animal to defecate or urinate on any privately owned or occupied property other than that of the owner or the person having control of the animal;

(2) Permit an animal to defecate on public property without immediately cleaning or removing the excrement to a proper receptacle;

(3) Permit unsanitary conditions to exist on any premises where an animal is kept which would cause foul or obnoxious odors, attract flies or vermin or otherwise threatens public health and safety;

(4) Cause or permit any animal to run or wander on any public property or privately owned or occupied property or premise without the consent of the owner or occupant.

(b) If an unaltered animal is determined to be a nuisance pursuant to this subsection, upon a second offense, the owner may be required to have the animal altered;

(c) The owner or person in control of an animal that has been determined to be a nuisance on a second or subsequent occasion maybe required to have a microchip inserted into the animal for identification purposes. In such instances, the microchip must be implanted by a licensed veterinarian within twenty (20) days of being classified as a nuisance for a second or subsequent offense and shall be at the expense of the owner or person in control of the animal. The owner or person in control of the animal shall provide the police department with a certificate of completion and provide the information listed on the microchip, which will be included in the licensing record for that animal;

(d) Any police department employee acting in the capacity of animal control may seize and impound any animal causing a public nuisance.

(e) Any private person may maintain an action under Civil Code Section 3493 for enforcement of this chapter declaring certain acts a public nuisance, if such acts are especially injurious to such person.

5-2.37 KILLING/BUTCHERING/PROCESSING OF ANIMALS OR FOWL – EXEPTIONS. *It shall be unlawful to kill, slaughter, or sacrifice any animal or fowl inside the city limits of Porterville except on the premises or within the confines of establishments licensed for that purpose or within the confines of a recognized/licensed teaching institution as part of a curriculum. This section does not apply to police department employees acting in the capacity of animal control duties.*

5-2.38 NUISANCE – INSPECTION FOR THE SAME – PROCEDURES:

(a) It shall be the duty of the police department to enter upon any yard, lot or parcel of land for the purpose of inspecting the same to ascertain the presence of an animal-related nuisance.

(b) If the inspecting official has reason to believe a nuisance exists, he/she may serve written notice of correction to the person or persons owning or having control of or acting as agent for, leasing or occupying such premises, to abate or remove such nuisance within forty-eight (48) hours or other reasonable time as stated in the notice. Such notice shall be served personally or, where the person responsible for such nuisance cannot be located, by posting the notice in a conspicuous place on the front door or entranceway.

(c) It shall be unlawful for any person to knowingly, willfully, or negligently fail to abate the nuisance alleged in the notice or fail to contest the allegations in the notice within forty-eight (48) hours (or other time as specified in the notice) following receipt or knowledge of same.

(d) Where the person upon whom the abatement notice is required to be served under subsection (b) has been properly served but does not abate the nuisance within the time specified in the notice, the police department shall have the authority to do the following:

(1) Where the nuisance is caused by an at-large animal, a wild or exotic animal or a dangerous animal, the police department may follow the procedures relating to seizure and impoundment.

(2) Where the nuisance is in the nature of noise or odors and is caused by an animal or animals, by animal waste, or other conditions on the premises that are the result of the keeping of the animals, the police department may abate the nuisance by substantially following the notice, hearing, and the abatement procedure. Cost recovery procedures will follow the same as set forth in the impoundment recovery procedures defined in this Chapter pursuant to the attached fee schedule.

5-2.39 HEARING TO DETERMINE IF ANIMAL IS DANGEROUS.

(a) The police department may declare any animal to be a dangerous whenever it has attacked, bitten or caused injury to any human being or other animal, or where there is evidence that an animal has acted in a threatening manner towards any human being, or has exhibited characteristics of being trained for fighting or attacking. Within two (2) days after an animal, which is wearing a license tag or can otherwise be identified, is impounded pursuant to this section, the police department shall serve notice

of the finding *to the owner of record, via registered mail, or deliver the same in person, advising the owner the animal is dangerous and of the owner's right to a hearing on the issue of whether or not the animal is dangerous.*

- (b) The owner of an animal confined or impounded pursuant to this section may, within the six (6) day time period, *not including the date of impound*, provide for application for redemption of the animal, requesting a hearing to determine whether or not the animal is a dangerous.
- (c) When a hearing is requested pursuant to subsection (b) above, a date and time for such a hearing shall be set, and notice thereof shall be *served to all involved parties [??needs to be better defined]* *within* five (5) business days.

5-2.405-2.30 HEARING: CONDUCT.

- (a) A hearing requested in accordance with this chapter shall be conducted before *a person appointed by the Chief of Police to serve as a hearing officer.*
- (b) The hearing shall be open to the public. The *animal* owner may be represented by *an attorney*. The hearing officer shall hear all pertinent evidence offered by *any* interested persons. The technical rules of evidence shall not be applicable to the hearing, except that the hearing officer's decision may not be based *solely* wholly on hearsay evidence. All persons giving evidence shall be sworn before testifying. The *hearing will be recorded electronically by an uninvolved member of the police department. Copies of the hearing recording will be provided to the involved parties upon request.*
- (c) Any animal which has attacked, bitten or caused injury to a human being or other animal is presumed to be dangerous and the burden is on the owner to present evidence that the animal is not dangerous.
- (d) In making a determination that an animal is or is not dangerous, evidence of the following shall be considered:
 - (1) Any previous history of the animal attacking, biting or causing injury to a human being or other animal.

- (2) The nature and extent of injuries inflicted and the number of victims involved.
- (3) The place where the bite, attack or injury occurred.
- (4) The presence or absence of any provocation for the bite, attack or injury.
- (5) The extent to which property has been damaged or destroyed.
- (6) Whether the animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting.
- (7) Whether the animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or animals.
- (8) Whether the animal can be effectively trained or re-trained to change its temperament or behavior.
- (9) The manner in which the animal had been maintained by its owner or custodian.
- (10) Any other relevant evidence concerning the maintenance of the animal.
- (11) Any other relevant evidence regarding the ability of the owner or custodian to protect the public safety in the future if the dog *animal* is permitted to remain in the City.
- (12) Any other relevant evidence concerning the characteristics or behavior of the *animal* dog, or concerning the circumstances of the incident.

5-2.412 HEARING: DECISION AND DISPOSITION OF ANIMAL

- (a) At the conclusion of the hearing, the hearing officer may determine:
 - (1) That the animal is not a dangerous animal and should be returned to its owner; or

(2) That the animal is not dangerous but that the attack, bite or injury was the result of improper or negligent training, handling or maintenance; or

(3) *That the animal is dangerous and it should be humanely destroyed after all appeal processes have been exhausted following the receipt of the hearing officer's decision.*

(b) If it is determined that the animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance and the owner is unable or unwilling to properly train, handle or maintain animal and that a similar incident is likely to occur in the future *without* proper training, handling or maintenance, the dog or other animal *may* be disposed of.

(c) If it is determined that the animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance, but also that the owner is able and willing to properly train, handle or maintain the animal and that similar incident is not likely to occur in the future with proper training, handling and maintenance, the animal may be returned to the owner with documentation of how to prevent future incidents.

(d) The decision of the hearing officer shall be in writing and shall be delivered personally to the owner or mailed to him or her *by certified mail*.

(e) The owner may, within ten (10) days of *receipt* of the hearing officer's written decision, appeal the hearing officer's decision to the Tulare County Superior Court pursuant to California Code of Civil Procedure Section 1094.6. *The police department will be notified by the owner of the appeal in writing on the same date as the appeal was filed. [not sure we can require this notification, but this is intended to prevent unintentional destruction of an animal where an appeal to the Court has been filed.]*

Article III

Kennels

Sections:

- 5-3.1 Kennel Defined
- 5-3.2 Kennel Permit and Application Fee
- 5-3.3 Vaccination Certificate Required
- 5-3.4 Preliminary Inspection
- 5-3.5 Permit

5-3.6	Term of Permit
5-3.7	Delinquent Penalties, Securing Individual Licenses if Kennel Permit Denied, Time Limits
5-3.8	Permitting Dogs to Run At Large
5-3.9	Inspection of Kennel
5-3.10	Vaccination of Additional Dogs
5-3.11	Delivery of Vaccination Certificates to Purchasers
5-3.12	Effect of Revocation of Kennel Permit

5-3.1 KENNEL DEFINED. The term "kennel," as used in this Chapter, means a *premises*, building or enclosure *where four (4) or more animals not owned by the kennel owner or operator are kept, boarded, trained, or maintained for commercial purposes*. The maintenance of more than two (2) animals used for breeding purposes for which compensation is received, or the parturition or rearing of more than two (2) litters in one (1) calendar year shall be a rebuttable presumption that such animals are owned or maintained for the purpose of commercial breeding and the owner and the premises shall be subject to permit *and licensing requirements as established in Chapter 21 of the City of Porterville Municipal Code*.

5-3.2 KENNEL PERMIT AND APPLICATION FEE. In lieu of securing the permit required by this Chapter for each of the *animals* in a kennel, a person owning or operating a kennel may obtain a kennel permit covering all of the *animals* maintained in the kennel. It shall be unlawful to fail to secure the permit required by this Chapter. The application for a kennel permit shall be filed with the *police department, along with a copy of a valid city business license*. The fees for kennel permits shall be set by Resolution of the City Council *in a fee schedule*.

5-3.3 VACCINATION CERTIFICATE REQUIRED. The *police department* shall not issue a kennel permit unless the person applying for the permit files a certificate or certificates signed by a licensed veterinarian showing that all of the *animals* in the kennel, which are over four (4) months of age, have been vaccinated against rabies and which indicates that the period of time elapsing from the dates of the vaccinations to the date of expiration of the kennel permit does not exceed *thirty-six (36) months* in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City of Porterville is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.

However, if one or more *animals* in the kennel are too ill to be vaccinated against rabies at the time the application kennel permit is filed with the *police department*, and the application for the kennel permit is accompanied by a certificate signed by

a veterinarian which so states, the *police department may* process and issue the kennel permit in compliance with this Chapter. The owner of the kennel shall thereafter have each such *animal* vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated, the owner of the kennel shall file the vaccination certificate with the *police department*. *If* a person holding a kennel permit has failed to have *an animal* vaccinated pursuant to this section, the *police department may* immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation. *[May require a hearing for revocation of permit]*

5-3.4 PRELIMINARY INSPECTION: The *police department may* inspect *all kennels* to determine whether the *kennels are* constructed and operated in such a manner as to prevent the *animals* confined therein from running at large.

5-3.5 LICENSE. If the *police department* has determined that the *kennels are* constructed and operated in such a manner as to prevent *animals* confined therein from running at large, and if the required vaccination certificates have been filed in compliance with the provisions of this Chapter, the *police department may* issue a kennel permit to the applicant. The kennel permit issued by the *police department* shall contain a serial number, the expiration date of the permit, the address of the kennel, and such other information as the *police department* may require.

5-3.6 TERM OF PERMIT. Kennel permits shall be issued on *an annual basis* commencing on *January 1st* July 1st and *expiring on December 31st*.

5-3.7 DELINQUENT PENALTIES: SECURING INDIVIDUAL PERMITS IF KENNEL PERMIT DENIED: TIME LIMITS. Commencing on the 1st day of *January* each year, the *police department* shall collect a delinquent penalty, in addition to the regular permit fee, before issuing any kennel permit if the time limits set forth in this Chapter have expired for any *animal* in the kennel at the time that the application for the permit is filed. The delinquent penalty shall be in an amount equal to the regular permit fee as set forth in this Chapter. If an application for a kennel permit is filed before the time limits set forth in this Chapter have expired and if, after the expiration of such time limits, the *police department* determines that a kennel permit *will* not be issued, the *police department* shall send the owner of the kennel written notice that the kennel permit *will* not be issued. It shall be unlawful for the owner of the kennel to fail to secure individual permits for each of the *animals* in the kennel, pursuant to the provisions of this Chapter, within thirty (30) days after receipt of such written notice of such violation. During the period between the date on which the application for the kennel permit is filed with the *police department* until thirty (30) days after receipt of said written notice, the owner of the kennel shall not be in violation of this chapter.

5-3.9 INSPECTION OF KENNEL. The *police department may at any time* inspect any kennel for which a kennel permit has been issued. If the *police department*

determines that the kennel is not *being* operated in *accordance with the Chapter, the police department may* immediately revoke the kennel permit.

5-3.11 DELIVERY OF VACCINATION CERTIFICATES TO PURCHASERS.

Whenever a person holding a kennel permit sells any *animal* in the kennel, he/she shall deliver a copy of the vaccination certificate for the *animal* to the purchaser. If satisfactory evidence is presented to the *police department* that a person holding a kennel permit has failed to comply with the provisions of this section, the *police department may* immediately [*note may need hearing prior to revocation*] revoke the kennel permit.

5-3.12 EFFECT OF REVOCATION OF KENNEL PERMIT.

If the *police department* revokes a kennel permit pursuant to the provisions of this chapter, it shall be unlawful for the owner of the kennel to fail to secure individual *licenses* for each of the *animals* in the kennel, pursuant to this Chapter, within thirty (30) days after receipt of written notice of such revocation from the *police department*. Any person whose kennel permit has been revoked by the *police department* shall not be permitted to apply for a kennel permit until the next *calendar* year.

**Article IV
Rabies Control**

Sections:

- 5-4.1 Application of Article**
- 5-4.2 Animal Showing Signs of Rabies**
- 5-4.3 Isolation of Rabid Animals and Clinically Suspected Rabid Animals**
- 5-4.4 Animals Biting Persons**
- 5-4.5 Animals in Contact with Rabid Animals**
- 5-4.6 Violation of Quarantine**

5-4.1 APPLICATION OF ARTICLE. This Chapter shall be in effect only at those times when the City of Porterville is not designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California. During those periods when the City of Porterville is designated as a rabies area, the provisions of said sections 1900-1921 of the Health and Safety Code, and the rules and regulations adopted pursuant thereto, are applicable rather than the provisions of this Article.

5-4.2 ANIMAL SHOWING SIGNS OF RABIES. Whenever the owner of an animal observes or learns that such animal shows symptoms of rabies or acts in a manner which would lead to a reasonable suspicion that it may have rabies, such person

shall immediately notify the *police department*. Said person shall thereafter allow the *police department* to inspect or examine *the* animal.

5-4.3 ISOLATION OF RABID ANIMALS AND CLINICALLY SUSPECTED RABID ANIMALS. The owner of any rabid animal or clinically suspected rabid animal shall isolate the animal in strict confinement under proper care and under the observation of a veterinarian, in a Kennel, veterinary hospital, or other adequate facility in a manner approved by the *police department*, and said animal shall not be destroyed or released from confinement for at least ten (10) days after the onset of symptoms suggestive of rabies and until the *police department* gives written authorization for the release of the animal, with the exception that such animal may be sacrificed with the permission of the *police department* for the purpose of a laboratory examination for rabies using the fluorescent rabies antibody test in an approved public health laboratory.

5-4.4 ANIMALS BITING PERSONS. Whenever the owner of an animal has knowledge that such animal has bitten any person, the owner shall immediately report that fact to the *police department* and report the name and address of the person bitten and the time and place that such person was bitten. Upon order of the *police department*, the owner shall quarantine the animal for the period of time specified in section 2606 of Chapter 17 of the California Administrative Code with regard to rabies areas, and shall allow the *police department* to make inspections and examinations of the animal during such period. The *police department* Shelter Supervisor *may* quarantine said animal upon the premises of the owner. However, if the owner of the animal so desires, the *police department* shall place the animal in quarantine in a veterinary hospital, at the expense of the owner, in lieu of quarantine of the animal on the premises of the owner. Quarantine shall be made by written notice delivered to the owner of said animal stating that the animal is quarantined and the instructions to be followed. If the quarantine is upon the premises of the owner of the animal, the animal shall be confined within a locked enclosure so constructed that the animal cannot escape or have contact with any other animal or human being other than the person responsible for its care or, at the discretion of the *police department*, the animal may be kept under restraint by leash in charge of a responsible person, or under such restrictions as the Shelter Supervisor may prescribe. Said animal shall be kept in quarantine until the *police department* gives written authorization for the release of the animal from quarantine.

5-4.5 ANIMALS IN CONTACT WITH RABID ANIMALS. Any animal of a species subject to rabies which has been bitten by a known rabid or suspected rabid animal or has been in intimate contact with a rabid or suspected rabid animal shall be quarantined by the owner in a place and manner approved by the *police department* Shelter Supervisor, for a period of six (6) months or destroyed; provided, however, that the following alternatives are permitted in the case of dogs and cats: If the dog or cat has been vaccinated against rabies within two (2) years but not less than thirty (30) days with a live virus vaccine, or within one (1) year but

not less than thirty (30) days with a killed virus vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Administrative Code, the dog or cat may be re-vaccinated in a manner approved by the *police department* and quarantined in a place and manner approved by the *police department* for a period of thirty (30) days. The provisions of this Chapter concerning quarantine shall also apply to the quarantine of animals pursuant to this section.

5-4.6 VIOLATION OF QUARANTINE. When any animal is quarantined by the *police department*, it shall be unlawful for the owner of the animal to violate the quarantine by removing said animal from the premises where it is quarantined, allowing it to run at large, destroying it without authorization from the *police department*, concealing it from the *police department* or disobeying any of the quarantine restrictions which have been imposed by the police department.

DOG PARKS – RULES & REGULATIONS

[Note – we may want to just provide the authority for adopting rules for the dog parks in the ordinance and specify that said rules will be posted, violation of posted rules will subject the offender to penalties/fees, etc. Can keep the provision re allocating fees and fines to operation and enforcement of animal control program]

Rules

1. *Each owner or handler using the park is responsible for reading the rules of the dog park before entering it.*
2. *No owner or handler may bring more than two (2) dogs into the park at one time.*
3. *An owner or handler must be sixteen (16) years of age or older.*
4. *A child under the age of ten (10) years may enter the park only with a responsible adult.*
5. *Each dog brought into the park must be wearing a current license tag. The license tag may be checked by a member of the police department for validity.*
6. *Dogs are to be brought to the park on leashes and released inside the dog park, and put under the control of the leash again before they exit the dog park. No spike, choke, electric, or prong collars are allowed on dogs in the park.*
7. *No female dog in heat, or sick dog, shall be brought into the dog park.*

8. *Smoking, food, toys, and glass containers are prohibited in the dog park.*
9. *Owners or handlers are to remain in visual contact with their dogs at all times and shall have verbal control of their dogs while in the park.*
10. *An owner or handler shall immediately leash and remove a dog that becomes aggressive. At no time may a dog that has been designated as being dangerous or vicious be brought into the park.*
11. *Dog bites occurring inside dog parks shall be reported immediately to the police department.*
12. *Owners or handlers shall control excessive barking while in or about the park.*
13. *An owner or handler is responsible for cleaning up secretion of feces and destruction caused by his or her dog, and filling in any holes the dog digs while in the park.*

Allocation of fees and fines collected.

All fees and the city's share of all fines collected shall be used only by the department to fund the implementation and enforcement of the city's animal control program

Article VI

Violations

5-5.1 VIOLATIONS.

- (a) Misdemeanor. Any person violating any of the provisions of section this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment. *Notwithstanding the classification of a violation of this Chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this Chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction.*
- (b) Separate Offense. Each day that any provision of this chapter is violated is a separate and distinct offense and shall be punishable as separate and distinct offense.

(c) A person who owns or is in charge of or controls or who possesses an animal who permits, allows or causes the dog to run, stray, be uncontrolled or in any manner be in, upon, or at large upon a public street, sidewalk, park or other public property or in or upon the premises or private property of another person is guilty of a misdemeanor if said animal bites, attacks or causes injury to any human being or other animal.

(d) Administrative Citation. Upon a finding by the city official or representative vested with the authority to enforce the various provisions of this Chapter, that a violation exists, he or she may issue an Administrative Citation and proceed with enforcement pursuant to Chapter 2, Article XIV, of the Municipal Code.

