CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Proposed Repeal and Re-enactment of Lodi Municipal Code Title 6 (Animal Control Provisions)

MEETING DATE: February 1, 1995

PREPARED BY: City Attorney

RECOMMENDED ACTION: Council consideration and direction for update of animal control provisions.

BACKGROUND INFORMATION: This matter came before the Council at the "shirtsleeve" meeting of January 10, 1995. Out of that meeting came several suggestions on how best to regulate animals under Title 6 of the Lodi Municipal Code. Several of those suggestions have been incorporated as detailed below.

The number of domesticated animals permitted within a single household is increased from three to five. An additional two animals may be kept if an "Animal Fancier's Permit" is obtained, for a total maximum of seven. The "Animal Fancier's Permit" is a separate requirement in addition to any pet license otherwise required.

In order to obtain an "Animal Fancier Permit" the citizen would have to show the proposed location for the animals is appropriate and that the keeping of the animals will not create a nuisance. This permit may be revoked if the holder moves, transfers the animals to another or is in violation of state or local law relating to the keeping or treatment of animals.

In this draft is a separate permit requirement for Pet Shops at 6.16 et. seq. This chapter would require all pet shops to show compliance with all applicable state and federal law and that the location and/or operation of the pet shop will not constitute a nuisance or hazard to the public.

The requirement that all animals picked up or impounded be kept for 72 hours has been changed to read "not less than seventy-two (72) hours, exclusive of Sundays and holidays...." This change is for clarification only as it is currently the practice of the Animal Control Department to exclude Sundays and holidays when calculating the seventy-two hour requirement.

Chapter 6.08.010 has been changed at Council direction to allow current owners of "pot-bellied" pigs to legally retain these animals as pets, while prohibiting any additional "pot-bellied" pigs from being brought into the City.

APPROVED: _____

THOMAS A. PETERSON
City Manager

recycled paper

CC

In other significant aspects the current draft ordinance remains unchanged from its form as presented at the "shirtsleeve" session of January 10, 1995.

Respectfully submitted,

Bob McNatt
City Attorney

BM:pn

Attachments

CCANIMAL.1/TXTA.01V

December 20, 1994

RECEIVED
DEC 27 PM 2:10
JENNIFER M. JENKINS
CITY CLERK

City Clerk
City of Lodi
221 W. Pine St.
Lodi, CA 95241-1910

Re: Increase in Pet License Fees

Animal Friends Connection is an all volunteer non-profit corporation whose purpose is a referral service for animal placement and public humane education. Through our volunteer network we foster, spay/neuter and responsibly place many abandoned and unwanted pets in the greater Lodi area. We have a 24 hour voice mail phone line to educate and place animals.

We also provide a community service by staffing educational booths which offer to the public animal welfare and humane education materials. We staff booths at Crime Fair, Cinco de Mayo festival, Earth Day, Field and Fair Day and other special events. Through mobile adoptions and our phone referral service we have successfully placed approximately 300 animals (cats, dogs, puppies, kittens) in 1994.

Members of our group have visited many humane societies and animal control agencies to educate ourselves to be a better resource and serve the public in hopes that in the future we can establish a humane society in the greater Lodi area.

Since we deal with many of the unwanted and lost pets in the Lodi area we are in support of the increase in license fees, especially where it relates to spayed and neutered household pets.

Sincerely,
Board of Directors
Animal Friends Connection

Pat Sherman

Pat Sherman, President

ORDINANCE NO. 1605

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
REPEALING IN ITS ENTIRETY MUNICIPAL CODE TITLE 6
CHAPTER 6.04 THROUGH 6.16 AS CURRENTLY ENACTED AND
REENACTING THIS TITLE AS FOLLOWS:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 6 - Animals - is hereby repealed and reenacted in its entirety to read as follows:

Title 6
ANIMALS

CHAPTER 6.04 IMPOUNDMENT.

Sections:

6.04.010 POUND.

6.04.020 MINIMUM TIME OF IMPOUNDMENT.

6.04.030 REDEMPTION OF IMPOUNDED ANIMALS.

6.04.040 REGISTER--DISPOSAL.

6.04.050 ADVERTISEMENT FOR SALE--PROCEDURE--SALE.

6.04.060 ADVERTISEMENT FOR SALE--COSTS IF REDEEMED.

6.04.070 SALE OR REDEMPTION RECORD.

6.04.080 DISPOSAL UPON REQUEST.

CHAPTER 6.08 PROHIBITED ANIMALS.

6.08.010 DEFINITIONS.

6.08.020 LIVESTOCK PROHIBITED.

6.08.030 WILD ANIMALS PROHIBITED.

6.08.040 DOMESTICATED ANIMALS: NUMBER PERMITTED.

6.08.050 DETERMINATION OF AGE OF ANIMAL.

CHAPTER 6.10 ANIMAL FANCIER PERMIT.

6.10.010 ANIMAL FANCIER PERMIT-REQUIREMENTS.

6.10.020 APPLICATION FOR PERMIT - FEES - INVESTIGATION.

6.10.030 RENEWAL OF PERMIT - DELINQUENCY.

6.10.040 INSPECTION OF PERMITS AND PREMISES.

6.10.050 RULES AND REGULATIONS.

6.10.060 PERMIT REVOCATION - CONDITIONS.

6.10.070 APPEALS PROCEDURE.

CHAPTER 6.12 DOGS AND CATS.

