CITY COUNCIL AGENDA: July 10, 2007

TITLE: ANIMAL CONTROL REGULATIONS – STATUS REPORT

SOURCE: CITY ATTORNEY

COMMENT: This is provided as a status report concerning comprehensive modifications to the City’s animal control regulations. As discussed at the City Council Meeting on May 1, 2007, this office is in the process of a comprehensive “overhaul” of the City’s municipal code provisions, concentrating in particular on the City’s vicious/dangerous dog procedures, repeat offenders, and harsher penalties for violations of the regulations.

The City currently contracts with the City of Lindsay for its animal control services, and therefore is working with Lindsay in the development/modification of the regulations. The Cities are also currently exploring alternative administrative models for the animal control operations and services, including the possibility of adding an additional field officer, forming a Joint Powers Authority, and the possibility of the development of an administrative citation program to obtain better compliance with the regulations and aid in offsetting the costs of the program.

This office has reviewed the State laws concerning animal control and the County regulations. Attached to this report are draft regulations designed to better address some major areas of concern. The City’s current regulations, for the most part, simply incorporate the Tulare County Ordinance Code by reference. Instead this draft ordinance, while modeled in part after the County regulations, would set forth the explicit regulations applicable to the City. This would eliminate certain ambiguities, as discussed below.

As discussed at the May 1, 2007, meeting, the draft regulations streamline the determination and appeal process concerning dangerous animals. Under the draft regulations, the Field Officer will make a determination as to whether an animal is dangerous. An owner may appeal the determination, and a hearing officer will be designated by the Public Safety Director. After the appeal, any owner disagreeing with the decision may then appeal to the Court.

The draft regulations would also cover the licensing of animals (when, where, how to, how often), animals running at large, regulations of kennel businesses, rabies control, and impounding.

RECOMMENDATION: That the City Council consider this report and the attachments, and provide further direction as to any modifications to the City’s animal control regulations, as well as the development of a Joint Powers Authority and Administrative Citation Program

ATTACHMENTS: Draft Regulations

Item No. 17
Chapter 5
ANIMAL CONTROL

Sec. 5-1
General

5-1 DEFINITIONS.
(a) The term "owner," 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 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.
(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.

5-1.1 KENNEL SUPERVISOR. The office of Kennel Supervisor shall be established. The Kennel Supervisor shall be appointed or contracted by the City Council and may be either a person, firm, association or corporation. The Kennel 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 Kennel Supervisor, each officer and employee authorized by such association or corporation to perform duties under this Chapter shall be deemed to be a Kennel Supervisor and shall have all of the rights and duties of the Kennel Supervisor which are set forth in this Chapter.

5-1.2 RECORDS. The Kennel Supervisor 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 such additional records as may be required by the City Council from time to time.

5-1.3 KENNEL. There shall be provided by the Kennel Supervisor, upon such terms and conditions as may be mutually agreed upon by the Kennel Supervisor and the City Council, a suitable building or enclosure 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 "Kennel."

5-1.4 IMPOUNDING ANIMALS. The Kennel Supervisor shall take up, impound and safely keep any dog which 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 Kennel 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 Kennel Supervisor in the performance of his/her official duties.
5-2.1 LICENSE REQUIRED. Every owner of a dog, within the City, shall secure a license from the Kennel Supervisor, or from the City Finance Department, for each such dog 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 which is brought into the City for the sole purpose of being entered in a dog show or dog exhibition, provided that such dog is entered in such show or exhibition and is removed from the County within thirty (30) days after the date on which the dog was brought into the City.

5-2.2 ISSUANCE OF LICENSE AND TAG. Application for a license required by this Chapter shall be filed with the Kennel Supervisor, Finance Department, or Police Department, on a form prescribed by the Kennel Supervisor. Upon payment of the required fee and upon compliance with the other requirements of this Chapter, the Kennel Supervisor shall issue a dog license. Either the application or the license shall contain a brief description of the dog including the age, sex, color and breed of the 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 Kennel Supervisor may determine. The Kennel 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 Kennel Supervisor shall also issue a tag made of some durable material. Said tag shall bear the words "City of Porterville," the serial number on the dog license, the date of expiration of the license, and such other information as the Kennel Supervisor may determine.

5-2.3 TIME LIMITS.

(a) An owner of a dog shall secure a license for his dog within thirty (30) days after s/he acquires ownership of the dog. However, if a dog is less than four (4) months of age when the owner acquires it, the owner shall secure a license for the dog within thirty (30) days after the dog becomes four (4) months of age.

(b) Any person who enters the City and dwells in the City for a period of thirty (30) days or more, and who has brought a dog with him from outside the City, shall secure a license for the dog within thirty (30) days after the person first enters the City.