(e) Except as provided for in Subsection (c) of this section, violation of any of the provisions covered in this chapter may be investigated and punished as an infraction. An administrative citation may be issued in lieu of filing a criminal case. Each day a violation continues may be investigated regarded as a new and separate offense. The punishment upon conviction may be:

- 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;*
- 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one (1) year; or*
- 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one (1) year, to a maximum of three (3) such violations.*

(B) For purposes of this section, bail forfeiture shall be deemed to be a conviction of the offense charged.

(C) In addition to any other penalties or fines provided for in this chapter, any reasonable costs incurred by the city in seizing, impounding and for confining any dangerous animal may be charged and recovered against the owner.

(f) Four (4) or more violations of the same section of this chapter shall constitute a misdemeanor and shall be investigated according to section (a) above. Each additional day the violations continue unabated shall be regarded as a new and separate offense.

(e) Civil Action. The City Attorney, or an Attorney hired for such purposes by and at the request of the City Council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition found to be in violation of the provisions of

the Chapter, or State Codes specifically adopted by reference, as provided by law, and the City shall be entitled to its attorneys fees and costs.

- (f) These remedies shall not supplant or replace the procedures concerning dangerous animals as specified in Sections 5-2.15, and 5-2.29 through 5-2.33.*[check numbering once finalized]*

SECTION 2: This Ordinance shall be in full force and effect thirty (30) days from and after its passage, adoption, and approval.

Mayor

ATTEST ????????

City Clerk

[NOTE – SECTION NUMBERING AND REFERENCES IN THE DRAFT HAVE NOT BEEN VERIFIED AND MAY BE INCORRECT UNTIL FINALIZED]

WHEREAS, the City desires to adopt comprehensive modifications to the regulations pertaining to animal control within the City; and

WHEREAS, in adopting this ordinance the City Council desires to clarify the requirements, violations, and remedies regarding the control of animals within the City limits;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN, AS FOLLOWS:

SECTION 1: Chapter 5, Sections 5-1 through 5-4.6, of the Porterville Municipal Code is repealed in its entirety and replaced with the following:

**Chapter 5
ANIMAL CONTROL**

**Article I
General Provisions**

Sections:

- 5-1.0 Definitions**
- 5-1.1 Shelter Supervisor**
- 5-1.2 Records**
- 5-1.3 Animal Shelter**
- 5-1.4 Impounding / *Collection of Animals***
- 5-1.5 Right to Enter Premises**
- 5-1.6 Interference with Duties**

5-1.0 DEFINITIONS.

- (a) The term "owner," or "handler" as used in this Chapter, means any person, firm or corporation owning, harboring, having an interest in, or having control, custody or possession of an animal. In the case of an animal, which is owned by a minor, the parent or guardian of the minor shall constitute the "owner" of such animal for the purposes of this Chapter.
- (b) The term "at large," *as used in this Chapter, means any animal that is off the premises of its owner and not under restraint by leash or chain, or which is wandering or running freely on public property or property belonging to a person not the owner or person in control of the animal and without supervision, accompaniment and adequate restraint.* ~~means an animal off the premises of its owner which is not under restraint by leash and which is not under the control and in the immediate presence of the owner.~~

- (c) The term "dangerous animal," as used in this Chapter, means a dog or other animal which has attacked, bitten or injured any human being or other animal without reasonable provocation, or which has been so declared pursuant to this Chapter, or under the facts and circumstances has acted in a threatening manner towards any human being *or other animal* or *has* displayed characteristics of being trained for fighting, or there is other evidence to show such training or fighting.
- (d) The term "attack," as used in this Chapter means any unprovoked aggressive behavior toward a person or animal. Aggressive behavior in defense of property or territory of the owner shall constitute an attack unless the dog or other animal is securely contained within an enclosure sufficient to prevent physical contact with a person or animal outside such enclosure.
- (e) The term "field officer" as used in this Chapter shall mean *any officer of the police department. the animal control agents or peace officers that respond to any complaint or incident. [Note – do we want to define "field officer" more broadly to include other individuals designated by the City?]*
- (f) *The term "competition dog" as used in this Chapter shall mean any animal which is used to show, to compete, or to breed which is of a breed recognized by the American Kennel Club, United Kennel Club, or American Dog Breeders Association and meets the following requirements:*
- (1) The dog has competed in at least one (1) dog show or sporting competition sanctioned by the national registry or approved by the department within the last 365 days.*
 - (2) The dog has earned a confirmation, obedience, agility, carting, herding, protection, rally, sporting, working, or other title from a purebred dog registry or dog sport association.*
 - (3) The owner or custodian of the dog is a member of a purebred dog breed club, approved by the department, which maintains and enforces a code of ethics for dog breeding that includes restrictions from breeding dogs with genetic defects and life threatening health problems that commonly threaten the breed.*
- (g) *The term "competition cat" as used in this Chapter shall mean any show cat (also known as a purebred cat or pedigreed cat) that is*

recognized by the Cat Fanciers' Association and/or The International Cat Association and meets the following requirements:

- (1) The owner or custodian of the dog is a member of a purebred cat breed club, approved by the department that encourages its members to be owners and breeders of cats who work together to promote the preservation of pedigreed cats and the health and welfare of domestic cats.*
- (2) maintains a certified pedigree registry.*
- (3) Have participated in a cat show in the last 365 days, which promotes both pedigreed and non-pedigreed cats.*
- (4) The owner or custodian of the cat is a member of a purebred cat breed club, approved by the department, which maintains and enforces a code of ethics for cat breeding that includes restrictions from breeding cats with genetic defects and life threatening health problems that commonly threaten the breed.*

(h) The term "service animal," as used in this Chapter, means any animal which shall include but not be limited to assistance dogs, guide dogs, signal dogs, police dogs, search and rescue animals, or other service animals as defined by applicable State or Federal law, or being trained for such use. [Note – include definition for "therapy animals?"]

(i) The term "altered animal," as used in this Chapter, means any animal that has been surgically altered (spayed/neutered) or by means of written proof from a licensed veterinarian that the animal does not possess the capability of reproduction.

(j) The term "unaltered animal," as used in this Chapter, means any animal capable of reproduction.

5-1.1 SHELTER SUPERVISOR/DEPARTMENT OF ANIMAL CONTROL UNIT.

~~Supervision of the Animal Control Unit shall be any supervisor of the police department at the direction of the Chief of Police and / or his designee. The office of Shelter Supervisor shall be established. The Shelter Supervisor shall be appointed or contracted by the City Council and may be either a person, firm, association, corporation, public entity or joint powers authority. The Shelter Supervisor shall serve for such period of time and shall receive such compensation as shall be established by the City Council by ordinance or by contract. If an association or corporation is appointed as Shelter Supervisor, each officer and~~

~~employee authorized by such association or corporation to perform duties under this Chapter shall be deemed to be a Shelter Supervisor and shall have all of the rights and duties of the Shelter Supervisor which are set forth in this Chapter. The Police Department shall carry out the duties of a Department Division of Animal Control, and the Chief of Police shall serve as the ex-officio Director. The Director shall perform all duties of the Shelter Supervisor, unless the City Council has entered into a contract with another person, firm, association, corporation, or public entity, or has otherwise provided for such services via a joint powers authority, to furnish animal control services, in which case the Director shall administer said contract on behalf of the City Council.~~

(a) Any police department employee [consider broadening this to potentially include other city employees] acting in the capacity of animal control duties shall have the following powers:

1. To enforce the provisions of this chapter and state laws relating to the care, treatment, impounding and destruction of animals. These provisions will also encompass the adoption of animals and / or safe return of animals to their rightful owner.

2. The Chief of Police may formulate rules and regulations in conformity with and for the purposes of carrying out this chapter.

(b) The Chief of Police or his designee shall have authority to determine whether any animal has engaged in the behaviors or exhibits any of the characteristics of a dangerous animal.

5-1.2 RECORDS. ~~The Shelter Supervisor police department shall keep a record of every animal impounded pursuant to this Chapter which shall include a description of the animal, the date of receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees, charges and proceeds of sales received on account of said animal, and any additional records as may be required. by the City Council from time to time.~~

5-1.3 ANIMAL SHELTER. There shall be provided by the *police department Shelter Supervisor*, upon such terms and conditions as may be mutually agreed upon by the Shelter Supervisor and the City Council, a suitable building, or enclosure, or *other support facility* to keep and safely hold all animals to be impounded pursuant to the provisions of this Chapter, and said building or enclosure shall be known and designated as the "Shelter."

5-1.4 IMPOUNDING / COLLECTION OF ANIMALS. The *police department Shelter Supervisor* shall *may take pick* up, impound and safely keep any *animal dog* that is found running at large contrary to the provisions of this Chapter within the incorporated territory of the City.

5-1.5 RIGHT TO ENTER PREMISES. ~~The~~ *Any police department employees acting in the capacity of performing animal control duties* Shelter Supervisor, and his or her agents, shall be authorized to enter upon any premises for the purpose of enforcing the provisions of this Chapter.

5-1.6 INTERFERENCE WITH DUTIES. It shall be unlawful for any person to interfere with the *police department employees engaged in the performance of capacity of animal control duties*. ~~Shelter Supervisor, or his or her agents, in the performance of his/her official duties.~~

Article II

Dogs / *Licensable Animals*

Sections:

- 5-2.1 License Required
- 5-2.2 Issuance of License and Tag
- 5-2.3 Time Limits
- 5-2.4 Vaccination Certificate Required
- 5-2.5 Term of License
- 5-2.6 License Fees: *Unaltered*
- 5-2.7 License Fees: *Altered Spayed or Neutered Dogs*
- 5-2.8 Exemption: Service or Assistance Dog
- 5-2.9 Delinquent Penalties
- 5-2.10 Extension of Time: Dogs too Ill to be Vaccinated
- 5-2.11 Replacing Lost or Stolen Tags
- 5-2.12 License Transferable
- 5-2.13 Affixing Dog Tag
- 5-2.14 Impounding Dogs without Tags
- 5-2.15 Impounding Biting or Attacking Animals
- 5-2.16 Notice to Owner of Licensed Dog or Other Animal
- 5-2.17 Redemption of Impounded Dogs or Other Animals
- 5-2.18 Fees for Impounding and Keeping Dogs and Other Animals
- 5-2.19 Sale and Destruction of Impounded Dogs and Other Animals Wearing Tags
- ~~5-2.20 Sale and Destruction of Impounded Dogs and Other Animals Not Wearing Tags~~
- 5-2.21 Sale of Impounded Dogs
- 5-2.22 Licensing Impounded Dogs
- 5-2.23 Removal of Tag
- 5-2.24 Display of Tag
- 5-2.25 Keeping Dangerous Dogs or Other Animals
- 5-2.26 Interference with Highways
- 5-2.27 Permitting Dogs to Run At Large

5-2.28	Barking Dogs
5-2.29	Hearing to Determine if Animal is Dangerous
5-2.30	Hearing: Conduct
5-2.31	Hearing: Decision
5-2.32	Disposition of Dangerous Animal
5-2.33	Dog or Other Animal Declared Not Dangerous

5-2.1 LICENSE REQUIRED. Every owner of a dog *or licensable animal*, within the City, shall secure a license from ~~a the Shelter Supervisor or the Police Department facility or from the City Finance Department,~~ for each such dog or *licensable animal* within the time limits set forth in this Chapter. It shall be unlawful for any owner to fail to secure said license in accordance with the provisions of this Chapter. A license need not be secured for a dog *or licensable animal* which is brought into the City *by its visiting owner* or for the purpose of being entered in a dog show or dog exhibition, provided that *the owner* of such *animal* dog ~~is entered in such show or exhibition, and is removed from the City within thirty (30) days after the date on which the dog was brought into the City.~~ *provides proof of current license and/or current rabies vaccination from the jurisdiction of origin, and the animal is removed from the city limits no more than (30) days after entry.*

5-2.2 MANDATORY SPAY / NEUTER REQUIREMENT. *It has been shown that mandatory spaying / neutering has been effective in reducing the population of animals in the city. By requiring mandatory spaying/neutering, the police department is working to reduce the number of euthanizations conducted in the City of Porterville each year necessary to maintain a manageable animal population. Spaying/neutering has been shown to be effective in reducing animals running at large and also reduces aggressive behavior in animals. As an additional benefit, this requirement will cut costs to the community in managing the pet population.*

- (a) **Requirement for Altered Animals:** *No person may keep, own or harbor an unaltered dog or cat over four (4) months of age within the city limits, unless an unaltered license has been properly obtained. An owner or custodian of an unaltered dog or cat must have the animal spayed or neutered or obtain an unaltered license in accordance with the exceptions to the spay/neuter requirements as described in section (b) "Unaltered Animals."*
- (b) **Unaltered Animal License:** *An owner or custodian of an unaltered dog or cat over the age of four (4) months must obtain an annual unaltered animal license. The license shall be issued if the department has determined that all of the following conditions have been met:*
 - (1) *The dog or cat qualifies as an exempt animal as described in section 3.*
 - (2) *The owner or custodian has submitted the required application for the license and the applicable fees for the license have been paid in*

accordance with the fee schedule as set by Resolution of the City Council.

(3) The following may~~??~~ be exempt animals from the spay/neuter requirements:

- (a) An animal unable to be spayed/neutered without a high likelihood of suffering serious bodily harm or death due to age or infirmity, which is confirmed in writing from a licensed veterinarian.
- (b) A competition animal as defined in this Chapter.
- (c) A service animal which shall include but not be limited to assistance dogs, guide dogs, signal dogs, police dogs, search and rescue animals, or other service animals as defined by applicable State or Federal law, or being trained for such use.
- (d) An animal associated with a licensed kennel within the city for breeding purposes.

5-2.2 ISSUANCE OF LICENSE AND TAG. Application for a license required by this Chapter shall be filed with the Shelter Supervisor, or *Police Department*. ~~on a form prescribed by the Shelter Supervisor.~~ Upon Finance Department, payment of the required fee and upon compliance with the other requirements of this Chapter, the Shelter Supervisor shall issue a dog license *shall be issued*. ~~Either~~ The application ~~or the license~~ shall contain a brief description of the dog *animal* including the age, sex, color and breed of the *animal* dog, and the name and address of the owner. The license shall contain a serial number, the expiration date of the license and such other information as the *police department* Shelter Supervisor may determine. The *police department* Shelter Supervisor shall keep a copy of the application and license on file. ~~in his office and the application and license shall be open to public inspection.~~ With each license issued, the *police department* Shelter Supervisor shall also issue a tag made of some durable material. Said tag *that* shall bear the words "City of Porterville," the serial number on the *animal* dog license. ~~, the date of expiration of the license, and such other information as the *police department* Shelter Supervisor may determine.~~ Said *The* tag shall be securely worn by the animal for which the license was issued.

5-2.3 TIME LIMITS.

- (a) An owner of a dog or *licensable animal* shall secure a license for his dog *the animal* within thirty (30) days after ~~s/he~~ *he/she* acquires ownership of the dog. However, if a dog *or licensable animal* is less than four (4) months of age when the owner acquires it, the owner shall secure a license for the dog *animal* within ten (10) days after the dog *animal* becomes four (4) months of age.
- (b) Any person who enters the City and *resides* dwells in the City for a period of thirty (30) days or more, and who has brought a dog *or licensable animal* with him/*her* from outside the City, shall secure

a license for the *animal* dog within thirty (30) days after the person first enters the City.

- ~~(c) Prior to the time that a license is issued, the dog *animal* shall not be allowed to run at large, and any *animal* dog found running at large shall be impounded pursuant to this section, even though the time limits for securing the license which are set forth herein above have not expired.~~

5-2.4 VACCINATION CERTIFICATE REQUIRED.

- (a) A license for a dog *an animal* shall not be issued unless the owner of the *animal* dog presents for filing a certificate signed by a veterinarian or other professional as authorized pursuant to applicable State law showing that said *animal* dog has been vaccinated against rabies. *The certificate shall* which indicates that the period of time elapsing from the date of the vaccination to the date of expiration of the license does not exceed *thirty six (36)* ~~thirty (30)~~ months in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.
- (b) Every duly licensed veterinarian or other authorized professional, after vaccinating any dog owned by a resident of the City of Porterville, shall sign a certificate ~~in triplicate~~ containing the following information pursuant to *1920 of the Health and Safety Code*:
- (1) The type of vaccination used.
 - (2) The date of the vaccination.
 - (3) The breed, age, color and sex of the vaccinated dog.
 - (4) The serial number of the vaccination tag issued.
 - (5) The name and address of the owner of the dog.

The veterinarian or other authorized professional shall immediately present the original vaccination certificate to the owner of the dog, and shall deliver the duplicate copy to the *police department Shelter Supervisor*. The veterinarian or other authorized professional shall keep ~~a~~ the ~~triplicate~~ copy.

5-2.5 TERM OF LICENSE. Dog *Animal* licenses shall be issued *on an annual basis, commencing from January 1st of the current year to December 31st of the current year.* ~~on July 1st and terminating on the next June 30th. The owner of a dog shall secure a license for his/her dog annually, after the expiration of the original license. During the period from July 1st through August 31st of each year, an owner who has secured a license for his/her dog for the prior fiscal year shall not be in violation of this Chapter, and such dog shall not be impounded pursuant to this Chapter if the dog is wearing the tag issued for the prior fiscal year. Any first time issued license for an animal in the City will receive a prorated rate per month for the current year and will pay the fees in advance for the following year.~~

Commencing on the 1st day of January each year, the police department shall collect a delinquent penalty, in addition to the regular license fee, before issuing any license. The delinquent penalty shall be in an amount equal to the regular license fee as set forth in the fee schedule.

5-2.6 LICENSE FEES- UNALTERED:

(a) This section applies only to *licensable animals* dogs, which have not been spayed or neutered, and to *animals* dogs which are ~~not otherwise unable, for physical or medical reasons, to bear~~ *capable of reproduction*. The annual license fee for each dog / *licensable animal* shall be established by a *Resolution of the City Council* as adopted from time to time *in a fee schedule*. Such Resolution may provide for the proration of fees depending upon length of ownership of the dog and portion of year remaining on the license.

~~(b) The annual license fee for each dog / *licensable animal* shall be established by the *police department* City Council as adopted from time to time *in a fee schedule*. Such Resolution may provide for the proration of fees depending upon length of ownership of the dog and portion of year remaining on the license.~~

5-2.7 LICENSE FEES – ALTERED:

(a) This section applies only to dogs *licensable animals* which have been spayed or neutered, ~~or which are unable to bear or produce offspring for physical or medical reasons.~~ A certificate from a licensed veterinarian that the dog *licensable animal* comes within one of the provisions in subsection (a) of this Section shall accompany the application for a license or the fees set forth in this Section shall be paid. The annual license fee for each dog / *licensable animal* shall be established by a *Resolution of the City Council* as adopted from time to time *in a fee schedule*.