6.12.010 LICENSE - REQUIRED.

6.12.020 LICENSE - FEE - INFORMATION - TRANSFERABILITY.

6.12.030 LICENSE _ RENEWAL - DELINQUENCY.

6.12.040 IDENTIFICATION TAG - REQUIRED - REPLACEMENT.

6.12.050 SEEING EYE DOGS.

6.12.060 DOG VACCINATION - REQUIRED - CERTIFICATE - EXCEPTIONS.

6.12.070 BUSINESS OF BREEDING OR RAISING.

6.12.080 REMOVAL OF COLLAR OR TAG.

6.12.090 DOGS AND CATS IN FOOD ESTABLISHMENTS.

6.12.100 POLICE DOG MISTREATMENT.

6.12.110 NOISY DOGS.

6.12.120 ANIMALS AT LARGE.

6.12.130 RABIES DANGER.

6.12.140 BITES.

6.14 KEEPING AND SANITATION.

6.14.010 PROPERTY DAMAGE-PERSONAL INJURY.

6.14.020 VICIOUS BEHAVIOR PROHIBITED.

6.14.030 VICIOUS DOG ABATEMENT HEARING PROCEDURE.

6.14.040 SANITATION OF PREMISES.

6.14.050 REMOVAL OF ANIMAL WASTE

6.14.060 DEAD ANIMALS.

6.16 PET SHOPS.

6.16.010 PERMIT REQUIRED.

6.16.020 EXEMPTIONS--ANIMAL SHELTERS.

6.16.030 PERMIT--ISSUANCE CONDITIONS.

6.16.040 ANNUAL PERMIT FEE - RENEWAL - DELINQUENCY.

6.18 ENFORCEMENT.

6.18.010 POWERS OF ANIMAL CONTROL OFFICER.

6.18.020 RESISTING OR OBSTRUCTING ANIMAL CONTROL OFFICER.

6.18.030 VIOLATION - INFRACTION.

CHAPTER 6.04

IMPOUNDMENT

6.04.10 POUND.

A public pound shall be maintained at such place as is provided therefor from time to time by the City Council.

6.04.020 MINIMUM TIME OF IMPOUNDMENT.

A. Licensed Animals: Any animal wearing a valid City license tag issued pursuant to this title shall be provided with food and water and shall not be sold, given away or destroyed until:

1. The owner has been personally notified and has failed to redeem the animal within 72 hours, exclusive of Sundays and holidays; or
2. The owner has given written authorization for release; or
3. The owner has failed to claim the animal within five (5) days, exclusive of Sundays and holidays, of the date a certified letter of notification, return receipt requested was deposited within the U.S. Postal Service by the animal control officer addressed to the owner's last known address.

B. Unlicensed Animals: All unlicensed animals impounded will be provided with food and water and held for a period of not less than seventy-two (72) hours, exclusive of Sundays and holidays unless previously redeemed. All unlicensed animals not redeemed by the owner or person having custody or control of the animal within the seventy-two (72) hour period may be euthanized or otherwise disposed of.

6.04.030 REDEMPTION OF IMPOUNDED ANIMALS.

A. Licensed Animals: The owner or person having had custody or control of an animal licensed pursuant to this title, taken up and impounded may redeem said animal upon payment of a redemption fee and any other applicable fees or charges as may be established from time to time by resolution of the City Council.

B. Unlicensed Animals: The owner or persons having had custody or control of any unlicensed animal, not otherwise prohibited by this title, taken up and impounded may redeem said animal upon payment of the annual license fee, the redemption fee, any other applicable fees or charges and by obtaining any necessary anti-rabies vaccinations. The annual license fee, redemption fee, and other fees or charges shall be established from time to time by resolution of the City Council.

C. Out-of-Town Animals: The owner or persons having had custody or control of an out-of-town animal taken up and impounded may redeem the animal within seventy-two (72) hours, exclusive of Sundays and holidays upon payment of a redemption fee and any other applicable fees or charges in such amounts established from time to time by resolution of the City Council.

D. If the owner or person having custody or control of an animal taken up and impounded pursuant to this title contests any fee charged pursuant to this chapter, such person may redeem the animal only by paying the applicable fee or fees. After redemption of said animal, the person protesting the fees imposed may appeal the imposition of

said fees by letter to the Chief of Police. The decision of the Chief of Police shall be final.

6.04.040 REGISTER--DISPOSAL.

The animal control officer shall keep a register, which shall be delivered to his or her successor in office, in which shall be entered, in numerical order, a full description of such animals impounded, other than dogs and cats, with all natural and artificial marks and brands, with the time when, and the place where taken up.

6.04.050 ADVERTISEMENT FOR SALE--PROCEDURE--SALE.

A. Any animal, other than dogs or cats, whose value in the opinion of the animal control officer, will exceed the expense for which the animal may be liable, may be advertised for sale. The advertisement shall be published for not less than two days in the official newspaper, and shall contain a complete description of the animal to be sold. Advertisement shall give notice that the sale is to be at public auction to be conducted by the animal control officer; shall give the location, time and date of said sale; and shall set forth that the animal will be sold to pay the charges that have, or will have accrued against it, together with advertising costs. The date set for the conduct of the sale shall be not less than two nor more than ten days from the date of the first publication of the advertisement.

