

SUBJECT: PROPOSED DRAFT REVISIONS TO CITY ANIMAL CONTROL ORDINANCE

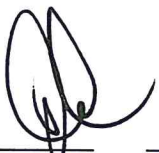
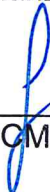
SOURCE: Administration

COMMENT 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, 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.

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:

 _____ Dir	<i>N/A</i> _____ App/Fund	 _____ CM
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Item No. 32

- 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 Indicating Changes
- 3) American Humane Association: Spaying/Neutering
- 4) Sample Regulations Regarding Animal Care and Control
- 5) Urban Farming Regulations – American Planning Association

[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 ~~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 *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 ~~then~~ 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* 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 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)(e)~~ 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)(e) 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**

~~Shelter Supervisor shall mail~~ *serve* notice of the finding *to the owner of record, via registered mail, or deliver the same in person, advising the owner that* ~~the the dog or other 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 dog or other animal, requesting a hearing to determine whether or not the dog or other animal is a dangerous. animal. Requests must be received by the ~~police department Shelter Supervisor~~ no more than six (6) days after impoundment, *not including the date of impoundment*.
- (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* sent by regular mail at least five (5) business days, ~~including Saturday, before such date to the owner at the address set forth on his or her request and shall notify the victim of such hearing.~~

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* ~~the Director or a person appointed as a Shelter Supervisor or other person appointed by the Director to serve as a hearing officer.~~

- (b) The hearing shall be open to the public. The *animal* owner may be represented by *an attorney counsel*. The hearing officer shall hear all pertinent evidence offered by *anyall* 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 owner may *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.* employ a shorthand reporter to report the hearing ~~at his/her own expense.~~

- (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.

~~5-2.4125-2.31~~ 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)(e) 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*~~ing, 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

APRIL 2013



AMERICAN PLANNING ASSOCIATION

➔ 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

ASK THE AUTHOR JOIN US ONLINE!

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

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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

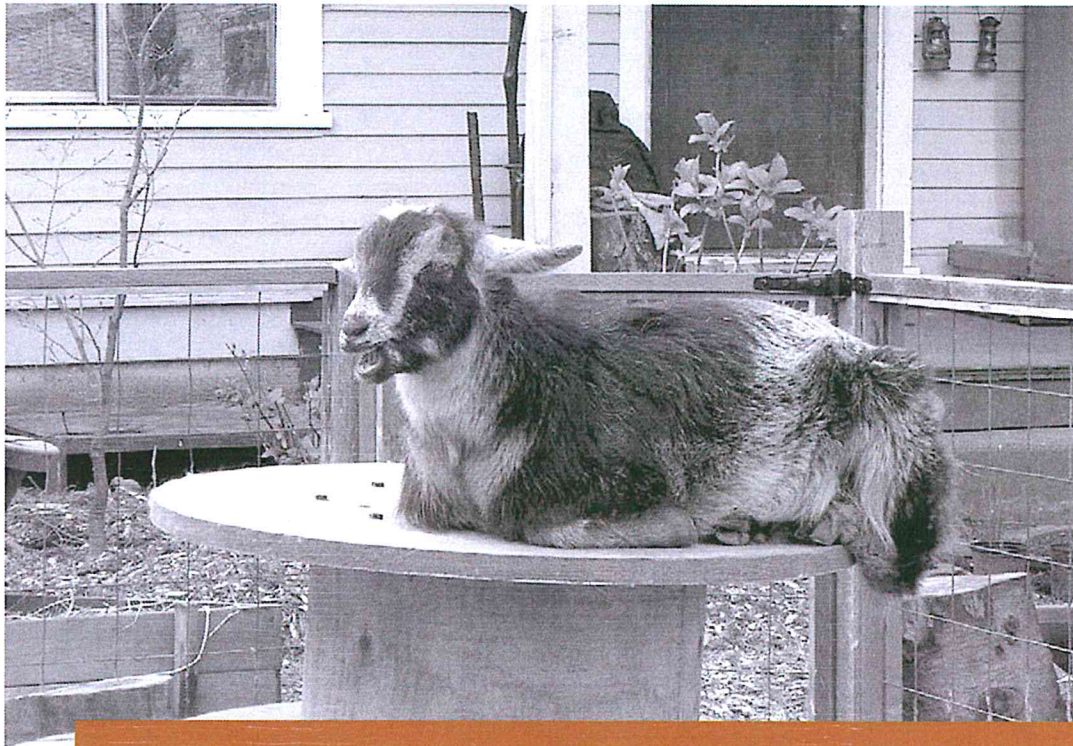
Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock. The federal government regulates the sale, processing, labeling, and transportation of chickens, eggs, and other meats (21 U.S.C.

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. §§586.055 & 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.



➔ 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.



Michael Aas

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.

Cover image: © iStockphoto.com/Michael Gatewood; design concept by Lisa Barton

VOL. 30, NO. 4

Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$95 (U.S.) and \$120 (foreign). W. Paul Farmer, FAICP, Chief Executive Officer; William R. Klein, AICP, Director of Research

Zoning Practice (ISSN 1548-0135) is produced at APA. Jim Schwab, AICP, and David Morley, AICP, Editors; Julie Von Bergen, Assistant Editor; Lisa Barton, Design and Production.

Missing and damaged print issues: Contact Customer Service, American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601 (312-431-9100 or customerservice@planning.org) within 90 days of the publication date. Include the name of the publication, year, volume and issue number or month, and your name, mailing address, and membership number if applicable.

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Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

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HOW DOES YOUR COMMUNITY REGULATE BACKYARD FARM ANIMALS?

4