~~(b) A certificate from a licensed veterinarian that the dog *licensable animal* comes within one of the provisions in subsection (a) of this Section shall accompany the application for a license or the fees set forth in this Section shall be paid.~~

~~(c) The annual license fee for each dog *licensable animal* shall be established by Resolution of the City Council as adopted from time to time *in a fee schedule*. Such Resolution may provide for the proration of fees depending upon length of ownership of the dog and portion of year remaining on the license.~~

5-2.8 EXEMPTION: SERVICE OR ASSISTANCE ANIMALS. Any other provision of this Chapter notwithstanding, *it shall be at the discretion of the police department regarding whether or not there will be a charge shall be made for the annual licensing of a service animal as described by this Chapter.* ~~license issued for seeing-eye dog *For the purposes of this chapter, a service animal includes but is not limited to assistance dogs, guide dogs, signal dogs, police dogs, search and rescue animals, or other service animals* as defined by applicable State or Federal law, or being trained for such use. Proof of such use or training shall be provided by the applicant at the time of license application in a form satisfactory to the police department City, pursuant to Sections 365.5 and 365.7 of the Penal Code.~~

5-2.9 DELINQUENT PENALTIES. Commencing on the 1st day of *January* of September each year, a delinquent penalty, *which has been established and adopted as part of a fee schedule*, shall be collected in an amount equal to the regular license fee, in addition to the regular license fee. ~~before issuing a license if the time limits for securing licenses which are set forth in this Chapter have expired at the time that the license is issued.~~

5-2.10 EXTENSION OF TIME: DOGS TOO ILL TO BE VACCINATED. If a *licensable animal* dog is too ill to be vaccinated against rabies at the time that the time limits, set forth in this Chapter, expire, then the date for securing the dog license is extended until thirty (30) days after the date on which the dog is well enough to be vaccinated, and no delinquent penalties shall be charged for issuance of the dog license during said thirty (30) day period. However, an extension of time shall not be granted pursuant to this section unless the application for the license is accompanied by a certificate signed by a veterinarian setting forth facts, which show that the *licensable animal* dog comes within the provisions of this chapter. ~~Prior to the time that a license is issued for a *licensable animal* dog pursuant to this section, the *licensable animal* dog shall not be allowed to run at large and any such *animal* dog found running at large shall be impounded pursuant to this Chapter.~~

5-2.11 REPLACING LOST OR STOLEN TAGS. Whenever a tag issued for the then current year has been stolen or lost, the owner of the *animal* dog for which the tag was issued may, upon the payment of a fee to the *police department*

Shelter-Supervisor, receive a duplicate tag. The fee for a duplicate tag shall be set by Resolution of the City Council as adopted ~~from-time-to-time~~ *in a fee schedule*.

5-2.12 LICENSE TRANSFERABLE. The license and tag issued pursuant to this Chapter may be transferred when the ownership of the *animal* dog is transferred. The new owner or the previous owner of the *animal* dog shall notify the *police department* Shelter-Supervisor in writing of the change in ownership of the *animal* dog and the name and address of the new owner. If such written notice is not given, *the police department* Shelter-Supervisor shall send all required notices concerning said *animal* dog to the person whose name and address are on file with the *police department* Shelter-Supervisor.

5-2.13 AFFIXING LICENSE DOG TAG. It shall be unlawful to ~~for the owner of the an animal dog to permit the dog to run at large~~ *possess a licensable animal in the City Limits* without the tag issued pursuant to this Chapter being securely affixed to the *animal* dog by means of a collar, harness or other suitable device. It shall be unlawful for any person to affix the tag required by this Chapter to any *animal* dog except the *animal* dog for which it was issued and it shall be unlawful for the owner of an *animal* dog to allow the *animal* dog to wear a tag other than the tag issued for the current year.

~~**5-2.14 IMPOUNDING DOGS WITHOUT TAGS.** The Shelter Supervisor, *his/her agent*, and any peace officer, shall *may* take up every dog which is not wearing the required tag and which is found running at large within the City of Porterville. When such a dog is taken up by a peace officer, *he/she* shall deliver the dog to the Shelter Supervisor. All such dogs shall be impounded in the Porterville Shelter *or associated support facility*.~~

5-2.15 IMPOUNDING BITING OR ATTACKING ANIMALS.

- (a) The *police department* Shelter-Supervisor, ~~any of its~~ *his/her* authorized agents, ~~and any peace officer~~, shall have the power to summarily and immediately impound any animal dog ~~or other animal~~ where there is evidence it has attacked, bitten or injured any human being or other animal, or where there is evidence that *an animal* dog has acted in a threatening manner towards any human being, a dog has exhibited characteristics of being trained for fighting or attacking, or there is other evidence to show such training or fighting, pending any court proceeding ~~or animal license dog license or animal permit revocation proceeding~~ arising from the attack, bite or injury; or pending a hearing pursuant to Section 5-2.29 and 5-2.30 of this Chapter. The *police department* Shelter-Supervisor may enter and inspect private property to enforce the provisions of this section. Failure to surrender to the *police department* Shelter-Supervisor upon demand ~~an dog or other~~

animal which is being impounded pursuant to this section is a misdemeanor. The *police department* Shelter Supervisor shall also, as soon as reasonably possible, notify the bite victim of the rabies vaccination status of the biting dog- *animal* .

~~An *animal* dog or other animal wearing a *current* license tag, impounded pursuant to the authority of this Chapter, shall be returned to the owner or custodian as provided by this Chapter or when it is no longer required as evidence, or *considered to be vicious by the* if a notice that the *police department* Shelter Supervisor has declared the *animal* dog or other animal dangerous has not been served on the owner or custodian within six days after the impoundment, *not including the date of impoundment*,. *Once the owner is notified the animal is to be returned, he/she has six working days, not including the date of notification to retrieve the animal.* provided that, within those six days, the owner has made application to redeem the dog or other animal.~~

An dog or other animal not wearing a license tag, impounded pursuant to the authority of this section shall *may* be destroyed in a humane manner ~~if *in accordance with applicable state and federal laws, if* within six business days after being impounded, *not including the date of impoundment*, the owner has failed to make application to redeem the dog or other animal. If, within six business days after being impounded, *not including the date of impoundment*, the owner has applied to redeem the dog or other animal, then the dog or other *animal shall be returned to the owner as provided by this Chapter, or when it is no longer required as evidence, or considered to be vicious by the police department*-, *and the owner Hhas also satisfied all licensing requirements.* has been a notice that the Shelter Supervisor has declared the dog or other animal dangerous has not been served on the owner within six days of the filing of the application to redeem the dog or other animal.~~

- (b) In lieu of impound, the *police department* Shelter Supervisor may permit the dog or other animal to be confined at the owner's or custodian's expense in a licensed dog kennel or veterinary facility approved by the *police department* Shelter Supervisor. *or at the owner's or custodian's residence provided that the owner or custodian:*
 - (1) Shall not remove the dog or other animal from the kennel or veterinary facility or residence without the prior written approval of the *police department* Shelter Supervisor.

(2) Shall make the ~~dog or other~~ animal available for observation and inspection by the *police department* Shelter Supervisor or ~~members of law enforcement or their authorized representatives.~~

(c) The *police department* Shelter Supervisor may have an ~~dog or other~~ animal impounded or confined as provided in (a) or (b) above, permanently identified by means of photo identification prior to release from impound or confinement.

5-2.16 NOTICE TO OWNER OF LICENSED DOG OR OTHER ANIMAL.

Within two (2) days after an ~~dog or other~~ animal which is wearing a license tag is impounded, the *police department* Shelter Supervisor shall ~~contact the owner by phone or in person~~ mail a notice of the impounding to the owner at the address shown on the application for the license which is on file with the Shelter Supervisor, and advise the owner of the procedure whereby *he/she* may apply to regain custody of the ~~dog or other~~ animal. *If the owner cannot be contacted with the first (2) days of impoundment, the police department Shelter Supervisor shall mail a written notice of the impoundment to the mailing address on file for the owner.*

5-2.17 REDEMPTION OF IMPOUNDED DOGS OR OTHER ANIMALS.

- (a) The owner of any ~~dog or other~~ animal impounded other than pursuant to this Chapter may redeem the ~~dog or other~~ animal at any time prior to its sale or destruction. A person desiring to redeem an ~~dog or other~~ animal shall deliver to the *police department* Shelter Supervisor an application for redemption and a statement in a form prescribed by the *police department* Shelter Supervisor which shall contain a description of the ~~dog or other~~ animal to be redeemed, the name and address of the claimant, and the statement that he or she is the owner of the ~~dog or other~~ animal. The *police department* Shelter Supervisor shall issue to such person a written statement containing the name and address of the claimant, a description of the ~~dog or other~~ animal redeemed, the date on which the ~~dog or other~~ animal was impounded, and the accrued fees, and said statement shall serve as a certificate of redemption and receipt for the fees paid.
- (b) The owner of any ~~dog or other~~ animal impounded pursuant to this Chapter may redeem the ~~dog or other~~ animal pursuant to (a) above only after six days from impoundment if he or she has not received notice that the ~~dog or other~~ animal has been declared a dangerous animal and of the right to a hearing pursuant to this Chapter or if,

after a hearing, an order is made to return the dog or other animal to the owner.

5-2.18 FEES FOR IMPOUNDING AND KEEPING LICENSABLE ANIMALS DOGS AND OTHER ANIMALS. The owner of an *animal* dog which has been impounded shall pay to the *police department Shelter Supervisor* an impounding fee and shall also pay a fee for keeping said *animal* dog for each day, or portion thereof, that said *animal* dog has been impounded. The owner of an animal other than a dog, which has been impounded, shall also pay an impoundment fee and a fee per day for keeping said animal unless the amount required to keep the animal is higher in which case the owner shall pay the actual cost of keeping the animal. *The owner may also be charged for actual costs of veterinarian fees, medications and vaccinations associated with the care of their animal while said animal is under the care and custody of the police department Shelter Supervisor.* Impoundment and associated fees and the fees per day for keeping animals will be set by Resolution of the City Council as adopted from time to time *in a fee schedule.*

5-2.19 SALE ADOPTION / RESCUE AND / OR DESTRUCTION OF IMPOUNDED ANIMALS DOGS AND OTHER ANIMALS WEARING TAGS.

- (a) Unless an dog or other animal wearing a license tag has been redeemed *claimed* within six (6) days after being impounded, *not including the date of impoundment*, or unless it is being held for evidence in a hearing pursuant to this Sections 5-2.29 through 5-2.33 of this Article, it may be sold *made available for adoption or rescue* by the *police department Shelter Supervisor* to the a person other than the owner. offering to pay the highest cash amount therefore. But no dog or other animal which has been declared a dangerous animal pursuant to Sections 5-2.29 through 5-2.33 of this Article shall be *made available for adoption or rescue* sold pursuant to this section nor shall any dog or other animal which has been impounded pursuant to Section 5-2.15 and subsequently found not dangerous but improperly trained, handled or maintained be *made available for adoption or rescue*. sold. except to a person who is willing to properly train, handle and maintain the dog or other animal, as determined by the Shelter Supervisor.
- (b) *An animal may be humanely destroyed in accordance with state laws by the police department if within (6) days of impoundment, not including the date of impoundment, the owner has failed to make an application to claim the animal.*

~~Unless it may be destroyed by the *police department Shelter Supervisor* in a humane manner *in accordance with state and federal law.* An dog or other animal not wearing a license tag impounded pursuant to section 5-2.15 shall *may* be humanely *destroyed in*~~

~~accordance with state and federal laws, by the Shelter Supervisor if, within six days after it is impounded, not including the date of impoundment, the owner has failed to make application to redeem the dog or other animal.~~

~~If the owner of a dog or other animal gives permission in writing to do so, the dog or other animal shall be maintained at the Shelter for owner redemption for a period of 3 days, not including the date of arrival, then may be sold or destroyed six days after being delivered to the Shelter, not including the date of delivery, at any time after it is delivered to the Shelter, provided that no dog or other animal pursuant to Sections 5-2.29 through 5-2.33 of this Article shall be sold even with the permission of the owner.~~

- (c) ~~All animals coming into the jurisdiction of the police department animal control unit shall be screened for a license tag, microchip, or any other means of locating the owner. not been sold After all efforts have been made to locate the owner, the animal will be handled pursuant to (a) and (b) above.~~

~~Unless an dog or other animal wearing a license tag has been redeemed claimed within six (6) business days after being impounded, not including the date of impoundment, or unless it is being held for evidence in a hearing pursuant to Sections 5-2.29 through 5-2.33, and it~~

- (d) ~~All animals voluntarily surrendered by their owner will be handled in accordance with (a) and (b) above.~~

~~5-2.20 SALE AND DESTRUCTION OF IMPOUNDED DOGS AND OTHER ANIMALS NOT WEARING TAGS.~~

- (a) ~~Unless a dog or other animal which is not wearing a license tag has been redeemed within six (6) business days after being impounded, not including the date of impoundment, or unless it is being held for evidence in a hearing pursuant to Sections 5-2.29 through 5-2.33 of this Article, it may be sold by the Shelter Supervisor, to the person offering to pay the highest cash amount therefore. But no dog or other animal not wearing a license tag impounded pursuant to Section 5-2.15, for which no application for redemption has been made by the owner, shall be sold pursuant to this section.~~

- (b) ~~If any impounded dog or other animal which is not wearing a license tag has not been redeemed within six (6) business days after being impounded, not including the date of impoundment, or unless it is being held for evidence in a hearing pursuant to~~

~~Sections 5-2.29 through 5-2.33 of this Article, and it has not been sold pursuant to (a) above, it may be destroyed by the Shelter Supervisor in a humane manner *in accordance with state and federal law*. A dog or other animal not wearing a license tag impounded pursuant to Section 5-2.15 shall be destroyed by the Shelter Supervisor in a humane manner *in accordance with state and federal law* if, within six business days after it is impounded, *not including the date of impoundment*, the owner has failed to make application to redeem the dog or other animal.~~

- ~~(c) If the owner of a dog or other animal *has given permission in writing to do so*, the dog or other animal may be sold or destroyed in accordance with subsections (a) and (b) above, *providing the dog or other animal was available for owner redemption for three (3) days, not including the date of impoundment, and the mandatory six (6) day holding period, not including the date of impoundment, has expired*. at any time after it is delivered to the Shelter.~~

5-2.21 SALE *ADOPTION* OF IMPOUNDED DOGS *ANIMALS*. ~~When *an animal dog is adopted* sold by the Shelter Supervisor pursuant to the provisions of this Chapter, the *police department* Shelter Supervisor shall deliver to the *adopting person* purchaser of said *animal* a *contract* statement in writing containing a description of the dog *or other animal*, the date of *transfer* sale, and *the terms of the adoption and the amount of fees paid*. amount of the purchase price. *Upon the proper adoption of an animal, the previous owner of the animal shall thereafter be barred from all rights to recover the animal*. All sales shall convey a good and valid title to the purchaser, and the previous owner of the dog *or other animal* shall thereafter be barred from all right to recover said dog *or other animal*.~~

5-2.22 LICENSING IMPOUNDED DOGS.

- ~~(a) *The police department shall not release any licensable animal to its owner until such time the owner provides proof of application for license in the jurisdiction of their residence*. The Shelter Supervisor shall not release an unlicensed dog to its owner or sell an unlicensed dog to any person who resides in the City, unless the owner or purchaser, respectively, signs an agreement that he or she will secure the required license within ten (10) days after he or she is given possession of the dog and pays a deposit in an amount set by the City Council by Resolution. Said deposit shall be refundable to the owner if the owner submits evidence of compliance with this section. It shall be unlawful to fail to secure said license within said ten (10) day period. If the owner or purchaser fails to secure said license within said ten (10) day~~

period, he shall be required to return the dog to the Shelter Supervisor, and the dog may be impounded.

- (b) ~~The Shelter Supervisor shall not release to the owner or purchaser any dog whose license has been revoked after a hearing pursuant to this Chapter unless the owner or purchaser shows proof that he or she has enrolled the dog in a class to re-train the dog or proof that he or she is qualified to re-train the dog and the owner or purchaser signs an agreement that, until the dog is re-trained as evidenced by a certificate of successful completion of the training program, it will be securely confined when not under the immediate control of a responsible attendant and that he or she will secure *has secured* the required license. within ten (10) days after he or she is given possession of the dog. It shall be unlawful for the owner or purchaser to not keep the dog securely confined as agreed. and to fail to secure said license with said ten (10) day period and any *Any* dog which is not so confined or for which said license is not secured within the required ten (10) day period shall be immediately impounded by the Shelter Supervisor and, without further notice, humanely destroyed or sold to a person willing to comply with the above requirements for re-training and confinement of the dog, *or destroyed in accordance with state and federal law.*~~

5-2.23 REMOVAL OF TAG. It shall be unlawful for any person to remove from a *licensable animal the attached license tag for the current year.* ~~dog, without authority from the owner, any collar, harness, or other device to which is attached a license tag for the current year, or to remove such tag there from.~~

5-2.24 DISPLAY OF TAG. It shall be unlawful for any person to refuse to show *police department employees* Shelter Supervisor or any peace officer, on request, the license certificate and / or the tag for any *licensable animal* dog kept *on the premises under their control.* ~~within his *the* home, upon any enclosed premises under his *their* immediate control.~~

5-2.25 KEEPING DANGEROUS DOGS OR OTHER ANIMALS. It shall be unlawful for a person to keep a dangerous dog or other animal. *Any dog or other animal* which has been found to be a dangerous or vicious animal pursuant to this Chapter, *or any other jurisdiction.* ~~the ordinance code of any other county or city or pursuant to any state statute, shall be conclusively presumed to be dangerous.~~

5-2.26 INTERFERENCE WITH HIGHWAYS.

It shall be unlawful for the owner to allow or permit a dog *any animal* to habitually or repeatedly attack, *chase, molest or frighten* pedestrians, cyclists, vehicles or other users of the public *right of ways or roadways.* ~~highways.~~

5-2.27 PERMITTING ANIMALS DOGS TO RUN AT LARGE. It shall be unlawful for the owner or other person in lawful possession or control of *an animal dog* to allow or permit the *animal dog* to run at large *upon any property, public or private*, in any public park, public square, school or school grounds in any area of the City; or upon any property, whether public or private, except with the consent of the property owner, or *in a park or other area designated for such activity*. ~~where such property is located within the City limits.~~ Every *animal dog* found running at large in violation of the provisions of this section shall *may* be seized and impounded *and/or the responsible person may be issued a citation for said violation.*

5-2.28 LEASH REQUIREMENTS. It shall be unlawful for the owner or handler in lawful possession or control of a dog to walk the dog on any public place or right of way without the dog being secured or tethered by a fixed length leash not to exceed six (6) feet and the number of dogs shall not exceed the number of dogs the owner or handler can reasonably and safely control and in no circumstance shall the number of dogs exceed three (3).

5-2.29 KEEPING OF ANIMALS.

Animal keeping is allowed as an accessory use to a primary residential use. Animals may be kept in compliance with the following standards:

- (a) *Residential Household Pets. Household pets such as domestic dogs, cats, or birds, ordinarily permitted inside of a dwelling and kept only for the company and pleasure provided to the occupants shall be permitted. Household pets shall not include horses, cows, goats, sheep or other equine, bovine, ovine or ruminant animals, pigs, chickens, ducks, geese, turkeys, game birds or fowl which normally constitute an agricultural use. At no time shall the combined number of animals kept exceed seven (7) animals. At no time shall the number of cats or dogs exceed three (3) animals. It shall be unlawful to possess a combination of animals kept to exceed (7) residential household pets. [Include snakes/reptiles/other animals as permitted domestic pets?]*

- (b) *Agricultural Animals. The keeping of horses, cows, goats, sheep or other equine, bovine, ovine or ruminant animals is permitted in the AC and RR zone districts on lots one-half (0.5) acre or greater as long as the number of animals does not exceed one (1) per fifteen thousand (15,000)[??] square feet of lot area. The keeping of chickens, ducks, geese, turkeys, game birds or fowl is permitted with the total number not to exceed twelve (12) birds per gross acre. The raising of pigs is permitted in conjunction with an FFA or 4-H project for any recognized Fair, the limit being one (1) animal per student residing on the property. All animals other than household pets shall be housed or penned at a minimum distance of thirty-five (35) feet from property lines and fifty (50) feet from any residence. All areas and structures used in conjunction with the keeping of animals other than household pets shall be maintained and cleaned so as not to present a public hazard or nuisance.*

- (c) Except as permitted in section (b) above, is unlawful for any person to keep, maintain or permit to be maintained bees, swine, llamas, roosters, chickens, pigeons, turkeys, pea fowl, water fowl, ostriches and other "Ratitae," or livestock on any premises within the city. In addition, predatory, wild, or endangered animals are not allowed within the city.*
- (d) The offspring of any permitted animal may be kept until weaned, as long as they do not exceed the total number of animals allowed herein.*
- (e) The keeping of animals for commercial purposes shall not violate the provisions of Chapter 21 of the City of Porterville Municipal Code, which regulates kennels, pet stores, veterinary services, and animal raising.*

5-2.30 ANNEXATIONS-COMPLIANCE-TRANSITION PERIOD

Prohibited animals brought into the city limits as the result of a property annexation may be maintained on the annexed property for a maximum transitional period of 365 days from the date of annexation as long as the animals in question can legally be owned or possessed by law, are not classified as or presumed to be dangerous, and are in compliance with the ordinances of the County of Tulare at the time of annexation. Subsequent to the transitional period, the animals/property must be brought into compliance with the ordinances of the City of Porterville.