B. If the animal has not been redeemed prior to the sale, the animal control officer shall sell the animal for cash to the highest

bidder, and upon the payment of the purchase money, he shall deliver the animal, together with a bill of sale thereof, to the purchaser.

6.04.060 ADVERTISEMENT FOR SALE--COSTS IF REDEEMED.

Any owner redeeming an animal after advertisement for sale has begun shall be required to pay the advertising costs which have accrued in addition to any other applicable fees as fixed by resolution of the City Council.

6.04.070 SALE OR REDEMPTION RECORD.

Whenever any animal other than a dog or cat, has been sold or redeemed, the animal control officer shall enter in the register, under the same number as its description, the date it was sold or redeemed, the name and address of the party buying or redeeming the animal, the total cost and expense incurred, specifying each item, and the sale price or any applicable fees received. This register may be examined and copied, free of charge, at all reasonable hours.

6.04.080 DISPOSAL UPON REQUEST.

The animal control officer shall, upon request of any person within the City, receive, remove and/or dispose of any living or dead animal owned by or in the possession of such person subject to any fees which may be established from time to time by resolution of the City Council.

CHAPTER 6.08

PROHIBITED ANIMALS

6.08.010 DEFINITIONS.

A. "Domesticated Animals" means those non-feral animals commonly kept as household pets and includes:

1. Dogs (canis familiaris)
2. Cats (felis catus);
3. Reptiles such as turtles, salamanders, newts, frogs, non-poisonous toads and non-poisonous snakes under six feet in length.
4. Those Vietnamese Variety "pot-bellied" pigs that are being harbored or kept within the City on the effective date of this ordinance.

   a. Any and all pigs of every variety brought into or born within the City after the effective date of this ordinance shall be considered "livestock" pursuant to Section 6.08.010 B. (3).

B. "Livestock" means those animals commonly kept for commercial purposes, including, but not limited to:

1. Horses, mules, burros, or jacks;
2. Chickens, turkeys, guinea hens, peacocks or similar fowl;

3. Bulls, cows, hogs, pigs, goats, sheep and llamas (other than as provided in Section 6.08.010 A (4).

C. "Wild Animals" means those feral animals, not commonly kept as household pets, including but not limited to:

1. The following members of the class mammalia:

a. Order Carnivora, except the domestic dog (canis familiaris) and the domestic cat (felis catus), but including, but not limited to, the family Felidea (such as ocelots, margays, and cougars) and family Canidae (such as wolves, wolf hybrids, coyotes and jackals); and

b. Order Marsupialia (such as kangaroos and oppossums); and

c. Order Chiroptera (bats); and

d. Order Primata (such as monkeys, chimpanzees and gorillas); and

2. Reptiles that are poisonous or in excess of six feet in length or 30 pounds in weight.

3. Any non-domestic species when kept, maintained or harbored in such numbers or in such a manner as to constitute the likelihood of danger to themselves, to human beings or to the property of human beings.

6.08.020 LIVESTOCK PROHIBITED.

Except as permitted in Title 17 of this code, it is unlawful to harbor, keep or have within the City any livestock.

6.08.030 WILD ANIMALS PROHIBITED.

It is unlawful to harbor, keep or have within the City any wild animal.

6.08.040 DOMESTICATED ANIMALS: NUMBER PERMITTED.

A. Except as provided in Chapter 6.10, it is unlawful to harbor, keep or have within a single household within the City more than five domesticated animals in excess of four months of age in any combination thereof, except in a licensed business, where permitted in a particular district as provided by Title 17 of this Code.

B. It is unlawful to harbor, keep or have within a single household within the City more than one litter of puppies, kittens or piglets during any twelve (12) month period, except in a licensed business, where permitted in a particular district as provided by Title 17 of this code.

6.08.050 DETERMINATION OF AGE OF ANIMAL.

If there is any dispute as to the age of any domesticated animal, in the absence of any affidavit or sworn testimony from a person who has personal knowledge of the date of birth, a determination made by the animal control officer is conclusively presumed to be correct.

CHAPTER 6.10

ANIMAL FANCIER PERMIT

6.10.010 ANIMAL FANCIER PERMIT-REQUIREMENTS.

A. Once a person has obtained an Animal Fancier Permit in accordance with this section that person may harbor, keep or have up to a total of seven (7) dogs and cats within a single household provided the total number of domesticated animals within the household does not exceed seven (7).

B. The Animal Fancier Permit required by this chapter is a separate requirement and any dog or cat so allowed by permit under this chapter must also be licensed pursuant to Chapter 6.12 of this code.

6.10.020 APPLICATION FOR PERMIT - FEES - INVESTIGATION.

A. The application for an Animal Fancier Permit shall include the following:

1. The applicant's name, address and telephone number;
2. The address of the proposed location where the animal or animals will be maintained;
3. Name, address and telephone number of the owner of the proposed location if different from the applicant;
4. Name of species of animal or animals to be maintained and the number of such animals;

5. Description of the housing facilities and the proposed location on the lot where the animal housing facilities will be placed;
6. Any other information the Finance Director deems necessary.

B. Fees for Animal Fancier Permits shall be established from time to time by resolution of the City Council.

C. The Animal Fancier Permit may be issued to cover one (1) or two (2) animals with such numbers being specified on the face of the permit.