(c) Prior to the time that a license is issued, the dog shall not be allowed to run at large, and any 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 hereinabove have not expired.

5-2.4 VACCINATION CERTIFICATE REQUIRED.

(a) The Kennel Supervisor shall not issue a license for a dog unless the owner of the dog presents for filing a certificate signed by a veterinarian showing that said dog has been vaccinated against rabies, 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 (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 ovine nerve tissue origin.

(b) Every duly licensed veterinarian, after vaccinating any dog owned by a resident of the City of Porterville, shall sign a certificate in triplicate containing the following information:

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 shall immediately present the original vaccination certificate to the owner of the dog, and shall deliver the duplicate copy to the Kennel Supervisor. The veterinarian shall keep the triplicate copy.

5-2.5 TERM OF LICENSE. Dog licenses shall be issued on a fiscal year basis, commencing on July 1st and terminating on the next June 30th. The owner of a dog shall secure a license for his 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 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.

5-2.6 LICENSE FEES.
(a) This section applies only to dogs, which have not been spayed or neutered, and to dogs which are not otherwise unable, for physical or medical reasons, to bear or produce offspring.

(b) The annual license fee for each dog shall be established by the City Council as adopted from time to time. 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: SPAYED OR NEUTERED DOGS.
(a) This section applies only to dogs which have been spayed or neutered, or which are unable to bear or produce offspring for physical or medical reasons.

(b) A certificate from a licensed veterinarian that the dog 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 shall be established by Resolution of the City Council as adopted from time to time. 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: SEEING EYE DOG. Any other provision of this Chapter notwithstanding, no charge shall be made for a license issued for a seeing eye dog used as a seeing eye dog by a blind person 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 Kennel Supervisor.

5-2.9 DELINQUENT PENALTIES. Commencing on the 1st day of September each year, the Kennel Supervisor shall collect a delinquent penalty 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 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 dog comes within the provisions of this chapter. Prior to the time that a license is issued for a dog pursuant to this section, the dog shall not be allowed to run at large and any such 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 dog for which the tag was issued may, upon the payment of a fee to the Kennel
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.

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

5-2.13 AFFIXING DOG TAG. It shall be unlawful for the owner of the dog to permit the dog to run at large without the tag issued pursuant to this Chapter being securely affixed to the 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 dog except the dog for which it was issued and it shall be unlawful for the owner of a dog to allow the dog to wear a tag other than the tag issued for the current year.

5-2.14 IMPOUNDING DOGS WITHOUT TAGS. The Kennel Supervisor, and any peace officer, shall 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 shall deliver the dog to the Kennel Supervisor. All such dogs shall be impounded in the Porterville Kennel.

5-2.15 IMPOUNDING BITING OR ATTACKING ANIMALS.

(a) The Kennel Supervisor, and any peace officer, shall have the power to summarily and immediately impound a dog or other animal where there is evidence it has attacked, bitten or injured any human being or other animal, pending any court proceeding or 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 Kennel Supervisor may enter and inspect private property to enforce the provisions of this section. Failure to surrender to the Kennel Supervisor upon demand a dog or other animal which is being impounded pursuant to this section is a misdemeanor. The Kennel Supervisor shall also, as soon as reasonably possible, notify the bite victim of the rabies vaccination status of the biting dog.

A dog or other animal wearing a 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 if a notice that the Kennel Supervisor has declared the dog or other animal dangerous has not been served on the owner or custodian within six days after the impoundment provided that, within those six days, the owner has made application to redeem the dog or other animal.

A dog or other animal not wearing a license tag, impounded pursuant to the authority of this section shall be killed in a humane manner if, within six business days after being impounded, the owner has failed to make application to redeem the dog or other animal. If, within six business days after being impounded, 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 if a notice that the Kennel 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 Kennel 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 Kennel 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, veterinary facility or residence without the prior written approval of the Kennel Supervisor.

2. Shall make the dog or other animal available for observation and inspection by the Kennel Supervisor or members of law enforcement or their authorized representatives.
(c) The Kennel Supervisor may have a 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 a dog or other animal which is wearing a license tag is impounded, the Kennel Supervisor shall 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 Kennel Supervisor, and advise the owner of the procedure whereby he or she may apply to regain custody of the dog or other animal.

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 a dog or other animal shall deliver to the Kennel Supervisor an application for redemption and a statement in a form prescribed by the Kennel 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 Kennel 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 DOGS AND OTHER ANIMALS. The owner of a dog which has been impounded shall pay to the Kennel Supervisor an impounding fee and shall also pay a fee for keeping said dog for each day, or portion thereof, that said 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. Impoundment fees and the fees per day for keeping animals will be set by Resolution of the City Council as adopted from time to time.