5-2.31 ANIMALS IN CITY BUILDINGS AND IN VEHICLES:

(a) It shall be unlawful for any person charged with the care of any animal or animals to cause or permit such animal to enter or remain in city-owned or city-managed buildings other than a building used for the purpose of care, detention, control or treatment of animals, or a building used for training classes, shows or exhibitions. This subsection shall not apply to persons using service animals.

(b) It shall be unlawful, other than an individual actually in the process of working a dog or other animal for ranching purposes, to transport or carry the animal in a motor vehicle on any public highway, public roadway, or lot open to the public unless the animal is safely enclosed within 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 motor vehicle.

(c) It shall be unlawful for any person to leave any dog or other animal in a vehicle or other enclosure without adequate ventilation or in such a manner as to subject the

animal to extreme temperatures which may adversely affect the health or well being of the animal.

5-2.32 CONTROL & SEIZURE OF DISEASED ANIMALS:

(a) It shall be unlawful for any person owning or having charge of any animal which that person knows to be infected with any disease transmittable to humans or detrimental to other animals shall permit such animal to remain within the city limits other than at an approved veterinary hospital unless the police department or other appropriate authority approves an alternative means of confinement.

(b) The police department is authorized to seize any animal reasonably believed to be infected with disease transmittable to humans or detrimental to other animals.

5-2.33 CRUELTY TO ANIMALS PROHIBITED:

(a) It shall be unlawful for any person to engage in any activity likely to cause harm or maliciously, willfully, or recklessly kill, maim, wound, mutilate, torment, torture or physically abuse any animal.

5-2.34 ABANDONMENT OF ANIMALS PROHIBITED:

It shall be unlawful to abandon any animal within the city limits. "Abandonment" as used herein, refers to acts clearly indicating intent on the part of an owner or person in control of an animal to permanently relinquish control over the animal.

5-2.28 5-2.35 BARKING DOGS. It shall be unlawful for any owner or caretaker of a dog to keep said dog in the City limits, which ~~dog shall~~ by loud or excessive barking, howling, whining, *cryingies, yelpings* or making any other noise, ~~that~~ disturbs the comfort, or quiet, *or peace* of any neighborhood or any person *at any time*; provided ~~the~~ said owner has been made aware *of the disturbance by the police department.* ~~of the disturbance created by the dog.~~

5-2.36 PUBLIC NUISANCE:

(a) It is declared to be a nuisance, and it shall be unlawful, for any person owning or having control or custody of any animal to do any of the following:

(1) Permit an animal to defecate or urinate on any privately owned or occupied property other than that of the owner or the person having control of the animal;

(2) Permit an animal to defecate on public property without immediately cleaning or removing the excrement to a proper receptacle;

(3) Permit unsanitary conditions to exist on any premises where an animal is kept which would cause foul or obnoxious odors, attract flies or vermin or otherwise threatens public health and safety;

(4) Cause or permit any animal to run or wander on any public property or privately owned or occupied property or premise without the consent of the owner or occupant.

(b)(a) If an unaltered animal is determined to be a nuisance pursuant to this subsection, upon a second offense, the owner may be required to have the animal altered;

(c)(b) The owner or person in control of an animal that has been determined to be a nuisance on a second or subsequent occasion maybe required to have a microchip inserted into the animal for identification purposes. In such instances, the microchip must be implanted by a licensed veterinarian within twenty (20) days of being classified as a nuisance for a second or subsequent offense and shall be at the expense of the owner or person in control of the animal. The owner or person in control of the animal shall provide the police department with a certificate of completion and provide the information listed on the microchip, which will be included in the licensing record for that animal;

(d)(c) Any police department employee acting in the capacity of animal control may seize and impound any animal causing a public nuisance.

(e)(d) Any private person may maintain an action under Civil Code Section 3493 for enforcement of this chapter declaring certain acts a public nuisance, if such acts are especially injurious to such person.

5-2.37 KILLING/BUTCHERING/PROCESSING OF ANIMALS OR FOWL – EXEPTIONS. It shall be unlawful to kill, slaughter, or sacrifice any animal or fowl inside the city limits of Porterville except on the premises or within the confines of establishments licensed for that purpose or within the confines of a recognized/licensed teaching institution as part of a curriculum. This section does not apply to police department employees acting in the capacity of animal control duties.

5-2.38 NUISANCE – INSPECTION FOR THE SAME – PROCEDURES:

(a) It shall be the duty of the police department to enter upon any yard, lot or parcel of land for the purpose of inspecting the same to ascertain the presence of an animal-related nuisance.

(b) If the inspecting official has reason to believe a nuisance exists, he/she may serve written notice of correction to the person or persons owning or having control of or acting as agent for, leasing or occupying such premises, to abate or remove such nuisance within forty-eight (48) hours or other reasonable time as stated in the notice. Such notice shall be served personally or, where the person responsible for such nuisance cannot be located, by posting the notice in a conspicuous place on the front door or entranceway.

(c) It shall be unlawful for any person to knowingly, willfully, or negligently fail to abate the nuisance alleged in the notice or fail to contest the allegations in the notice within forty-eight (48) hours (or other time as specified in the notice) following receipt or knowledge of same.

(d)(c) Where the person upon whom the abatement notice is required to be served under subsection (b) has been properly served but does not abate the nuisance within the time specified in the notice, the police department shall have the authority to do the following:

(1) Where the nuisance is caused by an at-large animal, a wild or exotic animal or a dangerous animal, the police department may follow the procedures relating to seizure and impoundment.

(2) Where the nuisance is in the nature of noise or odors and is caused by an animal or animals, by animal waste, or other conditions on the premises that are the result of the keeping of the animals, the police department may abate the nuisance by substantially following the notice, hearing, and the abatement procedure. Cost recovery procedures will follow the same as set forth in the impoundment recovery procedures defined in this Chapter pursuant to the attached fee schedule.

5-2.395-2.29 HEARING TO DETERMINE IF ANIMAL IS DANGEROUS.

*(a) The Field-Officers ~~police department shall~~ may declare any ~~dog or other animal~~ to be a dangerous animal whenever it has attacked, bitten or caused injury to any human being or other animal, or where there is evidence that *an animal* a dog has acted in a threatening manner towards any human being, or a dog has exhibited characteristics of being trained for fighting or attacking. ~~, or there is other evidence to show such training or fighting.~~ Within two (2) days after a ~~dog or other~~ *an* animal, which is wearing a license tag *or can otherwise be identified*, is impounded pursuant to this section, the *police department**

- (c) Any ~~dog or other~~ animal which has attacked, bitten or caused injury to a human being or other animal is presumed to be dangerous and the burden is on the owner to present evidence that the animal is not dangerous.
- (d) In making a determination that an ~~dog or other~~ animal is or is not dangerous, evidence of the following shall be considered:
 - (1) Any previous history of the ~~dog or other~~ animal attacking, biting or causing injury to a human being or other animal.
 - (2) The nature and extent of injuries inflicted and the number of victims involved.
 - (3) The place where the bite, attack or injury occurred.
 - (4) The presence or absence of any provocation for the bite, attack or injury.
 - (5) The extent to which property has been damaged or destroyed.
 - (6) Whether the ~~dog or other~~ animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting.
 - (7) Whether the ~~dog or other~~ animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or ~~dogs or other~~ animals.
 - (8) Whether the ~~dog or other~~ animal can be effectively trained or re-trained to change its temperament or behavior.
 - (9) The manner in which the ~~dog or other~~ animal had been maintained by its owner or custodian.
 - (10) Any other relevant evidence concerning the maintenance of the ~~dog or other~~ animal.
 - (11) Any other relevant evidence regarding the ability of the owner or custodian to protect the public safety in the future if the ~~dog~~ *animal* is permitted to remain in the City.
 - (12) Any other relevant evidence concerning the characteristics or behavior of the *animal* ~~dog~~, or concerning the circumstances of the incident.

5-2.4125-2.34 HEARING: DECISION AND DISPOSITION OF ANIMAL

- (a) At the conclusion of the hearing, the hearing officer may determine:
 - (1) That the ~~dog or other~~ animal is not a dangerous animal and should be returned to its owner; or
 - (2) That the ~~dog or other~~ animal is not dangerous but that the attack, bite or injury was the result of improper or negligent training, handling or maintenance; ~~and the dog is returned to~~

~~the owner with documentation of how to prevent future incidents, and that the license or animal permit should be revoked; or~~

(3) ~~That the animal is dangerous and it should be humanely destroyed after all appeal processes have been exhausted following the receipt of the hearing officer's decision.~~

(b)(3) If it is determined that the dog or other animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance and that the owner is unable or unwilling to properly train, handle or maintain the dog or other animal and that a similar incident is not likely to occur in the future ~~with~~ *without* proper training, handling or maintenance, the dog or other animal will *may* be disposed. of pursuant to section 5-2.32.

~~(c) If it is determined that the animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance, but also that the owner is able and willing to properly train, handle or maintain the animal and that similar incident is not likely to occur in the future with proper training, handling and maintenance, the animal may be returned to the owner with documentation of how to prevent future incidents.~~

~~(3) That the dog or other animal is a dangerous animal and that it should be humanely destroyed after all appeal processes have been exhausted following the receipt no sooner than the sixth tenth business day following the mailing of notice of the hearing officer's decision.~~

(d)(b) The decision of the hearing officer shall be in writing and shall be delivered personally to the owner or mailed to him or her *by certified mail*. ~~to the address appearing on the request for hearing.~~

(e)(c) The owner may, within ten (10) days of the *receipt* mailing of the hearing officer's written decision ~~to the owner~~, appeal the hearing officer's decision to the Tulare County Superior Court pursuant to California Code of Civil Procedure Section 1094.6. *The police department will be notified by the owner of the appeal in writing on the same date as the appeal was filed.* [not sure we can require this notification]

~~5-2.32 DISPOSITION OF DANGEROUS ANIMAL~~

~~(a) It shall be unlawful for any person to own, possess, harbor or keep any *animal* dog or other animal declared to be dangerous *within the city limits*.~~

~~(b) Any dog or other animal declared to be dangerous, if not already impounded, shall be immediately surrendered to the *police department* Shelter Supervisor, and it is the duty of the *police department* Shelter Supervisor to take up and impound any such dog or other animal.~~

~~(c) Any dog or other animal declared to be a dangerous animal shall *may* be humanely destroyed as permitted pursuant to this Chapter or otherwise prescribed by law.~~

~~5-2.33 DOG OR OTHER ANIMAL DECLARED NOT DANGEROUS.~~

~~(a) If it is determined that the dog or other animal is not dangerous, but that the bite, attack, injury, or other behavior was the result of improper or negligent training, handling or maintenance, the dog license or animal permit shall *may* be revoked.~~

~~(b) The dog license or animal permit may be reissued with reasonable terms, conditions or restrictions imposed for the training, handling or maintenance of the dog or other animal to protect the public health, safety and welfare only if it is determined that the owner or custodian is able and willing to properly train, handle or maintain the dog or other animal and a similar incident is not likely to occur in the future with proper training, handling or maintenance.~~

(c) ~~If it is determined that the dog or other animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance and that the owner is unable or unwilling to properly train, handle or maintain the dog or other animal and that a similar incident is not likely to occur in the future with *without* proper training, handling or maintenance, the dog or other animal will *may* be disposed of pursuant to section 5-2.32.~~

Article III

Kennels

Sections:

5-3.1	Kennel Defined
5-3.2	Kennel Permit and Application Fee
5-3.3	Vaccination Certificate Required
5-3.4	Preliminary Inspection
5-3.5	Permit
5-3.6	Term of Permit
5-3.7	Delinquent Penalties, Securing Individual Licenses if Kennel Permit Denied, Time Limits
5-3.8	Permitting Dogs to Run At Large
5-3.9	Inspection of Kennel
5-3.10	Vaccination of Additional Dogs
5-3.11	Delivery of Vaccination Certificates to Purchasers
5-3.12	Effect of Revocation of Kennel Permit

5-3.1 KENNEL DEFINED. The term "kennel," as used in this Chapter, means a *premises*, building or enclosure *where four (4) or more animals not owned by the kennel owner or operator are kept*~~eping, boarded~~*boarding, trained*~~training, or maintained~~*maintaining for commercial purposes four (4) or more animals not owned by the kennel owner or operator.* ~~five (5) or more dogs or other animals over four (4) months of age are kept.~~ The maintenance of more than two (2) animals used for breeding purposes for which compensation is received, or the parturition or rearing of more than two (2) litters in one (1) calendar year shall be a rebuttable presumption that such animals are owned or maintained for the purpose of commercial breeding and the owner and the premises shall be subject to permit *and licensing requirements as established in Chapter 21 of the City of Porterville Municipal Code.*

5-3.2 KENNEL PERMIT AND APPLICATION FEE. In lieu of securing the permit required by this Chapter for each of the dogs *animals* in a kennel, a person owning or operating a kennel may obtain a kennel permit covering all of the dogs ~~or other animals~~ maintained in the kennel. It shall be unlawful to fail to secure either the permit required by this Chapter. ~~or the permit authorized by this chapter.~~ The

application for a kennel permit shall be filed with the *police department*, along with a copy of a valid city business license. Shelter Supervisor on a form prescribed by the ~~him/her~~. The fees for kennel permits shall be set by Resolution of the City Council as adopted from time to time *in a fee schedule*.

5-3.3 VACCINATION CERTIFICATE REQUIRED. The *police department* Shelter Supervisor shall not issue a kennel permit unless the person applying for the permit files with ~~him/her~~ a certificate or certificates signed by a licensed veterinarian showing that all of the dogs *animals* in the kennel, which are over four (4) months of age, have been vaccinated against rabies and which indicates that the period of time elapsing from the dates of the vaccinations to the date of expiration of the kennel permit does not exceed *thirty-six (36)* ~~thirty (30)~~ months in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City of Porterville is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.

However, if one or more dogs *animals* in the kennel are too ill to be vaccinated against rabies at the time the application for the kennel permit is filed with the *police department* Shelter Supervisor, and the application for the kennel permit is accompanied by a certificate signed by a veterinarian which so states, the *police department* Shelter Supervisor shall *may* process and issue the kennel permit in compliance with this Chapter. The owner of the kennel shall thereafter have each such dog *animal* vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated and, ~~within ten (10) days after such dog animal has been vaccinated,~~ the owner of the kennel shall file the vaccination certificate with the *police department* Shelter Supervisor. ~~If satisfactory evidence is presented to the City Council that~~ *If* a person holding a kennel permit has failed to have a dog *an animal* vaccinated pursuant to this section, the City Council shall direct the Shelter Supervisor *police department may* immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.4 PRELIMINARY INSPECTION: The *police department* Shelter Supervisor shall *may* inspect the ~~kennel~~ *all kennels* and *to* determine whether the kennel ~~is~~ *kennels are* constructed and operated in such a manner as to prevent the dogs *animals* confined therein from running at large.

5-3.5 LICENSE. If the *police department* Shelter Supervisor has determined that the kennel ~~is~~ *kennels are* constructed and operated in such a manner as to prevent dogs *animals* confined therein from running at large, and if the required vaccination certificates have been filed in compliance with the provisions of this Chapter, the

~~police department Shelter Supervisor shall *may* issue a kennel permit to the applicant. Otherwise, the *police department* Shelter Supervisor shall *may* refuse to issue the kennel permit. The kennel permit issued by the *police department* Shelter Supervisor shall contain a serial number, the expiration date of the permit, the address of the kennel, and such other information as the Shelter Supervisor *police department* may require. The Shelter Supervisor shall not issue individual permit tags for the dogs *animals* in the kennel.~~

5-3.6 TERM OF PERMIT. Kennel permits shall be issued on *an annual basis* commencing on *January 1st* July 1st and *expiring on December 31st.* terminating on the next June 30th. During the period from July 1st through August 31st of each year, ~~an owner who has secured a kennel permit for his dogs for the prior fiscal year shall not be in violation of this Chapter.~~

5-3.7 DELINQUENT PENALTIES: SECURING INDIVIDUAL PERMITS IF KENNEL PERMIT DENIED: TIME LIMITS. Commencing on the 1st day of *January* September each year, the *police department* Shelter Supervisor shall collect a delinquent penalty, in addition to the regular permit fee, before issuing any kennel permit if the time limits set forth in this Chapter have expired for any ~~dog~~ *animal* in the kennel at the time that the application for the permit is filed. The delinquent penalty shall be in an amount equal to the regular permit fee as set forth in this Chapter. If an application for a kennel permit is filed before the time limits set forth in this Chapter have expired and if, after the expiration of such time limits, the *police department* Shelter Supervisor determines that a kennel permit shall *will* not be issued, the *police department* Shelter Supervisor shall send the owner of the kennel written notice that the kennel permit shall ~~will~~ not be issued. It shall be unlawful for the owner of the kennel to fail to secure individual permits for each of the dogs *animals* in the kennel, pursuant to the provisions of this Chapter, within thirty (30) days after receipt of such written notice of such violation. During the period between the date on which the application for the kennel permit is filed with the *police department* Shelter Supervisor until thirty (30) days after receipt of said written notice, the owner of the kennel shall not be in violation of this chapter.

~~**5-3.8 PERMITTING DOGS *ANIMALS* TO RUN AT LARGE.** It shall be unlawful for any person who has secured a kennel permit to allow or permit any dog *animal* in his/*her* kennel to run at large at any time. Every dog *animal* found running at large in violation of the provisions of this section shall be seized and impounded. If satisfactory evidence is presented to the City Council *Shelter Supervisor* that a person holding a kennel permit has allowed or permitted a dog *an animal* housed in said kennel to run at large, the City Council shall *may* direct the Shelter Supervisor to immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.~~

5-3.9 INSPECTION OF KENNEL. The *police department* Shelter Supervisor may *at any time* from time to time inspect any kennel for which a kennel permit has been issued. If the *police department* Shelter Supervisor determines that the

kennel is not *being* constructed or operated in *accordance with the Chapter, the police department may* such a manner as to prevent the dogs *animals* confined therein from running at large, s/he *he/she* shall *may* immediately revoke the kennel permit. and give the holder of the kennel permit written notice of such revocation.

5-3.10 VACCINATION OF ADDITIONAL DOGS *ANIMALS*. After a kennel permit has been issued, the owner of the kennel shall thereafter have each additional dog *animal* which is maintained in said kennel vaccinated against rabies by a permitted *licensed* veterinarian within thirty (30) days after he acquires ownership of the dog *animal*. However, if the a dog *animal* is less than four (4) months of age when it is acquired, it shall be vaccinated within thirty (30) days after the dog *animal* becomes four (4) months of age. If a dog *an animal* is too ill to be vaccinated against rabies at the time that the time limits set forth above expire, then the owner of the kennel shall thereafter have each such dog *animal* vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated. Within ten (10) days after a dog *an animal* has been vaccinated in accordance with this section, the owner of the kennel shall file the vaccination certificate with the City Shelter Supervisor. If satisfactory evidence is presented to the City Council *Shelter Supervisor* that a person holding a kennel permit has failed to comply with the provisions of this section, the City Council shall *may* direct the Shelter Supervisor to *shall* immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.11 DELIVERY OF VACCINATION CERTIFICATES TO PURCHASERS. Whenever a person holding a kennel permit sells any dog *animal* in the kennel, he/*she* shall deliver his a copy of the vaccination certificate for the dog *animal* to the purchaser. If satisfactory evidence is presented to the City Council *police department* that a person holding a kennel permit has failed to comply with the provisions of this section, the City Council shall *may* direct the Shelter Supervisor *police department may* shall to immediately [*note may need hearing prior to revocation*] revoke the kennel permit. and to give the holder of the kennel permit written notice of such revocation.