D. Upon receipt of an application for an initial Animal Fancier Permit, the Director of Finance may request any investigation he deems proper. The Director of Finance shall approve an application if he or she makes the following findings:

1. The keeping of the animal or animals at the location specified in the application will not violate any federal, state or local law;
2. Odor, noise, dust and drainage from the keeping and maintenance of the animal will not contribute to a nuisance or hazard to the public;
3. The keeping and maintenance of the animal or animals will not endanger the health and/or safety of the animal or animals nor endanger the peace, health or safety of persons in the immediate vicinity, or in the City as a whole.

6.10.030 RENEWAL OF PERMIT - DELINQUENCY.

A. All Animal Fancier Permits are issued on a year to year basis and expire on January 31 of the year following the year of issuance. All such permits must be renewed on or before the date of expiration. Permit renewal is accomplished by paying the applicable permit fee. Failure to timely renew an Animal Fancier Permit shall constitute a violation of this chapter.

B. The failure to timely renew any permit required by this chapter shall cause any applicable permit fees to become delinquent, and a charge in an amount to be fixed by resolution of the City Council shall be added to the regular annual permit fee. The regular permit fee and all accrued charges must be paid before the permit may be issued. This section is intended to supplement rather than supplant any other remedy available either under State law or the Lodi Municipal Code.

6.10.040 INSPECTION OF PERMITS AND PREMISES.

A. Permits issued pursuant to this chapter shall be surrendered for inspection by the permittee upon request by any City animal control officer or member of the City police or fire departments.

B. The premises upon which an animal is maintained pursuant to this chapter shall be open at any reasonable hour for inspection by a City animal control officer.

6.10.050 RULES AND REGULATIONS.

The Director of Finance may formulate rules and regulations in conformity with, and for the purpose of carrying out the intent of this

chapter. Compliance with such rules and regulations shall be a prerequisite to the issuance and continued validity of any permit provided for in this chapter.

6.10.060 PERMIT REVOCATION - CONDITIONS.

A. Any permit issued pursuant to this chapter may be revoked if, after investigation and duly noticed hearing, the Director of Finance finds any of the following to be true:

1. The permittee, his agent or employee has been convicted of any offense involving the violation of Sections 596 to 599, inclusive, of the Penal Code or is in violation of any zoning, health and safety, building or other law relating to the keeping of animals; or

2. The permittee has changed the location of his residence or his place of business, or is no longer the owner of the animal for which the permit was issued.

B. If, after investigation, the Director of Finance concludes that it is probable that one or more of the above grounds for revocation has occurred, he shall cause written notices thereof to be transmitted by certified mail to the last known address of the permittee. Such notice shall specify the grounds of possible revocation of the permit, and shall specify a date and time for an informal hearing to be held before the Director of Finance or his designee thereon. The date shall not be less than five (5) days following the date of deposit of the notice in the mail.

C. After the informal hearing, the Director of Finance may revoke the permit or modify the terms thereof, depending upon the permittee's ability and/or willingness to comply with the requirements of this chapter.

D. Any person who continues to maintain any animal for which an Animal Fancier Permit is required after said permit have been revoked is in violation of this chapter.

6.10.070 APPEALS PROCEDURE.

A. Any person aggrieved by any decision or action resulting from the application of this chapter may appeal in writing to the City Manager within five (5) days from the date of the decision or action upon which the appeal is based.

B. The City Manager shall review all of the pertinent facts and upon due reflection shall sustain, overturn or modify said decision or action. The City Manager's decision shall be final.

C. The filing of an appeal shall not stay the decision or action appealed from.

CHAPTER 6.12

DOGS AND CATS

6.12.010 LICENSE - REQUIRED.

A. It is unlawful for any person to harbor, keep or have any dog or cat in excess of four months of age within the City unless the person owning or having custody or control of the dog or cat shall

have secured a license to keep the dog or cat, obtained by licensing the dog or cat pursuant to this chapter.

B. For the purposes of this chapter, a dog or cat is not licensed until all applicable fees are paid, all required vaccinations are obtained and the license is issued to the owner or person having custody or control of such dog or cat.

C. Notwithstanding any other provision of this code, no impounded dog or cat may be adopted until such dog or cat has been licensed pursuant to this chapter.

6.12.020 LICENSE - FEE - INFORMATION - TRANSFERABILITY.

A. The license required by §6.12.010 of this code shall be obtained in the following manner:

1. The owner or person having custody or control of a dog or cat as described in §6.12.010 shall pay to the Director of Finance a license fee as may be fixed and set by resolution of the City Council;
2. The owner or person having custody or control of a dog or cat as described in §6.12.010 shall furnish to the Director of Finance a description of the dog or cat sufficient for identification, which description shall be entered in a record kept by the Director of Finance for that purpose;
3. The owner or person having custody or control over the dog or cat shall have complied with §6.12.060 of this code.

B. Once the owner or person having custody of a dog or cat as described in § 6.12.010 has complied with §6.12.020 (A) the

Director of Finance shall then issue to that person a license to keep a dog or cat and an identification tag having a number corresponding with the license number of the dog or cat. The owner or person having custody of the licensed dog or cat shall preserve said license and shall, upon demand of the animal control officer, an assistant animal control officer or a police officer, show such license.

C. The license to keep a dog or cat shall not be transferable from one dog or cat to another nor on change of ownership.

6.12.030 LICENSE-RENEWAL-DELINQUENCY.

A. All dogs and cats in excess of four months of age must be licensed within 30 days of the date such dog or cat came into the custody of a person residing in the City. Failure to so obtain a license shall be a violation of this chapter.