5-2.19 SALE AND DESTRUCTION OF IMPOUNDED DOGS AND OTHER ANIMALS WEARING TAGS.

(a) Unless a dog or other animal wearing a license tag has been redeemed within six (6) days after being impounded or unless it is being held for evidence in a hearing pursuant to this Chapter, it may be sold by the Kennel Supervisor to the 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 this Chapter shall be sold pursuant to this section nor shall any dog or other animal which has been impounded pursuant to this Chapter and subsequently found not dangerous but improperly trained, handled or maintained be sold except to a person who is willing to properly train, handle and maintain the dog or other animal, as determined by the Kennel Supervisor.

(b) Unless a dog or other animal wearing a license tag has been redeemed within six (6) business days after being impounded or unless it is being held for evidence in a hearing pursuant to this Chapter, and it has not been sold pursuant to (a) above, it may be killed by the Kennel Supervisor in a humane manner.

(c) If the owner of a dog or other animal gives permission in writing to do so, the dog or other animal may be sold or destroyed at any time after it is delivered to the Kennel, provided that no dog or other animal pursuant to this Chapter shall be sold even with the permission of the owner.
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 or unless it is being held for evidence in a hearing pursuant to this Chapter, it may be sold by the Kennel 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 this Chapter, 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 or unless it is being held for evidence in a hearing pursuant to this Chapter, and it has not been sold pursuant to (a) above, it may be killed by the Kennel Supervisor in a humane manner. A dog or other animal not wearing a license tag impounded pursuant to this Chapter shall be killed by the Kennel Supervisor in a humane manner if, within six business days after it is impounded, the owner has failed to make application to redeem the dog or other animal.

(c) If the owner of a dog or other animal gives permission in writing to do so, the dog or other animal may be sold or destroyed in accordance with subsections (a) and (b) above at any time after it is delivered to the Kennel.

5-2.21 SALE OF IMPOUNDED DOGS. When a dog is sold by the Kennel Supervisor pursuant to the provisions of this Chapter, the Kennel Supervisor shall deliver to the purchaser of said dog a statement in writing containing a description of the dog, the date of sale, and the amount of the purchase price. All sales shall convey a good and valid Chapter to the purchaser, and the previous owner of the dog shall thereafter be barred from all right to recover said dog.

5-2.22 LICENSING IMPOUNDED DOGS.

(a) The Kennel 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 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 return the dog to the Kennel Supervisor.

(b) The Kennel 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 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 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 Kennel Supervisor and, without further notice, humanely killed or sold to a person willing to comply with the above requirements for re-training and confinement of the dog.

5-2.23 REMOVAL OF TAG. It shall be unlawful for any person to remove from a 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 the Kennel Supervisor or any peace officer, on request, the license certificate and the tag for any dog kept or remaining within his home or upon any enclosed premises under his 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 which has been found to be a dangerous or vicious animal pursuant
to this Chapter, or 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 to habitually or repeatedly attack pedestrians, cyclists, vehicles or other users of the public highways.

5-2.27 PERMITTING DOGS TO RUN AT LARGE. It shall be unlawful for the owner or other person in lawful possession or control of a dog to allow or permit the dog to run at large 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, where such property is located within the City limits. Every dog found running at large in violation of the provisions of this section shall be seized and impounded.

5-2.28 BARKING DOGS. It shall be unlawful for any owner of a dog to keep said dog in the City, which dog shall by loud or excessive barking, howling, whining or making any other noise disturb the comfort or quiet of any neighborhood or any person; provided that said owner has been made aware of the disturbance created by the dog.

5-2.29 HEARING TO DETERMINE IF ANIMAL IS DANGEROUS.

(a) The Field Officers shall 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. Within two (2) days after a dog or other animal, which is wearing a license tag, is impounded pursuant to this section, the Kennel Supervisor shall mail a notice of the Kennel Supervisor's finding that 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, within the time period provided for application for redemption of the dog or other animal, request a hearing to determine whether or not the dog or other animal is a dangerous animal.

(c) When a hearing is requested pursuant to subsection (b) above, the Field Officers shall set a date and time for such a hearing and send a notice thereof 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 and the Chief of Police of such hearing.

5-2.30 HEARING: CONDUCT.

(a) A hearing requested in accordance to this chapter shall be conducted before the Public Safety Director or a person appointed as a hearing officer by the Public Safety Director.