5-3.12 EFFECT OF REVOCATION OF KENNEL PERMIT. If the *police department* Shelter Supervisor revokes a kennel permit pursuant to the provisions of this chapter, it shall be unlawful for the owner of the kennel to fail to secure individual dog permits *licenses* for each of the dogs *animals* in the kennel, pursuant to this Chapter, within thirty (30) days after receipt of written notice of such revocation from the *police department* Shelter Supervisor. Any person whose kennel permit has been revoked by the *police department* Shelter Supervisor shall not be permitted to apply for a kennel permit until the next *calendar* ensuing fiscal year.

**Article IV
Rabies Control**

Sections:

- 5-4.1 Application of Article**
- 5-4.2 Animal Showing Signs of Rabies**
- 5-4.3 Isolation of Rabid Animals and Clinically Suspected Rabid Animals**
- 5-4.4 Animals Biting Persons**
- 5-4.5 Animals in Contact with Rabid Animals**
- 5-4.6 Violation of Quarantine**

5-4.1 APPLICATION OF ARTICLE. This Chapter shall be in effect only at those times when the City of Porterville is not designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California. During those periods when the City of Porterville is designated as a rabies area, the provisions of said sections 1900-1921 of the Health and Safety Code, and the rules and regulations adopted pursuant thereto, are applicable rather than the provisions of this Article.

5-4.2 ANIMAL SHOWING SIGNS OF RABIES. Whenever the owner of an animal observes or learns that such animal shows symptoms of rabies or acts in a manner which would lead to a reasonable suspicion that it may have rabies, such person shall immediately notify the *police department* Shelter Supervisor. Said person shall thereafter allow the *police department* Shelter Supervisor, or his/her representative to make an inspection or examination to inspect or examine of said *the* animal.

5-4.3 ISOLATION OF RABID ANIMALS AND CLINICALLY SUSPECTED RABID ANIMALS, The owner of any rabid animal or clinically suspected rabid animal shall isolate the animal in strict confinement under proper care and under the observation of a veterinarian, in a Kennel, veterinary hospital, or other adequate facility in a manner approved by the *police department* Shelter Supervisor, and said animal shall not be destroyed or released from confinement for at least ten (10) days after the onset of symptoms suggestive of rabies and until the *police department* Shelter Supervisor gives written authorization for the release of the animal, with the exception that such animal may be sacrificed with the permission of the *police department* Shelter Supervisor for the purpose of a laboratory examination for rabies using the fluorescent rabies antibody test in an approved public health laboratory.

5-4.4 ANIMALS BITING PERSONS. Whenever the owner of an animal has knowledge that such animal has bitten any person, the owner shall immediately report that fact to the *police department* Shelter Supervisor and report the name and address of the person bitten and the time and place that such person was

bitten. Upon order of the *police department* Shelter-Supervisor, the owner shall quarantine the animal for the period of time specified in section 2606 of Chapter 17 of the California Administrative Code with regard to rabies areas, and shall allow the *police department* Shelter-Supervisor or his/her representative to make inspections and examinations of the animal from time to time during such period. The *police department* Shelter Supervisor *may* shall quarantine said animal upon the premises of the owner. However, if the owner of the animal so desires, the *police department* Shelter-Supervisor shall place the animal in quarantine in a veterinary hospital, at the expense of the owner, in lieu of quarantine of the animal on the premises of the owner. Quarantine shall be made by written notice delivered to the owner of said animal stating that the animal is quarantined and the instructions to be followed. If the quarantine is upon the premises of the owner of the animal, the animal shall be confined within a locked enclosure so constructed that the animal cannot escape or have contact with any other animal or human being other than the person responsible for its care or, at the discretion of the *police department* Shelter-Supervisor, the animal may be kept under restraint by leash in charge of a responsible person, or under such restrictions as the Shelter Supervisor may prescribe. Said animal shall be kept in quarantine until the *police department* Shelter-Supervisor gives written authorization for the release of the animal from quarantine. ~~Notwithstanding the foregoing provisions, such animal may be sacrificed with the permission of the *police department* Shelter-Supervisor for the purpose of a laboratory examination for rabies using the fluorescent rabies antibody test in an approved public health laboratory.~~

5-4.5 ANIMALS IN CONTACT WITH RABID ANIMALS. Any animal of a species subject to rabies which has been bitten by a known rabid or suspected rabid animal or has been in intimate contact with a rabid or suspected rabid animal shall be quarantined by the owner in a place and manner approved by the *police department* Shelter-Supervisor, for a period of six (6) months or destroyed; provided, however, that the following alternatives are permitted in the case of dogs and cats: If the dog or cat has been vaccinated against rabies within two (2) years but not less than thirty (30) days with a live virus vaccine, or within one (1) year but not less than thirty (30) days with a killed virus vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Administrative Code, the dog or cat may be re-vaccinated in a manner approved by the *police department* Shelter-Supervisor and quarantined in a place and manner approved by the *police department* Shelter-Supervisor for a period of thirty (30) days. The provisions of this Chapter concerning quarantine shall also apply to the quarantine of animals pursuant to this section.

5-4.6 VIOLATION OF QUARANTINE. When any animal is quarantined by the *police department* Shelter-Supervisor, it shall be unlawful for the owner of the animal to violate the quarantine by removing said animal from the premises where it is quarantined, allowing it to run at large, destroying it without authorization from the *police department* Shelter-Supervisor, concealing it from the *police department*

Shelter-Supervisor or disobeying any of the quarantine restrictions which have been imposed by the police department. Shelter-Supervisor-

DOG PARKS – RULES & REGULATIONS

[Note – we may want to just provide the authority for adopting rules for the dog parks in the ordinance and specify that said rules will be posted, violation of posted rules will subject the offender to penalties/fees, etc. Can keep the provision re allocating fees and fines to operation and enforcement of animal control program]

Rules

1. *Each owner or handler using the park is responsible for reading the rules of the dog park before entering it.*
2. *No owner or handler may bring more than two (2) dogs into the park at one time.*
3. *An owner or handler must be sixteen (16) years of age or older.*
4. *A child under the age of ten (10) years may enter the park only with a responsible adult.*
5. *Each dog brought into the park must be wearing a current license tag. The license tag may be checked by a member of the police department for validity.*
6. *Dogs are to be brought to the park on leashes and released inside the dog park, and put under the control of the leash again before they exit the dog park. No spike, choke, electric, or prong collars are allowed on dogs in the park.*
7. *No female dog in heat, or sick dog, shall be brought into the dog park.*
8. *Smoking, food, toys, and glass containers are prohibited in the dog park.*
9. *Owners or handlers are to remain in visual contact with their dogs at all times and shall have verbal control of their dogs while in the park.*
10. *An owner or handler shall immediately leash and remove a dog that becomes aggressive. At no time may a dog that has been designated as being dangerous or vicious be brought into the park.*
11. *Dog bites occurring inside dog parks shall be reported immediately to the police department.*

12. Owners or handlers shall control excessive barking while in or about the park.
13. An owner or handler is responsible for cleaning up secretion of feces and destruction caused by his or her dog, and filling in any holes the dog digs while in the park.

Allocation of fees and fines collected.

All fees and the city's share of all fines collected shall be used only by the department to fund the implementation and enforcement of the city's animal control program

Article VI

Violations

5-5.1 VIOLATIONS.

- (a) Misdemeanor. Any person violating any of the provisions of section this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment. *Notwithstanding the classification of a violation of this Chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this Chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction.*
- (b) Separate Offense. Each day that any provision of this chapter is violated is a separate and distinct offense and shall be punishable as separate and distinct offense.
- (c) ~~Infraction. Notwithstanding the classification of a violation of this Chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this Chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction. Any person convicted of an infraction under this Chapter shall be punished by:~~
 - ~~(1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;~~
 - ~~(2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of this Chapter within one (1) year; and~~
 - ~~(3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of this Chapter within one (1) year.~~
- ~~(c)(d) A person who owns or is in charge of or controls or who possesses an animal who permits, allows or causes the dog to run, stray, be uncontrolled or in any manner be in, upon, or at large upon a public street, sidewalk, park or other public property or in or upon the premises~~

or private property of another person is guilty of a misdemeanor if said animal bites, attacks or causes injury to any human being or other animal.

(d)(e) — Administrative Citation. Upon a finding by the city official or representative vested with the authority to enforce the various provisions of this Chapter, that a violation exists, he or she may issue an Administrative Citation and proceed with enforcement pursuant to Chapter 2, Article XIV, of the Municipal Code.

(e)(f) Except as provided for in Subsection (c)(d) of this section, violation of any of the provisions covered in this chapter may be investigated and punished as an infraction. An administrative citation may be issued in lieu of filing a criminal case. Each day a violation continues may be investigated regarded as a new and separate offense. The punishment upon conviction may be:

- 1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;*
- 2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one (1) year; or*
- 3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision within one (1) year, to a maximum of three (3) such violations.*

(B) For purposes of this section, bail forfeiture shall be deemed to be a conviction of the offense charged.

(C) In addition to any other penalties or fines provided for in this chapter, any reasonable costs incurred by the city in seizing, impounding and for confining any dangerous animal may be charged and recovered against the owner.

(f) Four (4) or more violations of the same section of this chapter shall constitute a misdemeanor and shall be investigated according to section (a) above. Each additional day the violations continue unabated shall be regarded as a new and separate offense.

(e) Civil Action. The City Attorney, or an Attorney hired for such purposes by and at the request of the City Council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition found to be in violation of the provisions of the Chapter, or State Codes specifically adopted by reference, as provided by law, and the City shall be entitled to its attorneys fees and costs.

- (f) These remedies shall not supplant or replace the procedures concerning dangerous animals as specified in Sections 5-2.15, and 5-2.29 through 5-2.33.*[check numbering once finalized]*

SECTION 2: This Ordinance shall be in full force and effect thirty (30) days from and after its passage, adoption, and approval.

Mayor

ATTEST: ????????

City Clerk

American Humane Association

The nation's voice for the protection of children & animals

Spaying / Neutering

Spaying is a general term used to describe the ovariectomy of a female animal. Neutering is a general term used to describe the castration of a male animal. However, neutering is often used in reference to both genders. The surgical procedure, performed by a veterinarian, renders the animal incapable of reproducing. Here are answers to some questions you may have about this beneficial procedure.

When can I have this procedure done?

American Humane Association believes that all cats and dogs adopted from public or private animal care and control facilities should be spayed or neutered (i.e., sterilized). Such sterilization includes prepubertal spaying and neutering of kittens and puppies. American Humane Association supports the passage of laws and regulations mandating that all cats and dogs adopted from public or private animal care and control facilities be sterilized.

American Humane Association encourages the veterinary profession to assist, whenever and however possible, in reducing the number of unwanted pets. This involvement includes supporting the neutering of cats and dogs adopted from public or private animal care and control facilities – thereby controlling the ongoing contribution of offspring to pet overpopulation.

Pet owners should work with their veterinarians to determine the appropriate sterilization ages for individual cats and dogs. Veterinarians are encouraged to work with clients, especially those who are well known and likely to permit an unwanted pregnancy to occur prior to surgery. Short-term and long-term health risks for each animal should always be assessed. American Humane Association encourages research into the development and use of nonsurgical methods of sterilization.

Why should I have my pet neutered?

Animal shelters, both public and private, are faced with an incredible burden: What to do with the overpopulation of dogs and cats that they cannot find homes for? Approximately 3.7 million animals are euthanized at shelters each year, due to the sheer fact that there are not enough willing adopters. Having your pet spayed or neutered ensures that you will not be adding to this tremendous burden.

What are some of the health and behavioral benefits?

Through neutering, you can help your dog or cat live a happier, healthier, longer life. Spaying eliminates the constant crying and nervous pacing of a female cat in heat. Spaying a female dog also eliminates the messiness associated with the heat cycle.

Neutering of male dogs and cats can prevent certain undesirable sexual behaviors, such as urine marking, humping, male aggression and the urge to roam. If you have more than one pet in your household, all the pets will generally get along better if they are neutered.

A long-term benefit of spaying and neutering is improved health for both cats and dogs. Spaying females prior to their first heat cycle nearly eliminates the risk of breast cancer and totally prevents uterine infections and uterine cancer. Neutering males prevents testicular cancer and enlargement of the prostate gland, and greatly reduces their risk for perianal tumors.

Neutering just costs too much!

The cost of caring for a pet, including providing veterinary care, should be considered before acquiring an animal. Many animal shelters offer low-cost spay/neuter services, and there are also many low-cost spay/neuter clinics across the country. To find low-cost options in your area, call your local animal shelter. The reality is that the cost associated with providing adequate care for just one litter of puppies or kittens is often more than the cost of spaying or neutering. The cost of feeding, worming and first vaccinations for a litter can be upwards of \$200 to \$300. You must also consider that there could be complications with the birth that require hospitalization or surgery. You will also be faced with finding good homes for the offspring yourself or placing more animals into your local shelter. The cost of the well-being of not just your companion animal, but of future generations, should be considered.

Can't I allow my purebred dog to have just one litter?

Mixed breed or purebred — there just aren't enough good homes. Purebred animals also often end up in shelters. In fact, 25 percent of shelter dogs are purebreds. Responsible purebred breeders have homes for their potential litters before they breed.

I don't even own a pet! Why is this my problem?

All of us are affected by animal overpopulation. Millions of tax dollars are spent annually to shelter and care for stray, abandoned and unwanted pets. Much of that money is spent to euthanize these animals when homes cannot be found. Human health is threatened by the danger of transmittable diseases (including rabies), animal bites and attacks. Property may be damaged and livestock killed when pets roam in search of food. Animal waste is proving to be a serious environment hazard, fouling yards and parks. It is only when all of us assume the responsibility for pet overpopulation that we will see any decrease in the problem.

ATTACHMENT 3

Isn't it wrong to deprive an animal of the natural right to reproduce?

No, it's wrong to allow these animals to reproduce millions of unwanted offspring that are eventually killed because there aren't enough responsible homes.

If I find homes for my pet's litters, then I won't contribute to the problem, right?

Wrong. Only a finite number of people want pets. So every home you find for your pet's offspring takes away a home from a loving animal already at a shelter.

Shouldn't every female pet have at least one litter before being spayed?

No. In fact, your pet will be healthier if she never sexually matures.

Shouldn't children experience the miracle of birth?

No. A more important lesson to teach your children would be responsible pet ownership and concern for life by explaining why their pet should not have babies.

Doesn't neutering alter an animal's personality?

No. Personality changes that may result from neutering are for the better. Not being distracted by the instinctual need to find a mate helps your pet stop roaming and decreases aggressive tendencies.

Won't animal shelters take care of the surplus animals?

No. Shelters do their best to place animals in loving homes, but the number of homeless animals far exceeds the number of willing adopters. This leaves many loving and healthy animals in our community that must be euthanized as the only humane solution to this tragic dilemma. Only spaying and neutering can end the overpopulation problem.

[« Back](#)

SAMPLE REGULATIONS - ANIMAL CARE, CONTROL & SUBSISTENCE

SANITARY ENCLOSURE REQUIREMENTS:

The following section provides the minimal requirements for the care and harboring of animals within the city limits. Nothing in this section is intended to conflict with any provision of Chapter 21 of the Porterville Municipal Code.

(a) All premises, enclosures, or structures used or intended to be used for the harboring of animals must be cleaned and kept reasonably free of debris, refuse, manure, excreta, or like material as often as may be necessary to comply with the provisions of this section.

(b) The floor of any premises, enclosure, or structure used for the keeping of animals must be smooth and tight to prevent the accumulation of water, debris, refuse, manure, excreta, or like material. A wire floor may be used if appropriate for the type of animal being harbored and if maintained to prevent injury to the animal.

(c) Evidence of unsanitary or substandard maintenance of the premises, enclosure, or structure may include but not limited to the following:

(1) the accumulation of debris, refuse, manure, excreta, or other like material upon any surface within any such premises, enclosure, or structure used or intended to be used for the housing of such animals,

(2) any reasonably obnoxious odor or allergen arising from any condition existing within the premises, enclosure, or structure used or intended to be used for the housing of such animals, and

(3) the presence of numerous flies or fly larvae in the vicinity.

ENCLOSURE, STRUCTURE, SHADING REQUIREMENTS:

(a) All animals must have adequate enclosures, structures, or alternate forms of shading to allow an animal maintained outdoors to:

(1) protect itself from the direct rays of the sun when the sunlight is likely to cause overheating or discomfort;

(2) remain dry during the rain or other wet conditions;

(a) The enclosure, structure, or shading must be accessible to the animal at all times;

(b) The enclosure or structure must be situated to prevent exposing the animal to:

(1) unreasonably loud noise or;

(2) teasing, harassment, abuse, or injury by another animal or person;

(b) If the animal is confined in an enclosure or structure, the enclosure or structure must be:

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

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

(3) 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.

WATER REQUIREMENTS:

(a) All 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, object or the ground.

(b) Water containers must be clean and must be emptied and refilled with fresh water as necessary to maintain cleanliness or alternatively if the water is provided by an automatic or demand device, the water supply connected to the device must functional at all times.

FOOD AND FEEDING REQUIREMENTS:

(a) All animals must be provided food that is wholesome and be 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 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.

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

VETERINARY TREATMENT REQUIREMENT:

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

EXERCISE REQUIREMENT:

All 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.

TRANSPORTATION REQUIREMENTS:

All animals must be handled, moved, or shipped in a manner to ensure the health and safety and overall comfort of the animal.

REFUSE CONTAINER REQUIREMENTS:

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-proofed container until the material is removed from the premises or buried under the soil surface as fertilizer.

FOOD STORAGE CONTAINERS:

All grain or cereal intended for use as food for animals must be kept in containers with tightly fitted covers or other containers constructed to keep out vermin and wild animals.

DISPOSAL OF DECEASED ANIMALS:

(a) Upon the death of any animal, the owner or person in charge thereof shall provide for the burial, incineration or other disposition of the body of such animal in a manner not likely to result in an unsanitary condition. It shall be unlawful to dispose of any dead animal in any trash or garbage receptacle, whether public or private, to be hauled and carried into the general municipal solid waste stream. If the owner or person in charge of any dead animal is unable to provide for burial or other disposition, he/she may request the police department to remove and dispose of the body of such animal for a fee as set forth by a resolution of the city council.

(b) Upon learning that the body of a dead animal has not been disposed of in a safe and sanitary manner, the police department may remove and dispose of such body immediately. The owner or person who had legal custody of such animal at the time of removal shall immediately upon city's demand for payment, pay the police department for costs incurred as established by a resolution of the city council.

ZONING PRACTICE

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➔ ISSUE NUMBER 4

PRACTICE URBAN LIVESTOCK



ATTACHMENT 5

Urban Micro-Livestock Ordinances: Regulating Backyard Animal Husbandry

By Jaime Bouvier

While small farm animals never completely disappeared from most cities, a growing number of communities are revisiting their animal control and zoning regulations in response to a renewed interest in chickens, bees, and goats among urban agriculture practitioners and backyard hobbyists.

This article explores how small farm animals (i.e., micro-livestock) can and already do coexist in urban environments, and it examines the regulatory tools cities use to sanction and control backyard animal husbandry. The following sections are intended to serve as a guide for local governments considering legalizing and regulating this budding hobby.

WHAT IS MICRO-LIVESTOCK?