B. All dog and cat licenses are issued on a year to year basis and expire on January 31 of the year following the year of issuance. All such licenses must be renewed on or before the date of expiration. License renewal is accomplished by paying the applicable license fee and by obtaining any vaccinations required by §6.12.060 of this code. Failure to timely renew any dog or cat license shall constitute a violation of this chapter.

C. The failure to timely renew any license required by this Title shall cause any applicable license fees to become delinquent, and a charge in an amount to be fixed by resolution of the City Council shall be added to the regular annual license fee. The regular license fee and all accrued charges must be paid before the license may be issued. This section is intended to supplement rather than supplant any other remedy available either under State law or the Lodi Municipal Code.

6.12.040 IDENTIFICATION TAG - REQUIRED - REPLACEMENT.

A. Every licensed dog and cat shall be provided by the owner or person having custody or control thereof with a suitable collar or other device to which shall be attached the identification tag issued by the Director of Finance. Every dog and cat not licensed or not provided with such collar or other device and identification tag found upon any streets, alleys, lanes, courts or other public places in the City, or upon private property, whether leashed or unleashed, whether or not it is in any manner under the control of any person may be taken into custody by the animal control officer or a police officer and lodged in the public pound and a citation for violation of this chapter may be issued to the owner or person having custody of said dog or cat.

B. Lost identification tags may be replaced by surrendering to the Director of Finance the license to keep a dog or cat issued at the time the lost identification tag was procured, and by paying to the

Director of Finance a fee as may be fixed by resolution of the City Council. After complying with the provisions of this section, the Director of Finance will again license the dog or cat, issue a new license to keep a dog or cat, and new identification tag. The Director of Finance shall attach the surrendered license to the City's copy of the new license, to substantiate the fee collected and verify the transaction.

C. It is unlawful for any person to use any identification tag on any dog or cat other than that for which it was specifically issued.

6.12.050 SEEING EYE DOGS/GUIDE DOGS.

"Seeing Eye" or guide dogs are those dogs which have been especially trained to lead and aid the blind or deaf. Any blind or deaf person having custody of such a dog may keep and harbor the dog within the City by obtaining a license to keep a dog from the Director of Finance, and may lawfully take the dog into any food establishment within the City. There will be no fee charged for such dogs upon proof of antirabies vaccination.

6.12.060 DOG VACCINATION - REQUIRED - CERTIFICATE - EXCEPTIONS.

A. The person owning or having custody or control of a dog over the age of four months shall at such intervals of time as may be prescribed by the State Department of Public Health, procure its vaccination by a licensed veterinarian with the canine antirabies

vaccine approved by and in a manner prescribed by the State Department of Public Health.

B. No license to keep a dog shall be issued for any dog which has attained the age of four months or over, unless a valid, official certificate of vaccination with canine antirabies vaccine is presented with the specified license fee. Such certificate of vaccination, signed by a licensed veterinarian, shall indicate the date of vaccination and the type of vaccine used. The certificate shall be accepted as valid if the certificate will expire on or after July 1 of the year for which the license is to be issued.

C. The provisions of §6.12.060 (A) and 6.12.060 (B) shall not apply when the person owning or having custody or control of the dog presents to the Director of Finance a certificate from a licensed veterinarian certifying that the dog cannot be vaccinated as required by this code without causing physical injury or the death of the dog.

6.12.070 BUSINESS OF BREEDING OR RAISING.

Any person who is engaged in the business of breeding or raising dogs or cats shall obtain a Business Tax Certificate and pay a tax as set by resolution of the City Council. Said person shall be exempt from the requirement of paying license fees for each dog or cat kept in the establishment. No such dog or cat may be permitted to be in the City contrary to the provisions of this code.

6.12.080 REMOVAL OF COLLAR OR TAG.

It is unlawful for any unauthorized person to remove from any dog or cat any collar, harness or other device to which is attached an identification tag for the current year or to remove such tag therefrom.

6.12.090 DOGS AND CATS IN FOOD ESTABLISHMENTS.

No person shall allow, permit or take any dog or cat, whether loose, on leash or in arms, into any restaurant, grocery store, meat market, convenience store, fruit store or food establishment of any kind in the City, except seeing eye/guide dogs, as defined in this chapter.

6.12.100 POLICE DOG MISTREATMENT.

No person shall willfully or maliciously torture, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the Police Department or Parks & Recreation Department of the City in the performance of the functions of such departments, or interfere or meddle with any such dog while being used by such departments or any member thereof in the performance of any of the functions or duties of such departments or of such officers or members. A violation of this section constitutes a misdemeanor.

6.12.110 NOISY DOGS.

No person shall keep or permit to remain in any premises within the City any dog which continuously and incessantly barks at any time during the day or night to the disturbance of any other person. "Continuous and incessant barking" means frequent barking for a period of ten minutes or more duration which disturbs the peace of another person, including

howling, crying, baying or making any other noise, provided that at the time of the complaint, no person or persons were trespassing or threatening to trespass upon the private property of the owner or person in custody or control of the dog, or the dog was not being teased or provoked in any manner.