(b) The hearing shall be open to the public. The owner may be represented by counsel. The hearing officer shall hear all pertinent evidence offered by all 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 wholly on hearsay evidence. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to report the hearing.

(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 a 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 is permitted to remain in the County.

5-2.31 HEARING: DECISION.

(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 that the license or animal permit should be revoked; or
(3) That the dog or other animal is a dangerous animal and that it should be humanely destroyed no sooner than the sixth business day following the mailing of notice of the hearing officer's decision.

(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 regular mail at the address appearing on the request for hearing. A copy of the decision shall be mailed to the Chief of Police.

(C) The owner may, within ten (10) days of the mailing of the hearing officer's written decision to the owner, appeal the hearing officer's decision to the Tulare County Superior Court.

5-2.32 DISPOSITION OF DANGEROUS ANIMAL.

(a) It shall be unlawful for any person to own, possess, harbor or keep any dog or other animal declared to be dangerous.

(b) Any dog or other animal declared to be dangerous, if not already impounded, shall be immediately surrendered to the Kennel Supervisor, and it is the duty of the Kennel 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 be humanely destroyed. The Kennel Supervisor shall sign an order authorizing the destruction of the dog or other animal within two (2) days after the time for appeal, as provided by this Chapter, has passed without an appeal being filed, or after the fifth day after a Tulare County Superior Court Judge's decision affirming that the dog or other animal is a dangerous animal has been served upon the Kennel Supervisor and the appellant.

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 or injury was the result of improper or negligent training, handling or maintenance, the dog license or animal permit shall 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 proper training, handling or maintenance, the dog or other
animal will be disposed of pursuant to section 5-2.32.

Sec. 5.03
Kennels

5-3.1 KENNEL DEFINED. The term "kennel," as used in this Chapter, means a building or enclosure where
five (5) or more dogs over four (4) months of age are kept.

5-3.2 KENNEL LICENSE AND APPLICATION FEE. In lieu of securing the license required by this Chapter
for each of the dogs in a kennel, a person owning or operating a kennel may obtain a kennel license covering
all of the dogs maintained in the kennel. It shall be unlawful to fail to secure either the license required by this
Chapter or the license authorized by this chapter. The application for a kennel license shall be filed with the
Kennel Supervisor on a form prescribed by the him/her. The fees for kennel licenses shall be set by Resolution
of the City Council as adopted from time to time.

5-3.3 VACCINATION CERTIFICATE REQUIRED. The Kennel Supervisor shall not issue a kennel license
unless the person applying for the license files with him a certificate or certificates signed by a licensed
veterinarian showing that all of the dogs 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 license does not exceed 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 ovine nerve tissue origin.

However, if one or more dogs in the kennel are too ill to be vaccinated against rabies at the time the
application for the kennel license is filed with the Kennel Supervisor, and the application for the kennel license
is accompanied by a certificate signed by a veterinarian which so states, the Kennel Supervisor shall process
and issue the kennel license in compliance with this Chapter. The owner of the kennel shall thereafter have
each such dog 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 has been vaccinated, the owner of the kennel shall file
the vaccination certificate with the Kennel Supervisor. If satisfactory evidence is presented to the City Council
that a person holding a kennel license has failed to have a dog vaccinated pursuant to this section, the City
Council shall direct the Kennel Supervisor to immediately revoke the kennel license and to give the holder of
the kennel license written notice of such revocation.

5-3.4 PRELIMINARY INSPECTION: The Kennel Supervisor shall inspect the kennel and determine whether
the kennel is constructed and operated in such a manner as to prevent the dogs confined therein from running
at large.

5-3.5 LICENSE. If the Kennel Supervisor has determined that the kennel is constructed and operated in such
a manner as to prevent dogs confined therein from running at large, and if the required vaccination certificates
have been filed in compliance with the provisions of this Chapter, the Kennel Supervisor shall issue a kennel
license to the applicant. Otherwise, the Kennel Supervisor shall refuse to issue the kennel license. The kennel
license issued by the Kennel Supervisor shall contain a serial number, the expiration date of the license, the
address of the kennel, and such other information as the Kennel Supervisor may require. The Kennel
Supervisor shall not issue individual license tags for the dogs in the kennel.