There is no universal definition of micro-livestock. It often just means small animals—like chickens, ducks, quail, and rabbits. It can also mean breeds that are smaller than average—such as bantam chickens, Nigerian Dwarf goats, or Red Panda cows. Finally, it can mean an animal of what is normally a large breed that just happens to be small. Many international organizations have long championed raising micro-livestock in cities to provide a secure and safe local food source. Because they require less food and water, are often especially hardy breeds, and their small size makes them ideal for small lots, micro-livestock are especially well suited to urban living.

Right now, most attempts to legalize micro-livestock focus on chickens, goats, and bees. Although rabbits are micro-livestock, they have caused less controversy. Perhaps because they are more accepted as pets, they were never made illegal in many cities. Very small pigs, like the pot-bellied pig, have also been accepted in many cities

Uncle Sam Expects You To Keep Hens and Raise Chickens



U.S. Department of Agriculture

⊕ During World War II, the U.S. government framed backyard chicken keeping as a patriotic duty.

as a pet; because they are not being raised for bacon, people don't think of them as livestock. There has been some move to legalize miniature horses as guide animals for the blind and disabled. Other animals, like miniature hogs, cows, or sheep, may also be suitable for city life under the right circumstances, but fewer people are advocating for them.

A SHORT HISTORY OF URBAN HENS AND OTHER MICRO-LIVESTOCK.

Although micro-livestock never disappeared from cities altogether, they used

to be an accepted and even encouraged part of urban life. For example, during the Victory Garden campaign, when the U.S. government urged American citizens to grow more of their own food to support the war, the government encouraged people to keep and raise chickens.

As it became cheaper and more convenient to buy food from a grocery store, it became less common to see livestock in the city. While many people believe that livestock became illegal because they were a nuisance, there is little evidence that this was the case—especially when just

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Go online during the month of April to participate in our "Ask the Author" forum, an interactive feature of *Zoning Practice*. Jaime Bouvier will be available to answer questions about this article. Go to the APA website at www.planning.org and follow the links to the Ask the Author section. From there, just submit your questions about the article using the e-mail link. The author will reply, and *Zoning Practice* will post the answers cumulatively on the website for the benefit of all subscribers. This feature will be available for selected issues of *Zoning Practice* at announced times. After each online discussion is closed, the answers will be saved in an online archive available through the APA *Zoning Practice* web pages.

About the Author

Jaime Bouvier is a senior instructor of law and codirector of the Writing and Academic Support Program at Case Western Reserve University School of Law in Cleveland, Ohio. She has also represented state and local governments as well as landowners in zoning and land-use litigation.

a few animals were kept. Instead, exiling livestock was partially a class-based phenomenon. Excluding animals that were seen as productive, that is animals kept for food purposes, was a way to exclude the poor. Animals that came to be viewed as nonproductive, such as dogs and cats, required money to keep and did not have the same associations. By illegalizing behavior associated with the recently rural and poor, a city could present itself as prosperous and progressive.

The desire to exclude the poor is a reason why ordinances making livestock illegal are often found in suburbs and even exurbs where the lot sizes are especially conducive to raising animals. It is also a reason why changing the regulations, even in such suburbs, is often especially contentious.

Now, however, raising livestock is becoming an activity that many young, educated, middle-class people seek out. The association between micro-livestock and poverty is no longer relevant. And distinguishing cities and suburbs from rural occupations is no longer universally seen as a sign of progress. In fact, many view a well-regulated return of micro-livestock to the cities and suburbs as embracing progressive values. And legalizing micro-livestock can actually attract people who seek to live in a place that supports the close-knit communities that this hobby creates.

MICRO-LIVESTOCK COMMUNITIES

Communities are essential to the micro-livestock movement. They provide much-needed support for people to discuss common problems and share interests.

Many communities began as a few people who already raised chickens, or goats, or bees—in violation of city law. They organized to legalize their animals. One of the leading examples of this is a group called Mad City Chickens in Madison, Wisconsin. Members of the group who kept chickens illegally, the self-described "Chicken Underground," were

Many communities began as a few people who already raised chickens, or goats, or bees—in violation of city law.

generally law-abiding citizens uncomfortable with their outlaw status. They did not understand why raising chickens in a way that did not bother their neighbors should be illegal. In 2004, in response to the group's lobbying efforts, Madison amended its zoning ordinance to allow chickens (and, subsequently, bees in 2012). Their lobbying efforts became the focus of a film, also titled *Mad City Chickens*, and have been a model for other groups seeking to legalize micro-livestock, such as the New York City Beekeepers Association and Seattle's Goat Justice League.

These groups' stories show that many people already keep micro-livestock in cities whether or not they are legal. It also shows that once citizens and city leaders are educated about these animals and shown how

they can, and already do, peacefully coexist in cities, they often will legalize these animals. Finally, it shows that cities are better off reasonably regulating micro-livestock, rather than forcing hobbyists out of their cities or underground.

CHICKENS, GOATS, AND BEES: BENEFITS

The main benefits to keeping chickens, goats, and bees is not so much to eat the animal itself, though people do eat chickens and goats. The main benefit is to eat the food they produce: eggs, milk, and honey. There is good research to show that backyard eggs are tastier and have more nutrients than store-bought ones. Milk from backyard goats, moreover, tastes better because goat milk does not store or ship well. It is also, arguably, easier to digest for those who cannot drink cow's milk. Goat hair is a prized material for making cashmere and mohair fabric. Manure from these animals is an excellent, and surprisingly pricey, fertilizer. Many people also value these animals for their companionship and become as close to them as they do any other pet. Finally, backyard and hobbyist livestock keepers ensure a diverse and more robust population of animals, ensuring the propagation of breeds that are not valued commercially but may become important if commercial breeds, because of genetic uniformity, become threatened by disease.

Apart from honey, keeping bees in urban areas has two main benefits: pollination services and ensuring an extant bee population. Honeybees pollinate two-thirds of our food crops and in recent years have suffered devastating losses. Some experts assert that these losses are caused or exac-

erbated by the use of pesticides, the stress of constant travel to different farms to pollinate crops, and the lack of plant diversity in rural environments. Thus, hobbyist beekeepers who do not subject their hives to such stressors may prove to be a haven for the continued existence of honeybees.

CHICKENS, GOATS, AND BEES: CONCERNS

Concerns about chickens and goats generally boil down to three things: odor, noise, and disease. None of these provide a reason to ban hens and does, but roosters can be too noisy and a ratty buck may be too smelly for dense urban environments.

Contrary to popular myth, roosters do not just crow in the morning to greet the rising sun—roosters crow all day. Hens do not need roosters to lay eggs; roosters are only necessary to fertilize the eggs. Hens are generally quiet, but when they do cluck, the resulting noise is about the same decibel level as a quiet human conversation. And, as long as a chicken coop is regularly cleaned and adequately ventilated, a small flock of hens will not be smelly.

Goats, too, are not generally noisy animals. While a goat may bleat, the sound is generally far less than the noise of a barking dog. Some goats, just like dogs or cats, are noisier than others. And, as for odor, female goats (does) and neutered male goats (wethers) do not smell. Male goats (bucks), during the mating season, do smell. The gamy odor of a ratty buck is the smell many associate with goats. While it is necessary for a doe to mate with a buck and deliver a kid to lactate and provide milk, this can be arranged with a stud-buck kept in more rural environs.

Finally, there is the issue of disease. As with any animal, including dogs and cats, disease can be spread through feces. Regular cleaning and straightforward sanitation practices, such as hand washing, can take care of this issue. While concerns about backyard chickens spreading avian flu have surfaced in some communities, the kind of avian flu that can cross over to humans has not yet been found in North America. And neither the Centers for Disease Control nor the Department of Agriculture have asserted that the possibility of bird flu is a reason to ban backyard hen keeping. Public health scholars have concluded that backyard chickens present no greater threat to public health than other more common pets like dogs and cats.

The major objection to honeybees is the fear of being stung. Here, it is important to understand the distinction between bees and wasps. Honeybees are defensive; they will not bother others unless they are threatened. A honeybee's stinger is attached to the entrails, so it will die if it stings. Bees want pollen; they are not interested in human food. Wasps, by contrast, are predatory, can sting repeatedly with little consequence, and are attracted to human food. Many people confuse fuzzy honeybees with smooth-skinned yellow jackets, a kind of wasp that forms papery hives. People do not keep wasps because they are not effective pollinators and do not produce honey.

A connected objection is a fear of a swarm. A swarm is a group of bees traveling to establish a new hive. While a swarm can be intimidating, before bees swarm they gorge on honey to prepare for the trip, which makes them particularly lazy and docile. Unless attacked or bothered, they will follow a scout bee to a new location within a few hours to a day.

§451 et seq.; 21 U.S.C., §1031 et seq.; and 21 U.S.C. §601 et seq.). The FDA requires that all milk be pasteurized, including goat milk (21 C.F.R. §1240.61) and regulates nutrition and information labeling of honey (21 U.S.C. §§342–343). Many of these laws have exceptions for animals and animal products raised for home consumption, but someone who wants to raise eggs, milk, or meat for sale or distribution would need to comply.

Most states have laws regulating the movement of livestock, including chickens, goats, and bees, into and out of the state. To track and attempt to control some diseases associated with livestock and bees, some states either require or encourage keepers of livestock and beekeepers, even backyard hobbyists, to register their premises with the state. Other states only ask to be alerted if a particular disease is found. Many states also have laws regulating the slaughter and sale of any animal used for meat, as well as laws regulating the sale of eggs, milk, and milk products. While these, also, generally have exceptions for home consumption, they will apply to sales. Often state agricultural

Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock.

AGRICULTURAL BASICS FOR CITIES CONSIDERING LEGALIZING MICRO-LIVESTOCK

Chickens and goats require companionship. As a consequence, cities should allow a minimum of four hens and two does. This ensures that the city is not interfering with good animal husbandry practices.

And, while bees never lack for companionship, it is a good idea to allow beekeepers to have more than one hive. This allows the beekeeper to better inspect for and maintain hive health. Cities should not be overly concerned that hives kept too close together will compete for food—honeybees fly up to a three-mile radius from the hive to find pollen.

FEDERAL AND STATE LAW CONSIDERATIONS

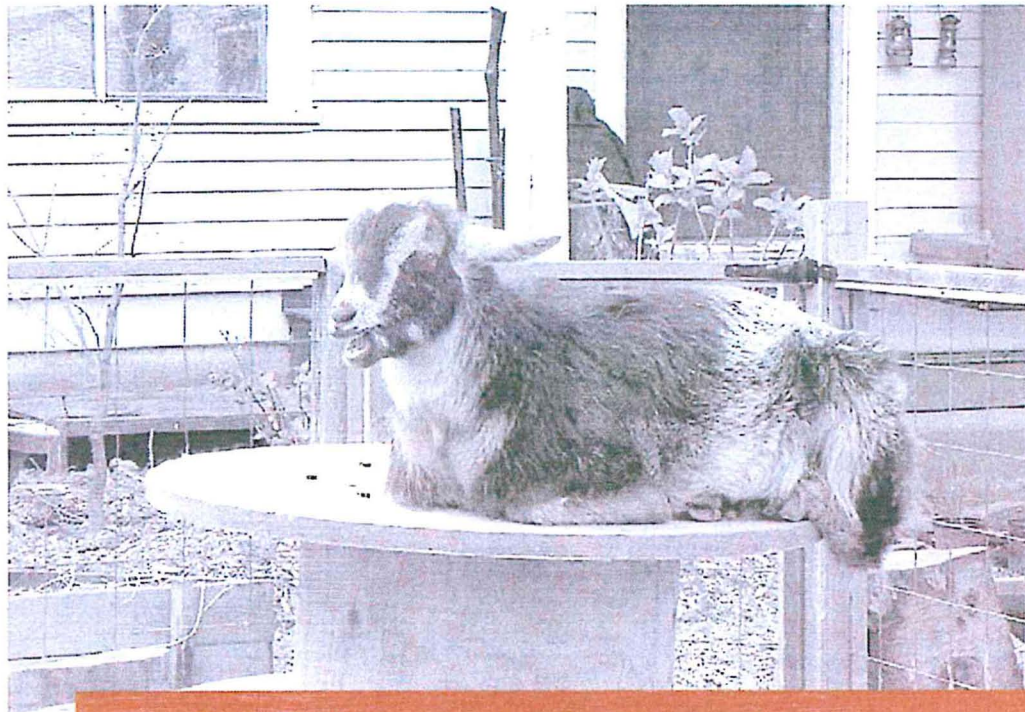
Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock. The federal government regulates the sale, processing, labeling, and transportation of chickens, eggs, and other meats (21 U.S.C.

extension services will have online information pages describing the regulations and exemptions for hobbyists.

For beekeeping, however, a few states have passed laws that interfere with a local government's ability to regulate. Wyoming, for instance, controls how close together apiaries (an area with one or more beehives) may be located (Wyo. Stat. Ann. §11-7-201). In June 2011, Tennessee preempted all local government ordinances regulating honeybee hives (Tenn. Code Ann. §44-15-124). And in July 2012, Florida also preempted all local government ordinances regulating managed honeybee colonies or determining where they can be located (Fla. Stat. §§586.05 & 586.10).

COMMON ASPECTS OF URBAN MICRO-LIVESTOCK REGULATION

In the cities that have recently passed ordinances regulating micro-livestock, the ordinances are all quite different. No standard ordinance has yet been established.



Wendy O'Connell

Portland, Oregon, allows up to three pygmy goats in a residential backyard without a permit (§13.05.015.E).

There are, however, many common aspects to these regulations. Most of them limit the number and type of livestock that can be kept in the city, establish setbacks for where the animals can be kept on the property, and require a certain amount of space per animal. Some also require a license.

Micro-Livestock Standards

Most cities have not taken a comprehensive regulatory approach to micro-livestock, but appear to allow particular livestock in response to citizen lobbying. Hundreds of cities have legalized chickens in the past few years. And the growing popularity of beekeeping means many cities have also adopted separate ordinances to allow for it. For example, South Portland, Maine (§§3-51 & 3-710; Cary, North Carolina (§5-3.4(I) & (O)); Ypsilanti, Michigan (§§14-13 & 14-171); and Littleton, Colorado (§§10-4-4 & 10-4-14) have recently passed ordinances separately allowing for both chickens and bees.

Some cities make idiosyncratic choices. For example, Ponca City, Oklahoma, allows miniature horses and donkeys, but still bans all other fowl and livestock (§7-3-10). Sebring, Florida, allows two hens and

two pot-bellied pigs (§4-1). And Carson City, Nevada, allows chickens, pigs, rabbits, and bees, but no goats (§§7.02 & 7.13.190).

And some only allow goats. In 2011, Loveland, Ohio, allowed two pygmy goats on residential properties of any size (§505.16). It defines pygmy as a goat no heavier than 60 pounds. The choice of such a light weight is curious, given that many micro-goat breeds weigh more than 60 pounds. Also, many breeds of dogs weigh up to three times as much, but most cities do not restrict the size of dogs. In 2010, Carl Junction, Missouri, allowed just one pygmy goat on a property of any size (§205.200(C)). Because goats are herd animals, this limit encourages poor animal husbandry practices.

Meanwhile, many cities are legalizing a wider variety of livestock. For example, Denver allows up to eight ducks or chickens and up to two dwarf goats and two beehives (§8-91; §11.8.5.1). But it requires 16 square feet of permeable land available to each chicken and 130 square feet for each goat. The city also requires adequate shelter to protect the animals from the elements and from predators. This means that to keep the full complement of eight chickens and two

goats, the yard would have to have approximately 400 square feet of space. For chickens, ducks, and goats, Denver has a 15-foot setback from neighboring structures used for dwelling and requires that the animals be kept in the rear half of the lot. For bees, Denver has a five-foot setback from any property line and requires that hives be kept in the back third of the lot.

Seattle allows up to eight domestic fowl, four beehives, one potbelly pig, and two pygmy goats, or no pig and three pygmy goats, on any lot (§23.42.052). It then employs a step system for additional animals. For lots larger than 20,000 square feet, an additional small animal—which means a dog, cat, or goat, may be kept on the lot. Seattle also allows other farm animals, including cows, horses, or sheep, to be kept on lots that are greater than 20,000 square feet. Seattle allows one of these animals per 10,000 square feet. Also, it has a 50-foot setback from the neighboring property for all farm animals, not including potbelly pigs, fowl, or miniature goats. Finally, Seattle has a separate ordinance that restricts goats to their premises, “except for purposes of transport or when on property other than

that of the miniature goat's owner with the permission of a lawful occupant of that property" (§ 9.25.084(H)).

Cleveland has a slightly more complex ordinance in that it has different regulations for residential and nonresidential districts (§347.02). It also employs a step system, allowing one animal per a certain number of square feet. In residential districts, it allows one hen, duck, rabbit, or similar animal per 800 square feet, and one beehive per 2,400 square feet. The ordinance spells out that a standard residential lot in Cleveland is 4,800 square feet, so most households could keep up to six hens and two beehives. Setbacks for hens are five feet from the side-yard line and 18 inches from the rear-yard line. Setbacks for bees are five feet from the lot line and 10 feet from any dwelling on another parcel. Neither animal is allowed in the front or side yard. Cleveland only allows goats, pigs, sheep, or similar farm animals on lots that have at least 24,000 square feet (i.e., a little more than a half-acre). If a lot is that size or larger, two of these animals will be allowed, with an additional one for each additional 2,400 square feet. Enclosures for these animals must be set back 40 feet from the property line and at least 100 feet from the dwelling of another.

In Cleveland, the nonresidential districts are less restrictive, with one chicken, duck, or rabbit per 400 square feet, one beehive per 1,000 square feet, and one goat, pig, or sheep per 14,400 square feet. This can allow for more intensive operations in less populated areas—and also opens the area to urban farms.

Hillsboro, Oregon, and El Cerrito, California, employ similar step systems. El Cerrito allows three hens as long as the property is at least 4,000 square feet (§7.08.020). Hillsboro allows three hens as long as the property is 7,000 square feet (§6.20.070). Both cities require at least 10,000 square feet to keep goats, but Hillsboro limits goats to two, and El Cerrito does not appear to limit them. El Cerrito, however, does require an administrative use permit to keep goats and allows for a conditional use permit to keep goats on a smaller parcel of land. El Cerrito requires a property of at least 5,000 square feet to keep one beehive. That beehive must be 20 feet from an adjacent dwelling and 10 feet from the property line. Hillsboro allows up to three beehives on any size residential property with a setback of 10 feet from the property line.

Vancouver, Washington, is an example of a less restrictive ordinance (§20.895.050). It allows up to three goats, if they weigh less than 100 pounds, on any size property. It also allows chickens, ducks, geese, or rabbits on any size lot with no numerical restriction. It does provide in the ordinance that the keeping of animals is subject to already existing nuisance requirements.

Roosters and Bucks

Most of these cities prohibit roosters and male goats (or bucks). Hillsboro prohibits roosters and uncastrated male goats with no exceptions. Seattle also prohibits roosters and uncastrated males but has an exception for nursing offspring that are less than 12 weeks old. Denver does the same but only until they are six weeks old. El Cerrito prohibits roosters but does not say anything about the gender of the goats it allows. And Cleveland has a more complicated system, in that it will allow roosters,

the license on those grounds (§205.04). The department also notifies neighbors about the license application and waits at least 21 days to hear back from them. The director can consider any evidence that the neighbors submit concerning nuisance, unsanitary, or unsafe conditions. To determine whether to grant the license, and any time after the license is granted, the department can inspect the property and enforce any penalties for violating sanitation or nuisance regulations.

Ellensburg, Washington, has an interesting ordinance in that it requires a license for dogs and cats, but does not require a license to keep up to two beehives and four hens (§§5.30.260 & 5.30.310). Seattle, likewise, requires a license for dogs, cats, pigs, and goats, but does not require one for chickens or bees (§9.25.050).