6.12.120 ANIMALS AT LARGE.

A. No person owning any dog or other domesticated animal as defined herein or having the care, custody, control or possession of any such animal shall, except as provided in Section 12.12.020(B) of this code, suffer, allow or permit such animal to run, be or remain at large on any public street, road, alley, park, square, or other public place, or upon any private property other than the property of the owner or custodian of such animal without the consent of the owner of such property within the corporate limits of the City. Except as provided in paragraph "C" below, all animals are "running at large" within the meaning of this section unless tied, restrained by chain, strap or cord not exceeding six feet in length attached to their collars and actually held by some person or tied or restrained in an automobile or other vehicle, or unless staked or fastened or kept securely in an enclosure upon the property of the owner or person in control of said dog. A dog is not "kept securely in an enclosure" within the meaning of this section when said dog has exhibited the ability to escape from that enclosure.

B. No person shall permit a female dog or cat during the period when the dog or cat is in heat or breeding condition, to be outside a

house, garage, building, closed structure or secure enclosure except for purpose of exercising and while under strict control of the owner.

C. No person owning or having the care, custody, control or possession of any cat shall suffer, allow or permit such cat to run at large beyond the boundaries of the property upon or within which such cat is kept. All cats are "running at large" within the meaning of this section unless within the immediate presence, control or supervision of the person owning, or having the care, custody, control or possession of said cat.

6.12.130 RABIES DANGER.

Whenever any cases of rabies exist in the City or in the vicinity of the City, the Chief of Police is hereby authorized to publish an order requiring every person owning or having possession of any dog or cat to keep it confined upon private premises or else keep it effectively muzzled to prevent biting. When the period of danger from rabies has terminated, in the opinion of the Chief of Police, he or she shall publish a notice terminating the order. During the period between the published notice and the termination of such order, it is unlawful for any person owning or having possession of any dog or cat to allow it to be so unconfined or unmuzzled, and every unmuzzled dog or cat not so confined during such period shall be taken by the animal control officer and impounded in the public pound. The notices referred to in this section shall be published by posting in at least three public places in the City and by one or more publications in a newspaper published and circulated within the City.

6.12.140 BITES.

In the event that any dog or cat is impounded upon complaint of any person asserting that such dog or cat has bitten some person, the animal control officer may impound and keep such dog or cat safely segregated during a period of at least ten days for observation for rabies, and following such period of observation, if it is found that the dog or cat does not have rabies, and if it is licensed and otherwise eligible to be returned, it shall be returned to the owner upon payment of impound fees and feeding charges. If the dog or cat is found to have rabies, it shall be forthwith destroyed by the animal control officer. In the event of any statute taking precedence over the provisions of this title with respect to the impounding or regulating of dogs or cats suspected of having rabies or otherwise regulating dogs or animals, then to the extent that such statutes conflict with the provisions of this title, the provisions of this title shall be suspended during such period of conflict.

CHAPTER 6.14

KEEPING AND SANITATION

6.14.010 PROPERTY DAMAGE-PERSONAL INJURY.

A. Every animal which has injured any person, other than a trespasser or the person owning or having the possession thereof, and every animal which has damaged the property of any person other than the person owning or having the possession of such animal, may be taken by the animal control officer and impounded provided the violation took place in the presence of said animal control officer or any regular member of the City Police Department.

B. Before any animal may be picked up and impounded by the animal control officer for a violation of this section which has been committed outside of the presence of the animal control officer or of a regular member of the City Police Department, the person complaining against such violation shall be required to file a written complaint, setting forth the details with respect to the injury or damage asserted to have been committed and identifying the animal which has committed the injury or damage. In the event that the facts and circumstances of any case warrant, in the opinion of the Chief of Police, an arrest of the person owning or having possession of the animal, then the person complaining may also be required to sign a complaint to cause the arrest.

6.14.020 VICIOUS BEHAVIOR PROHIBITED.

A. It shall be unlawful for any person owning, possessing, controlling, harboring, or keeping any dog or puppy to cause or permit said animal to exhibit or engage in vicious behavior. "Vicious behavior" means any of the following:

1. An attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is conducting himself or herself peacefully and lawfully.
2. An attack which results in property damage or in an injury to a person when such a person is conducting himself or herself peacefully and lawfully.
3. An attack on another animal, livestock or poultry which occurs on property other than that of the owner of the attacking dog.

4. Any behavior which constitutes a threat of bodily harm to a person when such person is conducting himself or herself peacefully and lawfully.

B. For the purpose of this section, a person is conducting himself or herself peacefully and lawfully upon the private property of the owner or possessor of the animal when he or she is on such property in the performance of a duty imposed by the law of this state or any city or county, or by the laws or postal regulations of the United States, or when he or she is on such property by invitation, either expressed or implied.