5-3.6 TERM OF LICENSE. Kennel licenses shall be issued on a City fiscal year basis, commencing on July
1st and 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 license for his dogs for the prior fiscal year shall not be in violation of this
Chapter.
5-3.7 DELINQUENT PENALTIES: SECURING INDIVIDUAL LICENSES IF KENNEL LICENSE DENIED: TIME LIMITS. Commencing on the 1st day of September each year, the Kennel Supervisor shall collect a delinquent penalty, in addition to the regular license fee, before issuing any kennel license if the time limits set forth in this Chapter have expired for any dog in the kennel at the time that the application for the license is filed. The delinquent penalty shall be in an amount equal to the regular license fee as set forth in this Chapter. If an application for a kennel license is filed before the time limits set forth in this Chapter have expired and if, after the expiration of such time limits, the Kennel Supervisor determines that a kennel license shall not be issued, the Kennel Supervisor shall send the owner of the kennel written notice that the kennel license shall not be issued. It shall be unlawful for the owner of the kennel to fail to secure individual licenses for each of the dogs 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 license is filed with the Kennel 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 TO RUN AT LARGE. It shall be unlawful for any person who has secured a kennel license to allow or permit any dog in his kennel to run at large at any time. Every dog 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 that a person holding a kennel license has allowed or permitted a dog housed in said kennel to run at large, the City Council shall direct the Kennel Supervisor to immediately revoke the kennel license and to give the holder of the kennel license written notice of such revocation.

5-3.9 INSPECTION OF KENNEL. The Kennel Supervisor may from time to time inspect any kennel for which a kennel license has been issued. If the Kennel Supervisor determines that the kennel is not constructed or operated in such a manner as to prevent the dogs confined therein from running at large, s/he shall immediately revoke the kennel license and give the holder of the kennel license written notice of such revocation.

5-3.10 VACCINATION OF ADDITIONAL DOGS. After a kennel license has been issued, the owner of the kennel shall thereafter have each additional dog which is maintained in said kennel vaccinated against rabies by a licensed veterinarian within thirty (30) days after he acquires ownership of the dog. However, if the dog is less than four (4) months of age when it is acquired, it shall be vaccinated within thirty (30) days after the dog becomes four (4) months of age. If a dog 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 vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated. Within ten (10) days after a dog has been vaccinated in accordance with this section, the owner of the kennel shall file the vaccination certificate with the City Kennel Supervisor. If satisfactory evidence is presented to the City Council that a person holding a kennel license has failed to comply with the provisions of this section, the City Council shall direct the Kennel Supervisor to immediately revoke the kennel license and to give the holder of the kennel license written notice of such revocation.

5-3.11 DELIVERY OF VACCINATION CERTIFICATES TO PURCHASERS. Whenever a person holding a kennel license sells any dog in the kennel, he shall deliver his copy of the vaccination certificate for the dog to the purchaser. If satisfactory evidence is presented to the City Council that a person holding a kennel license has failed to comply with the provisions of this section, the City Council shall direct the Kennel Supervisor to immediately revoke the kennel license and to give the holder of the kennel license written notice of such revocation.

5-3.12 EFFECT OF REVOCATION OF KENNEL LICENSE. If the Kennel Supervisor revokes a kennel license pursuant to the provisions of this chapter, it shall be unlawful for the owner of the kennel to fail to secure individual dog licenses for each of the dogs in the kennel, pursuant to this Chapter, within thirty (30) days after receipt of written notice of such revocation from the Kennel Supervisor. Any person whose kennel license has been revoked by the Kennel Supervisor shall not be entitled to apply for a kennel license until the next ensuing fiscal year.
5-4.1 APPLICATION OF CHAPTER. 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 Chapter.

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 Kennel Supervisor. Said person shall thereafter allow the Kennel Supervisor, or his/her representative to make an inspection or examination of said 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 Kennel Supervisor, and said animal shall not be killed or released from confinement for at least ten (10) days after the onset of symptoms suggestive of rabies and until the Kennel Supervisor gives written authorization for the release of the animal, with the exception that such animal may be sacrificed with the permission of the Kennel 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 Kennel 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 Kennel 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 Kennel Supervisor or his/her representative to make inspections and examinations of the animal from time to time during such period. The Kennel Supervisor shall quarantine said animal upon the premises of the owner. However, if the owner of the animal so desires, the Kennel 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 Kennel Supervisor, the animal may be kept under restraint by leash in charge of a responsible person, or under such restrictions as the Kennel Supervisor may prescribe. Said animal shall be kept in quarantine until the Kennel 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 Kennel 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 Kennel 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 revaccinated in a manner approved by the Kennel Supervisor and quarantined in a place and manner approved by the Kennel 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 Kennel 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 Kennel Supervisor, concealing it from the Kennel Supervisor or disobeying any of the quarantine restrictions which have been imposed by the Kennel Supervisor.

Sec. 5.05
Violations

5-5.1 VIOLATIONS.

(a) 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 five hundred dollars ($1,000.00) or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment.

(b) 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) 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 fifty dollars ($500.00) for each additional violation of this Chapter within one (1) year.