After restricting livestock to property with three acres or more, Pittsburgh amended its ordinance to allow chickens

Some cities require a permit or license . . . [which] are relatively straightforward and do not allow for much discretion on the part of the official who issues it.

but only on property that is at least one acre in size with a 100-foot setback from the property line for the coop. Cleveland, like El Cerrito, does not say anything about goat gender.

Licensing

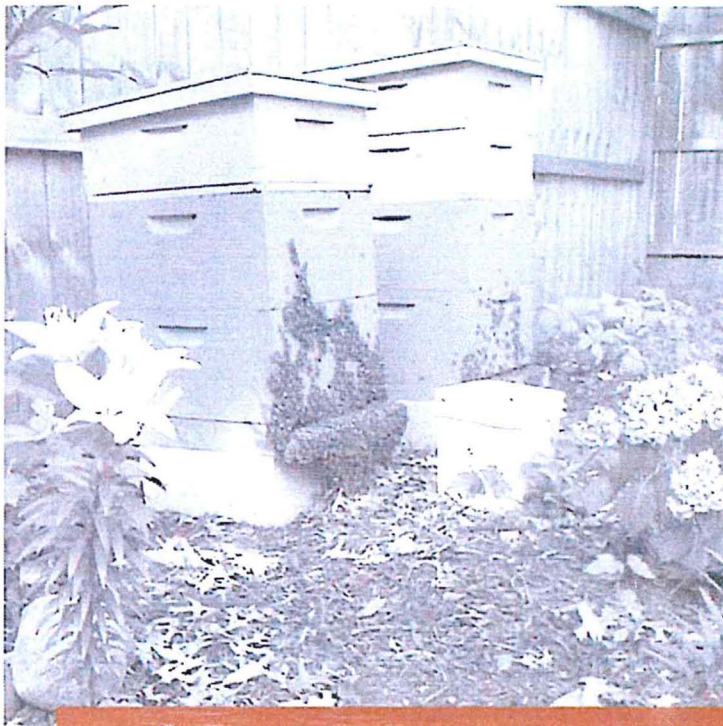
Some cities require a permit or license. Most of these permits are relatively straightforward and do not allow for much discretion on the part of the official who issues it. For instance, Denver requires a livestock or fowl permit to keep chickens or goats but requires no more than the provisions of the ordinance be met and a fee be paid to acquire the license. The city charges \$100 annually for a livestock permit and \$50 annually for a fowl permit.

Cleveland also requires a license. Its health department issues a two-year license to keep any type of livestock, including chickens and bees. In issuing the license the director of public health must consider evidence of "nuisance or conditions that are unsafe or unsanitary" and any "recorded violations" and may deny

and bees in 2011 (§912.07). It allows three hens and two beehives per 2,000 square feet on occupied, residentially zoned lots. It allows one more bird and hive for each additional 1,000 square feet. However, it requires the home owner to seek a special exception to keep livestock as an accessory use (§922.07). The special exception requires the zoning board of adjustment to hold a public hearing, to make findings of fact, and issue a written decision within 45 days of the hearing. This allows it to reevaluate and reweigh all of the concerns with raising chickens and bees in the city, even though the city council had already made the legislative determination and established criteria for when and where it was legal to do so. This puts a substantial burden on each home owner to fully argue the case before each iteration of the board. It also uses up considerable city resources.

COMMON AND LESS COMMON BEE PROVISIONS

Some cities never made keeping bees illegal, and do not regulate the practice.



Chicago allows up to five bee colonies in a residential backyard without a permit (§17-17-0270.7).

Among cities that do regulate beekeeping, flyway barriers and a source of fresh water are common requirements. Flyway barriers force bees to fly up over the heads of people so that they do not establish flight paths through a neighbor's property or populated sidewalks, streets, or parks. Bees require water; if a beekeeper does not provide it, bees will frequently use a close source, like a neighbor's pool.

Concerning flyway barriers, Cleveland requires a fence or a dense hedge of at least six feet in height within five feet of the hive and extending at least two feet on either side. However, it does not require a flyway barrier if the hive is at least 25 feet from the property line or on a porch or balcony at least 10 feet from the ground. South Portland, Maine, has a similar flyway barrier standard, but requires it to extend at least 10 feet in each direction. And Carson City, Nevada, requires the flyway barrier to "surround" the hive on any side that is within 25 feet of a property line. Neither South Portland nor Carson City has exceptions for balcony or rooftop hives.

Concerning a water source, Ellensburg, Washington, requires "a consistent source of water . . . at the apiary when bees are

flying unless it occurs naturally. The water may be 'sweetened' with mineral salt or chlorine to enhance its attractiveness." Cleveland requires a freshwater source to be maintained "throughout the day." And Carson City requires water only from April 1 to September 30.

As for less common provisions, Ellensburg, Washington, requires that all hives "consist of moveable frames and

combs." Cleveland prohibits Africanized bees. Africanized bees have only been found in a few southern states; beekeepers, moreover, do not seek to keep Africanized bees. Boise, Idaho, prohibits Africanized bees, as well as wasps and hornets (§11-09-11.03). This is peculiar; people do not keep wasps or hornets because they do not provide honey or pollination services. Boise and Carson City require a queen to be removed if the hive shows "unusually aggressive characteristics." And Carson City requires the new queen to be chosen from "stock bred for gentleness and non-swarming characteristics." Carson City only allows honey to be extracted "where there is no access by bees before, during, or after the extraction process." Carson City also requires any hive found to be diseased to be either "treated so as to completely eradicate the disease" or destroyed at the owner's expense. Finally, both Carson City and Ellensburg provide that abandoned hives are to be considered nuisances.

RECOMMENDATIONS

Of the ordinances discussed above, two stand out as potential models: Denver's and Seattle's. These ordinances show that the trend, over time, is to simplify regulations. Local governments seeking to regulate these practices should consider how much they are prepared to spend, in terms of resources, on licensing or monitoring these practices given the relatively small degree of actual nuisance they cause. Governments should also keep in mind that straightforward ordinances following developing norms will be easier to follow and easier to enforce.

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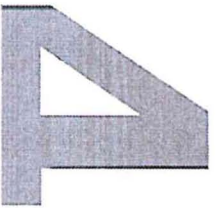
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HOW DOES YOUR COMMUNITY REGULATE BACKYARD FARM ANIMALS?



14-221

PORTERVILLE POLICE DEPARTMENT INTEROFFICE MEMO

May 7, 2014

TO: Chuck McMillan, Chief of Police
Dan Haynes

FROM: Dan Haynes, Captain, Services Division

SUBJECT: Rabies Control



During a meeting of the Porterville City Council on May 6, 2014, Council Members reviewed and discussed proposed revisions to the current Animal Control Ordinance of the City of Porterville. During the discussion, several questions arose regarding the need to require dogs to be licensed and the need to include rabies vaccinations as a requirement of the licensing process.

Subsequent research revealed that on February 6, 2014, the Director of the California Department of Public Health declared all 58 counties in California as endemic for rabies, which has been the case every year since 1987. When a rabies declaration is in effect, the licensing and vaccination requirements in question become mandates of the State of California and are referenced in California Health and Safety Code sections 121575-121710. Excerpts from said code and a copy of the declaration are attached for your review.

Section 121585 of the California Health and Safety Code says in part a “rabies area” shall mean any area not less than a county as determined by the director within a region where the existence of rabies constitutes a public health hazard, as found and declared by the director.

Section 121690 of the California Health and Safety Code say in part that in rabies areas, all of the following shall apply:

(a) Every dog owner, after his or her dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county.

(b) Every dog owner, after his or her dog attains the age of three months or older, shall, at intervals of time not more often than once a year, as may be prescribed by the department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by the department and administered according to the vaccine label, unless a licensed veterinarian determines, on an annual basis, that a rabies vaccination

ATTACHMENT 6

PORTERVILLE POLICE DEPARTMENT INTEROFFICE MEMO NO. 14-221

RABIES CONTROL

May7, 2014

Page 2

would endanger the dog's life due to disease or other considerations that the veterinarian can verify and document.

(g) In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated against rabies. The person to whom the license is issued pursuant to this subdivision may choose a license period as established by the licensing body of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

Additional references to the same topics can be found in sections 2602-2606.8 of the Title 17 of the California Code of Regulations. Excerpts from said code have been attach for your review.

Attachments: Attachment 1 (Excerpts from California Health and Safety Code)
Attachment 2 (2014 Declaration of Rabies Area)
Attachment 3 (Excerpts from Title 17, California Code of Regulations)
Attachment 4 (Excerpts from 2012 Rabies Control Activities Report)

Laws and Regulations Relating to

RABIES

Excerpts from the California Health and Safety Code
and the
California Code of Regulations



CALIFORNIA DEPARTMENT OF PUBLIC HEALTH
DIVISION OF COMMUNICABLE DISEASE CONTROL
INFECTIOUS DISEASES BRANCH
VETERINARY PUBLIC HEALTH SECTION
1616 CAPITOL AVENUE, M/S 7308
P. O. BOX 997377
SACRAMENTO, CA 95899-7377
<http://www.cdph.ca.gov/HealthInfo/discond/Pages/rabies.aspx>

Please refer to <http://leginfo.legislature.ca.gov/> and
<http://www.calregs.com/>
for the most up to date information

Attachment 1

California Health and Safety Code

121575. "Rabies," as used in this chapter, includes rabies, and any other animal disease dangerous to human beings that may be declared by the department as coming under this chapter.

121580. "Quarantine," as used in this chapter, means the strict confinement, upon the private premises of the owner, under restraint by leash, closed cage, or paddock, of all animals specified in the order of the department.

121585. "Rabies area" shall mean any area not less than a county as determined by the director within a region where the existence of rabies constitutes a public health hazard, as found and declared by the director. A region shall be composed of two or more counties as determined by the director. The status of an area as a rabies area shall terminate at the end of one year from the date of the declaration unless, not earlier than two months prior to the end of the year, it is again declared to be a rabies area in the manner provided in this section. If however, the director at any time finds and declares that an area has ceased to be a rabies area its status shall terminate upon the date of the declaration.

(Added by Stats. 1957. Ch. 1781.)

121595. Whenever any case of rabies is reported as existing in any county or city, the department shall make, or cause to be made, a preliminary investigation as to whether the disease exists, and as to the probable area of the state in which the population or animals are endangered.

121600. If upon the investigation the department finds that rabies exists, a quarantine shall be declared against all animals as are designated in the quarantine order, and living within the area specified in the order.

121605. Following the order of quarantine the department shall make or cause to be made a thorough investigation as to the extent of the disease, the probable number of persons and animals exposed, and the area found to be involved.

121610. The department may substitute for the quarantine order regulations as may be deemed adequate for the control of the disease in each area.

121615. All peace officers and boards of health shall carry out the provisions of this chapter.

121620. During the period for which any quarantine order is in force any officer may kill or in his or her discretion capture and hold for further action by the department any animal in a quarantine area, found on public highways, lands, and streets, or not held in restraint on private premises as specified in this chapter.

121625. Any proper official within the meaning of this chapter may examine and enter upon all private premises for the enforcement of this chapter.

121630. Except as provided in Sections 121705 and 121710, every person who possesses or holds any animal in violation of the provisions of this chapter is guilty of an infraction, punishable by a fine not exceeding one thousand dollars (\$1,000).
(Amended by Stats. 1971, Ch. 1379 and Stats. 1984, Ch. 697.)

121635. For the purpose of providing funds to pay expenses incurred in connection with the eradication of rabies, the rabies treatment and eradication fund is continued in existence in each county or city in this state.

121640. All money collected for dog license taxes shall be deposited to the credit of this fund with the treasurer of the county or city; but funds now collected from any dog tax may continue to be collected and used for other purposes specified by local ordinances.

121645. Upon the determination by the department that rabies exists in any county or city, a special dog license tax shall immediately become effective, unless a dog tax is already in force the funds from which are available for the payment of expenditures in accordance with this chapter.

121650. This tax shall be levied as follows: An annual tax of one dollar and fifty cents (\$1.50) for each male, two dollars and fifty cents (\$2.50) for each female, and one dollar and fifty cents (\$1.50) for each neuter dog. It shall be collected by the proper authority at the same time and in the same manner as other taxes are collected; except that at the first collection the proportion of the annual tax as corresponds to the number of months the tax has been in operation plus one year advance payment shall be collected.

121655. After this dog license tax has been established in a county or city, it shall be continued in force until an order has been issued by the department declaring that county, or the portion of that county as may be deemed advisable, to be free from rabies or further danger of its spread.

121660. One half of all fines collected by any court or judge for violations of this chapter shall be placed to the credit of the rabies treatment and eradication fund of the county or city where the violation occurred.

121665. Whenever it becomes necessary in the judgment of the department, to enforce this chapter in any county or city, the department may institute special measures of control to supplement the efforts of the local authorities in any county or city whose duties are specified in this chapter.

121670. All expenditures incurred in enforcing the special measures shall be proper charges against the special fund referred to in this chapter, and shall be paid as they accrue by the proper authorities of each county or city where they have been incurred; but all expenditures that may be incurred after the issuance of the order establishing the tax and before the first collection of the tax, shall be paid as they accrue from the general fund of the county or city.

121675. All expenditures in excess of the balance of money in this fund shall likewise be paid as they accrue from the general fund. All money thus expended from the general fund shall be repaid from the special fund when the collections from the tax have provided the money.

121680. Notwithstanding any other provision of this chapter a guide dog serving a blind master shall not be quarantined, in the absence of evidence that he or she has been exposed to rabies, unless his or her master fails:

(a) To keep him or her safely confined to the premises of the master.

(b) To keep him or her available for examination at all reasonable times.

(Added by Stats. 1951, Ch. 1363.)

121685. Notwithstanding any other provision of this chapter, a dog used by any state, county, city, or city and county law enforcement agency shall not be quarantined after biting any person if the bite occurred while the dog was being used for any law enforcement purpose. The law enforcement agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify the local health officer if the dog exhibits any abnormal behavior.

(Added by Stats. 1976, Ch. 913.)

121690. In rabies areas, all of the following shall apply:

(a) Every dog owner, after his or her dog attains the age of four months, shall no less than once every two years secure a license for the dog as provided by ordinance of the responsible city, city and county, or county. License fees shall be fixed by the responsible city, city and county, or county, at an amount not to exceed limitations otherwise prescribed by state law or city, city and county, or county charter.

(b) (1) Every dog owner, after his or her dog attains the age of three months or older, shall, at intervals of time not more often than once a year, as may be prescribed by the department, procure its vaccination by a licensed veterinarian with a canine antirabies vaccine approved by the department and administered according to the vaccine label, unless a licensed veterinarian determines, on an annual basis, that a rabies vaccination would endanger the dog's life due to disease or other considerations that the veterinarian can verify and document. The responsible city, county, or city and county may specify the means by which the dog owner is required to provide proof of his or her dog's rabies vaccination, including, but not limited to, by electronic transmission or facsimile.

(2) A request for an exemption from the requirements of this subdivision shall be submitted on an approved form developed by the department and shall include a signed statement by the veterinarian explaining the inadvisability of the vaccination and a signed statement by the dog owner affirming that the owner understands the consequences and accepts all liability associated with owning a dog that has not received the canine antirabies vaccine. The request shall be submitted to the local health officer, who may issue an exemption from the canine antirabies vaccine.

(3) The local health officer shall report exemptions issued pursuant to this subdivision to the department.

(4) A dog that is exempt from the vaccination requirements of this section shall be considered unvaccinated.

(5) A dog that is exempt from the vaccination requirements of this section shall, at the discretion of the local health officer or the officer's designee, be confined to the premises of the owner, keeper, or harborer and, when off the premises, shall be on a leash the length of which shall not exceed six feet and shall be under the direct physical control of an adult. A dog that is exempt from the provisions of this section shall not have contact with a dog or cat that is not currently vaccinated against rabies.

(c) All dogs under four months of age shall be confined to the premises of, or kept under physical restraint by, the owner, keeper, or harborer. Nothing in this chapter and Section 120435 shall be construed to prevent the sale or transportation of a puppy four months old or younger.

(d) A dog in violation of this chapter and any additional provisions that may be prescribed by a local governing body shall be impounded, as provided by local ordinance.

(e) The governing body of each city, city and county, or county shall maintain or provide for the maintenance of a pound system and a rabies control program for the purpose of carrying out and enforcing this section.

(f) (1) Each city, county, or city and county shall provide dog vaccination clinics, or arrange for dog vaccination at clinics operated by veterinary groups or associations, held at strategic locations throughout each city, city and county, or county. The vaccination and licensing procedures may be combined as a single operation in the clinics. No charge in excess of the actual cost shall be made for any one vaccination at a clinic. No owner of a dog shall be required to have his or her dog vaccinated at a public clinic if the owner elects to have the dog vaccinated by a licensed veterinarian of the owner's choice.

(2) All public clinics shall be required to operate under antiseptic immunization conditions comparable to those used in the vaccination of human beings.

(g) In addition to the authority provided in subdivision (a), the ordinance of the responsible city, city and county, or county may provide for the issuance of a license for a period not to exceed three years for dogs that have attained the age of 12 months or older and have been vaccinated against rabies or one year for dogs exempted from the vaccination requirement pursuant to subdivision (b). The person to whom the license is issued pursuant to this subdivision may choose a license period as established by the governing body of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination and, if a dog is exempted from the vaccination requirement pursuant to subdivision (b), the license period shall not extend beyond one year. A dog owner who complies with this subdivision shall be deemed to have complied with the requirements of subdivision (a).

(h) All information obtained from a dog owner by compliance with this chapter is confidential to the dog owner and proprietary to the veterinarian. This information shall not be used, distributed, or released for any purpose, except to ensure compliance with existing federal, state, county, or city laws or regulations.

(Amended by Stats. 2013, Ch. 582, Sec. 1. Effective January 1, 2014.)

121695. Nothing in this chapter and Section 120435 is intended or shall be construed to limit the power of any city, city and county, or county in its authority in the exercise of its police power or in the exercise of its power under any other provisions of law to enact

more stringent requirements, to regulate and control dogs within the boundaries of its jurisdiction.

(Added by Stats. 1957, Ch. 1781.)

121700. Rabies vaccines for animal use shall not be supplied to other than a veterinary biologic supply firm, a person licensed to practice veterinary medicine under Chapter 11 (commencing with Section 4800) of Division 2 of the Business and Professions Code, or a public agency.

(Added by Stats. 1965, Ch. 599.)

121705. Any person who willfully conceals information about the location or ownership of an animal subject to rabies, that has bitten or otherwise exposed a person to rabies, with the intent to prevent the quarantine or isolation of that animal by the local health officer is guilty of a misdemeanor.

Any person who violates this section is guilty of a misdemeanor.

(Added by Stats. 1984, Ch. 697.)

121710. Any person who, after notice, violates any order of a local health officer concerning the isolation or quarantine of an animal of a species subject to rabies, that has bitten or otherwise exposed a person to rabies or who, after that order, fails to produce the animal upon demand of the local health officer, is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period not to exceed one year, or by fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000) per day of violation, or by both fine and imprisonment.

(Added by Stats. 1984, Ch. 697.)



RON CHAPMAN, MD, MPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

DECLARATION OF RABIES AREAS

In accordance with the California Health and Safety Code, §121585 and 121690, the existence of rabies in the following California counties has been determined to constitute a public health hazard. This geographical block of fifty-eight (58) counties, which comprise the entire state of California, are: Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba. The California Department of Public Health hereby declares as a rabies area the block of fifty-eight (58) counties mentioned above, effective January 1, 2014.

Ron Chapman, MD, MPH
Director & State Health Officer

Date

Attachment 2

Title 17, California Code of Regulations

2606. Rabies, Animal.

(a) **Reporting.** Any person having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the facts immediately to the local health officer. The health officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.

In those areas declared by the Director of the State Department of Health Services to be rabies areas (See Section 121585, California Health and Safety Code) the local health officer shall be notified when any person is bitten by an animal of a species subject to rabies, whether or not the animal is suspected of having rabies.