C. This section shall not apply to any dog assisting a peace officer or park ranger engaged in law enforcement duties.

6.14.030 VICIOUS DOG ABATEMENT HEARING PROCEDURE.

Purpose and Intent. Within the City of Lodi there are vicious dogs which constitute a public nuisance which should be abated. The provisions of this section provide an administrative procedure by which dogs found to be a nuisance may be abated following a hearing at which oral and documentary evidence is considered. This section is intended to supplement rather than supplant any other remedy available either under state law or the Lodi Municipal Code.

a. **Vicious Dog Defined.** Any dog, except one assisting a peace officer or park ranger engaged in law enforcement duties, which demonstrates any of the following behavior, is presumed vicious:

1. An attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is conducting himself or herself peacefully and lawfully.
2. An attack which results in property damage or in an injury to a person when such a person is conducting himself or herself peacefully and lawfully.
3. An attack on another animal, livestock, or poultry which occurs on property other than that of the owner of the attacking dog.
4. Any behavior which constitutes a threat of bodily harm to a person when such person is conducting himself or herself peacefully and lawfully.

b. For the purposes of this section, a person is conducting himself or herself peacefully and lawfully upon the private property of an owner or possessor of the dog when he or she is on such property in the performance of any duty imposed on such person by state or local law or by the laws or postal regulations of the United States, or when he or she is on such property upon invitation, either expressed or implied.

c. **Investigation**. Any incident reported to the Lodi Police Department concerning a vicious dog may be investigated by the Police Chief, or his designee. The investigation may consist

of the observations and/or reports of officers made at the time of the incident, or follow-up reports. If, based on the investigation, the Police Chief or his designee, concludes that there is probable cause to believe that the dog is vicious, he shall so certify in writing within ten (10) working days following completion of the investigation to the person owning or controlling the dog. Thereafter a hearing may be held pursuant to subsections (e), (f) and (g) below.

d. **Confinement of Dog**. If the Police Chief or his designee, certifies that there is probable cause to believe that a dog is vicious and a risk to public safety, he may direct any animal control officer, police officer or other authorized employee of the City to enter the yard of any private residence or business in order to seize any such dog, whether running at large or not, and confine the dog at an appropriate animal shelter pending the decision of the City Manager or his designee, following the hearing provided for in subsections (e), (f) and (g) below. The cost of said confinement shall be paid by the person owning or controlling such dog. The dog shall not be released until such costs have been paid in full.

e. **Hearing-Schedule**. A hearing date shall be set not later than fifteen (15) working days from the date of certification. The City Manager, or the appointed hearing officer, shall mail or otherwise deliver to the owner or person controlling the dog and other interested persons, which may include but is not

necessarily limited to, properties within three hundred (300) feet of the address of the owner or person controlling the dog, at least five (5) working days prior to the date set for hearing, a notice in substantially the following form:

NOTICE OF HEARING REGARDING VICIOUS DOG

TO:_____(name)_____;

_____(address)_____.

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 6.14.030 of the Lodi Municipal Code, the Police Chief has certified that there is probable cause to believe a dog owned or controlled by you, a __(breed)__, is vicious.

FURTHER NOTICE IS HEREBY GIVEN that on_____the _____ day of _____, 19____, at the hour of _____ o'clock, in the offices of the City Manager, City Hall, 221 West Pine Street, Lodi, California, the report of the Police Chief or his designee, will be considered by the City Manager or an appointed hearing officer with such other oral and documentary evidence bearing upon the question of whether your dog is vicious. You may appear and may present evidence at the hearing. You may also be represented by an attorney. If

you fail to appear without giving notice to the City Manager, the matter may proceed in your absence and such absence may be further considered a waiver of your right to present evidence and object to any decision made.

In the event your dog is found to be vicious, it will be ordered to be controlled, confined, destroyed, restricted, or otherwise abated as a public nuisance and any impoundment cost incurred shall be assessed against you.

A copy of this notice has been sent to property owners within three hundred (300) feet of your address.

Dated:_____

_____
Thomas A. Peterson
City Manager

f. **Hearing-Procedure.** At the hearing, which may be continued from time to time, both oral and documentary evidence may be taken from any interested person and considered in determining whether the dog is vicious. Any owner who fails to appear after notice as provided herein was given, without obtaining a continuance from the City Manager or an appointed hearing officer, may be deemed to have waived any right to introduce evidence or object to an order made by the City Manager. If the hearing is conducted by a hearing officer other than the City Manager, the hearing officer shall submit a report to the City Manager

summarizing the evidence and making a recommendation as to disposition.

g. **Hearing-Findings: Public Nuisance.** If, based upon the hearing, and the report of the hearing officer, if any, the City Manager upholds the findings of the Police Chief or his designee, that the dog is vicious, the City Manager shall so specify in writing together with the reasons therefor. Any dog found to be vicious is hereby deemed a public nuisance and shall be, pursuant to the order of the City Manager, humanely destroyed, be removed from the City, or the nuisance otherwise abated by appropriate order of the City Manager including, but not limited to, confinement, fencing, muzzling or leashing. The decision of the City Manager shall be made within ten (10) working days after the conclusion of the hearing and shall be final. A copy of the decision shall be sent by certified mail or personally served upon the person owning or controlling the dog.

h. **Cost of Impoundment.** If the City Manager finds the dog is vicious, the costs of impoundment incurred by the City, including any abatement period, shall be paid by the owner or the person controlling the dog and may become a lien against the real property upon which the dog was kept and maintained until said lien is paid. If the order includes the release of a dog found to be vicious to the owner or person controlling it, the dog shall not be released until such costs have been paid in full. If such costs have not been paid within thirty (30) calendar days

after the date of mailing or delivery of the order, the City Manager may dispose of the dog in any manner provided by law, or return the dog and pursue alternative collection procedures. The total amount of the impoundment charges may be entered on the next fiscal year tax roll as a lien against the property upon which the dog was maintained and shall be subject to the same penalties as are provided for other delinquent taxes, liens or assessments of the City, or an action may be brought in the name of the City to recover the costs of impoundment.

i. **Criminal Sanctions**. The first violation of any order issued pursuant to subsection (g) above shall constitute an infraction. The second and any further violations within twenty-four (24) months of the order shall be misdemeanors.