(b) **Isolation.** Any rabid animal, clinically suspected rabid animal, or biting animal shall be isolated in strict confinement as follows:

(1) **Isolation of Rabid Animals or Clinically Suspected Rabid Animals.** Any rabid animal or clinically suspected rabid animal shall be isolated in strict confinement under proper care and under the observation of a licensed veterinarian, in a pound, veterinary hospital, or other adequate facility in a manner approved by the local health officer, except where such responsibility has been delegated to a comparable officer by the governing body, and shall not be killed or released for at least 10 days after the onset of symptoms suggestive of rabies, with the exception that such animals may be sacrificed with permission of the local health officer for the purpose of laboratory examination for rabies using the fluorescent rabies antibody (FRA) test in an approved public health laboratory.

(2) **Isolation of Biting Animals.** At the discretion of the local health officer any animal which bites or otherwise exposes a person shall be isolated in strict confinement in a place and manner approved by the local health officer and observed for at least 14 days (dogs and cats 10 days) after the day of infliction of the bite, with the exception that the following alternative to the 10 day isolation of dogs and cats is permitted -- dogs or cats which have been isolated in strict confinement under proper care and under observation of a licensed veterinarian, in a pound, veterinary hospital, or other adequate facility in a manner approved by the local health officer, may be released from isolation by the local health officer after five days of veterinary observation if upon conducting a thorough physical examination on the fifth day or more after infliction of the bite, the observing veterinarian certifies that there are no clinical signs or symptoms of any disease. Notwithstanding the foregoing provisions, a local health officer may authorize, with permission of the owner and other legal restrictions permitting, the euthanasia of a biting animal for the purpose of laboratory examination for rabies using the fluorescent rabies antibody (FRA) test in an approved public health laboratory.

(3) **Isolation of Biting Animals in Officially Declared Rabies Areas.** In officially declared rabies areas (see Section 121585, California Health and Safety Code) the isolation described in paragraph (2) above shall be mandatory for any animal of a species subject to rabies that has bitten or otherwise exposed a person, with the exception of rodents (members of the order Rodentia) and rabbits and hares (members of the order Lagomorpha).

(4) **Laboratory Examination of Rabid Animals, Clinically Suspected Rabid Animals or Biting Animals Which Die or Have Been Killed.** If any rabid animal, clinically suspected rabid animal or biting animal dies or has been killed, adequate specimens shall be obtained and examined in a public health laboratory approved by

the department. No person shall destroy or allow to be destroyed the brain of an animal of a species subject to rabies that has bitten or otherwise exposed a person before the destruction of such brain has been authorized by the local health department; provided, however, that the provisions of this paragraph (4) shall not apply to rodents (members of the order Rodentia) and rabbits or hares (members of the order Lagomorpha).

(c) Animal Contacts. Any animal of a species subject to rabies which has been bitten by a known rabid or suspected rabid animal or has been in intimate contact with a rabid or suspected rabid animal shall be quarantined in a place and manner approved by the local health officer, except where such responsibility has been delegated to a comparable officer by the local governing body, for a period of six months or destroyed, with the exception that the following alternatives are permitted in the case of dogs and cats as follows:

(1) If a dog over one year of age has been vaccinated against rabies within 36 months but not less than 30 days with a rabies vaccine of a type approved by the Department for a maximum immunity duration of at least 36 months, the dog may be revaccinated immediately (within 48 hours) in a manner prescribed by the Department and quarantined in a place and manner approved by the local health officer for a period of 30 days following revaccination.

(2) If a dog under one year of age has been vaccinated against rabies within 12 months but not less than 30 days with a rabies vaccine of a type approved by the Department, the dog may be revaccinated immediately (within 48 hours) in a manner prescribed by the Department and quarantined in a place and a manner approved by the local health officer for a period of 30 days.

(3) If a cat has been vaccinated within one year but not less than 30 days with an annual type feline rabies vaccine or if a cat has been vaccinated under one year of age with a 36-month type of feline rabies vaccine within 12 months but not less than 30 days, the cat may be revaccinated immediately (within 48 hours) in a manner prescribed by the Department and quarantined in a place and manner approved by the local health officer for a period of 30 days following revaccination.

(4) If a cat over one year of age has been vaccinated against rabies and has been vaccinated within 36 months and more than 30 days with a 36-month type feline rabies vaccine, the cat may be revaccinated immediately (within 48 hours) in a manner prescribed by the Department and quarantined in a place and manner approved by a local health officer for a 30-day period following revaccination.

NOTE

Authority cited: Sections 100275, 121610 and 120130, Health and Safety Code.
Reference: Sections 121580, 121600, 121610, 121620 and 120130, Health and Safety Code.

HISTORY

1. Amendment filed 5-5-71; effective thirtieth day thereafter (Register 71, No.19). For prior history see Register 65, No. 8.
2. Amendment of subsection (c) filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21).
3. Amendment filed 1-27-86; effective thirtieth day thereafter (Register 86, No. 5).

2606.2. Rabies Quarantine.

If rabies is known to exist within an area, the local health officer may establish a rabies quarantine and shall define the boundaries of the quarantine area and specify the animals subject to quarantine, and all such animals within the quarantined area shall be kept in strict confinement upon the private premises of the owner, keeper or harborer at all times until the quarantine is terminated by the local health officer.

NOTE

Authority cited: Sections 100110, 100275, 121575-121710 and 120435 Health and Safety Code.

HISTORY

1. New section filed 12-19-57; effective thirtieth day thereafter (Register 57, No. 22).
2. Amendment filed 5-5-71; effective thirtieth day thereafter (Register 71, No.19).

2606.4. Officially Declared Rabies Areas.

(a) Administration and Enforcement. For purposes of administration and enforcement of Section 121690, California Health and Safety Code, in officially declared rabies areas, the following shall apply:

(1) Licensing and Vaccination Procedure. The vaccination of dogs four months of age or older as required by subdivision (b), Section 121690, California Health and Safety Code, shall be held a requisite to licensing as required under subdivision (a) therein. Completion of the licensing procedure consists of issuance of a license tag or a vaccination tag bearing the license data and shall be carried out only after presentation of a current valid official vaccination certificate. Current copies of the Compendium of Canine Rabies Vaccines approved by the Department, together with the maximum immunity duration periods prescribed by the Department for each type product, are available upon request from the Veterinary Public Health Unit, Infectious Disease Section, California Department of Health Services, 2151 Berkeley Way, Berkeley, California, 94704, telephone (415) 540-2391.

(2) Vaccination Certificates. Official vaccination certificates must show:

- (A) the name, address and telephone number of the dog's owner;
- (B) the description of the dog, including breed, color, age, and sex;
- (C) the date of immunization;
- (D) the type of rabies vaccine administered;
- (E) the name of the manufacturer; and
- (F) the lot number of the vaccine used.

Such certificates shall bear the signature of the veterinarian administering the vaccine or a signature authorized by him, and in addition such certificate shall be stamped, printed, or typed with his name, address and telephone number for legibility, with the exception that at dog vaccination clinics conducted pursuant to Section 121690(f) of the Health and Safety Code, vaccination certificates approved by the local health officer may be used provided that the specific clinic is identified upon the vaccination certificate and records are maintained containing the information specified under items (E) and (F) above.

(3) Interval Permitted for Procurement of License. The vaccination of dogs four months of age against rabies as required under subdivision (b), Section 121690, California Health and Safety Code, and the license required by subdivision (a) of said

section shall be procured not later than 30 days after the dog attains the age of four months. The license renewal shall be procured not later than 60 days after expiration of the previously issued license.

(4) Rabies Control Activities Reporting. During such time as a county is under official declaration as a rabies area, each local official responsible for the various phases of local dog or rabies control within each city, county and city or cities, or county shall make quarterly rabies control activities reports to and on forms furnished by the Department. Such reports shall be submitted to the Department by the local officials responsible for the various phases of local dog or rabies control through the local health officer so as to reach the Department not later than 30 days following each quarter.

(b) Vaccination of Dogs Against Rabies. Dogs shall be considered to be properly vaccinated for the purposes of Section 121690, California Health and Safety Code, when injected at four months of age or older with an approved canine rabies vaccine and revaccinated in accordance with the following conditions:

(1) Primary Immunization. Primary immunization shall be defined as the initial inoculation of an approved canine rabies vaccine administered to young dogs between the ages of 4 to 12 months.

(2) Minimum Age for Rabies Vaccination. The minimum age for which rabies immunization of dogs shall be accepted for purposes of dog-owner compliance with requirements for rabies vaccination and for purposes of issuance of dog licenses (See Section 2606.4(a)(1)) is 4 months.

(3) Revaccination Intervals. Dogs shall be revaccinated one year (12 months) after the primary immunization with an approved type of rabies vaccine. Dogs receiving vaccination after primary immunization or any dog receiving its initial rabies vaccination over 12 months of age shall be revaccinated thereafter at least once every three years (36 months) with an approved type rabies vaccine.

(c) Issuance of Dog Licenses. In no instances shall a dog license be issued for a period beyond the date upon which revaccination is due except, following primary immunization in a local jurisdiction which is on a fixed one-year licensing period, a license may be issued for a period beyond the revaccination date if early revaccination cannot be required in accordance with subdivision (d).

(d) Notwithstanding the rabies revaccination intervals specified in Section 2606.4(b)(3) above, local authorities may require revaccination prior to issuance of a license provided that revaccination against rabies in no instance shall be required sooner than one year (12 months) following a primary immunization or sooner than 2 years (24 months) following a vaccination of dogs vaccinated over one year (12 months) of age.

NOTE

Authority cited: Sections 100275 and 121610, Health and Safety Code. Reference: Sections 121610 and 121690, Health and Safety Code.

HISTORY

1. New section filed 12-19-57; effective thirtieth day thereafter (Register 57, No. 22).
2. Amendment filed 5-5-71; effective thirtieth day thereafter (Register 71, No. 19).
3. Amendment filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21).
4. Amendment filed 1-27-86; effective thirtieth day thereafter (Register 86, No. 5).

2606.6. Importation of Dogs.

All dogs four months of age or older imported into this State for any purpose shall be accompanied by a certificate issued by a licensed veterinarian, stating that the dog or dogs have been vaccinated against rabies within 30 months of the date of importation of the dogs vaccinated over 12 months of age or within 12 months for dogs vaccinated under 12 months of age with a canine rabies vaccine of a type approved by the Department for an immunity duration of at least 36 months.

NOTE

Authority cited: Sections 100275 and 121610, Health and Safety Code. Reference: Sections 121610 and 121690(b), Health and Safety Code.

HISTORY

1. New section filed 12-19-57; effective thirtieth day thereafter (Register 57, No. 22).
2. Amendment filed 5-5-71; effective thirtieth day thereafter (Register 71, No. 19).
3. Amendment filed 5-20-77; effective thirtieth day thereafter (Register 77, No. 21).
4. Amendment filed 1-27-86; effective thirtieth day thereafter (Register 86, No. 5).

2606.8. Skunk Rabies.

(a) Due to the presence of rabies in skunks in California and in many other states, and the resultant hazard to the public health of rabies developing in skunks kept as pets, no person shall:

- (1) trap or capture skunks for pets,
- (2) trap, capture or hold skunks in captivity for sale, barter, exchange or gift,
- (3) transport skunks from or into the state except as provided under (b) below.

(b) The importation of skunks into California or the exportation of skunks from the State is prohibited except by permit from the California Department of Health Services to a recognized zoological garden or a research institution.

NOTE

Authority cited: Sections 100275, and 121610, Health and Safety Code. References: Section 121610, Health and Safety Code.

HISTORY

1. New section filed 10-1-62; effective thirtieth day thereafter (Register 62, No. 21).
2. Amendment filed 1-27-86; effective thirtieth day thereafter (Register 86, No. 5).



RON CHAPMAN, MD, MPH
Director & State Health Officer

State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

Local Rabies Control Activities 2012 Annual Report

Every year since 1987, the Director of the California Department of Public Health (CDPH) has declared all 58 counties in California as endemic for rabies, requiring each county to maintain a rabies control program per the California Health & Safety Code (§121690(e)). In 2012, approximately 350 city and county agencies in California conducted mandated rabies control activities, including issuing licenses to domestic dogs, providing “actual cost” public rabies vaccination clinics, and enforcing quarantine of animals following a reported bite incident. This report summarizes local rabies control activity data reported to CDPH for the year 2012.

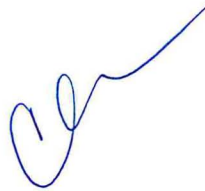
Attachment 4

14-237

PORTERVILLE POLICE DEPARTMENT INTEROFFICE MEMO

May 15, 2014

TO: John Lollis, City Manager
FROM: Chuck McMillan, Chief of Police
SUBJECT: History of Rabies/Dog Bites/Licensing



At the May 6th City Council Meeting, it was asked of staff to provide some historical information regarding rabies cases. Personnel have been in contact with Tulare County Health and Human Services to obtain certain data as their department maintains public safety data related to rabies cases.

We obtained the following information. Prior to 2007, the agency cannot provide information related to rabies cases for Tulare County.

2007	1 case of rabies
2008	No cases documented
2009	2 cases of rabies
2010	2 cases of rabies
2011	8 cases of rabies, including 1 in Porterville
2012	2 cases of rabies
2013	3 cases of rabies

As you can see, for the prior seven years, Porterville has one documented case involving rabies.

As a point of reference related to dog bite cases, our department documented the following cases for the past three years.

2011	81 dog bite cases, 22 of those cases were Pit Bull breeds
2012	73 dog bite cases, 10 of those cases were Pit Bull breeds
2013	82 dog bite cases, 34 of those cases were Pit Bull breeds

As for licenses issued from our Animal Control Facility, the following depicts annual licenses issued:

2011	393 licenses issued
2012	450 licenses issued
2013	471 licenses issued
2014	222 to date

ATTACHMENT 7

PORTERVILLE POLICE DEPARTMENT INTEROFFICE MEMO/14-237

HISTORY OF RABIES/DOG BITES/LICENSING

May 15, 2014

Page 2 of 2

I hope this information, along with Memorandum 14-221 drafted by Captain Haynes regarding the State Mandated rabies control concerning rabies vaccinations for local jurisdictions, will be of help to consider the adoption of the proposed Animal Control Ordinance.

COUNCIL AGENDA: MAY 20, 2014

SUBJECT: ADOPTION OF ORDINANCE ESTABLISHING AN ANIMAL CONTROL COMMISSION

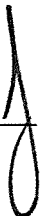
SOURCE: Administration

COMMENT: At its meeting on May 6, 2014, the City Council considered a proposed draft Ordinance in the formation of an Animal Control Commission. In its review of the draft Ordinance, the Council acted to reduce the number of Commission members from seven (7) to five (5), as well as the number of members required to constitute a quorum for the transaction of business from four (4) to three (3). The Council also acted to remove the limitation that members of the Commission be persons interested in animal welfare.

RECOMMENDATION: That the City Council adopt the draft ordinance adding Article VII – Animal Control Commission to Chapter 5 of the Porterville Municipal Code; give first reading of said ordinance by title only; and order the ordinance to print.

ATTACHMENT: Draft Ordinance

C/M

A handwritten signature in black ink, consisting of a vertical line that curves to the right at the bottom, forming a loop.

Item No. 21

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ADDING ARTICLE VII – ANIMAL CONTROL COMMISSION
TO CHAPTER 5 OF THE PORTERVILLE MUNICIPAL CODE

WHEREAS, the City Council of the City of Porterville wishes to establish an Animal Control Commission to serve in an advisory capacity to the City Council.

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

Section 1. Article VII of Chapter 5 of the Porterville Municipal Code is hereby added as follows:

Chapter 5
Article VII – Animal Control Commission

5-7.1 Established.

An Animal Control Commission is established in and for the City of Porterville. The Animal Control Commission shall serve in an advisory capacity to the City Council.

5-7.2 Composition.

The Animal Control Commission shall consist of five (5) members, who shall be residents of the city of Porterville. Commissioners shall be appointed by the City Council at its complete discretion by a majority vote. Members of the Commission shall be representative of a cross-section of the community.

5-7.3 Compensation.

Members of the Animal Control Commission shall serve without compensation.

5-7.4 Term of Office/Removal.

The term of office shall be four (4) years with terms staggered to prevent concurrent expiration of terms. All Commission members shall serve at the pleasure of the City Council and may be removed by a majority vote of the City Council at any time and for any reason.

5-7.5 Vacancies.

Vacancies, occurring otherwise than by expiration of the terms, shall be filled by appointment by the City Council as soon as possible; such appointee is to serve for the unexpired term of the vacant office.

5-7.6 Appointment of Chairperson and Vice Chairperson.

The Animal Control Commission shall appoint one of its members Chairperson, and one of them Vice Chairperson.

5-7.7 Term of Officers.

The officers thus appointed shall serve one (1) year, until their successors in office have been appointed by the Animal Control Commission.

5-7.8 Meetings and Records.

The Animal Control Commission shall hold meetings regularly as determined by the Commission and shall designate the time and place thereof. The Commission may hold as many meetings as determined necessary for the performance of the duties prescribed in this chapter. The meetings shall be held in compliance with the Brown Act and all applicable laws, and the meetings and records of attendance shall be public. The Commission shall adopt its own rules of procedure and keep a record of its proceedings. A record of attendance shall be kept regularly and reported to the City Council at least once per year. Members are expected to have at least 75% attendance based upon the Commission's regular meeting schedule (e.g. 9 out of 12 meetings if held monthly, and 3 out of 4 if held quarterly). Members who fail to meet the attendance requirement automatically vacate their seat and the vacancies shall be filled per Section 5B-5.

5-7.9 Quorum.

Three (3) members shall constitute a quorum for the transaction of business.

5-7.10 General Powers and Duties of Commission.

The Animal Control Commission shall:

- A. Advise the City Council and staff on any matters concerning animal control and shelter programs;
- B. Make recommendations to the City Council and staff concerning regulations affecting animals and the care, control, and treatment of animals;
- C. Make recommendations to the City Council and staff to strengthen the City's animal control and shelter programs;
- D. Engage in a long-term planning process through which it identifies major priorities and provides recommendations for the City Council for policies and procedures on animal control and shelter program operations;
- E. Promote public awareness of the goals and operations of the animal shelters and to enhance community relations with respect to animal control program operations;
- F. To advise and assist the City Council and staff in conducting public education and outreach programs to city residents regarding animal owner responsibility for licensing, spaying and neutering, and proper care of animals;
- G. To review and recommend proactive enforcement programs that will result in reducing cases of animal overpopulation, neglect, abuse, and public nuisance;
- H. To review and provide recommendations to the City Council and staff on all proposed amendments to Chapter 5—Animal Control;
- I. Serve as a sounding board for staff to review their plans and ideas; and
- J. Act on any matters referred by the City Council or staff in accordance with the instructions provided with the said referrals.

Section 2. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, or that end, the provisions hereof are severable.

Section 3. Effective Date. This Ordinance shall take effect thirty days after adoption as provided by Porterville Charter Section 12.

Section 4. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED AND ADOPTED, this _____ day of _____, 2014.

Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

COUNCIL AGENDA: May 20, 2014

SUBJECT: CONSIDERATION OF SPONSORING THE ESTABLISHMENT OF A COMMUNITY YOUTH SAFE ZONE PROGRAM


SOURCE: City Manager

COMMENT: At its meeting on May 6, 2014, the City Council approved Council Member Gurrola's request that the City Council consider sponsoring the establishment of a Community Youth Safe Zone Program as a Scheduled Matter on the May 20th Council Agenda.

Subsequent to the City Council's approval, both Council Member Gurrola and Burton School District representatives have respectfully requested to discontinue any further consideration of the matter.

RECOMMENDATION: That the City Council provide direction, as appropriate.

ATTACHMENT: None

C/M 

Item No. 22