6.14.040 SANITATION OF PREMISES.

A. It shall be unlawful for any person, at any time, to maintain any lot or other premises, or any portion thereof in the City, upon which an animal is kept, in an unsanitary condition. No person shall maintain any such lot or premises, or portion thereof upon which an animal is kept, in such condition as to be infested with flies or insects or to create any noxious or offensive odors.

B. It shall be unlawful for any person owning or having charge, care, control or custody of any animal to allow animal waste or fecal matter produced by said animal to accumulate or remain on the ground or about the premises or property for more than three

(3) days without said animal waste or fecal matter being placed in an airtight bag or other container and removed from the property within seven (7) days.

C. Notwithstanding the above, any person owning or having charge, care, control or custody of any animal shall at all times prevent urine and/or feces odors of said animal's waste from hindering, hampering, impeding, interfering with, infringing upon, or detracting from another person's enjoyment of their real or personal property.

6.14.050 REMOVAL OF ANIMAL WASTE

A. It is unlawful for the owner or any person having custody of any dog, cat or other domesticated animal, referred to as "animal" in this section, to fail to immediately remove and dispose of any feces deposited by the animal on either public property or on private property not under the control of such person. Disposal shall be by placing the feces in a closed or sealed container and depositing the container in a trash receptacle.

B. Persons having custody or control of such animals in a public place or private property not under such person's control shall have in their possession a suitable wrapper, bag or container for the purpose of complying with this section's requirements. Failure to have the wrapper, bag or container while with the animal in such designated places shall constitute a violation of this section.

C. This section shall not apply to a sightless person who has custody or control of a guide dog.

D. A violation of this section is an infraction, punishable by:

1. A fine not to exceed twenty-five dollars for the first violation; and
2. A fine not to exceed one hundred dollars for the second violation and each subsequent violation within one year.

6.14.060 DEAD ANIMALS.

The animal control officer shall remove and dispose of all dead dogs, cats and other animals found on any street or other public place.

CHAPTER 6.16

PET SHOPS

6.16.010 PERMIT REQUIRED.

A. It is unlawful for any person to erect, establish or maintain any pet shop without first obtaining a permit from the Director of Finance.

B. For purposes of this chapter a "pet shop" means a commercial establishment where live animals are sold or kept for sale or hire.

C. The permit required by this title is a separate requirement

exclusive of any other licenses or permit required by any other provision of the Lodi Municipal Code.

6.16.020 EXEMPTIONS--ANIMAL SHELTERS.

The provisions of this chapter requiring the payment of an annual license fee shall not apply to an animal shelter maintained and operated by a society for the prevention of cruelty to animals duly incorporated under Title 1, Division 2, part 4 of the Corporations Code of the state, or to the City pound.

6.16.030 PERMIT--ISSUANCE CONDITIONS.

A. The granting of the permit required by §6.16.010 shall be in the discretion of the Director of Finance, who shall take into consideration the type of construction to be employed as it relates to sanitation and the manner in which animals are to be housed, and such zoning regulations as may be in effect or adopted from time to time, provided that:

1. No permit shall be granted for a pet shop that is not in compliance with the zoning ordinance or other federal, state, or local law; or
2. The application for a permit shall show that odor, noise, dust and drainage from the pet shop shall not constitute a nuisance or hazard to the public.

6.16.040 ANNUAL PERMIT FEE - RENEWAL - DELINQUENCY.

A. Upon approval of the Director of Finance and subject to the

payment of the annual permit fee as set by resolution of the City Council, the Director of Finance shall issue to the applicant a permit in such form as he or she may prescribe, and deliver a copy thereof to the applicant.

B. All permits issued pursuant to this section are issued on a year to year basis and expires on January 31 of the year following the year of issuance. All such permits must be renewed on or before the date of expiration. Permit renewal is accomplished by paying the applicable annual permit fee. Failure to timely renew any permit required under this chapter shall constitute a violation of this chapter.

C. The failure to timely renew any permit required by this chapter shall cause any applicable permit fees to become delinquent, and a charge in an amount fixed by resolution of the City Council shall be added to the regular annual permit fee. The regular annual permit fee and all accrued charges must be paid before the permit may be issued. This section is intended to supplement rather than supplant any other remedy available under State law or the Lodi Municipal Code.

CHAPTER 6.18

ENFORCEMENT

6.18.010 POWERS OF ANIMAL CONTROL OFFICER.

The animal control officer shall have the powers of enforcement of the

provisions of this title and such state laws and local ordinances as relate to the care and treatment of animals and for the prevention of cruelty thereto. For the purpose of discharging these duties, the animal control officer is authorized and directed, when it is lawful to do so, to enter upon any premises for the inspection or examination thereof or for the performance of any other of his or her official duties thereon; to take up and impound any animal or fowl which may be in the city contrary to any provision of this title; to destroy any animal lawfully impounded, which is by reason of age, disease or other cause, unfit for further use, or is dangerous to keep impounded.

6.18.020 RESISTING OR OBSTRUCTING ANIMAL CONTROL OFFICER.

It is unlawful for any person to resist or obstruct the animal control officer in any way in the performance of his duties under this title. A violation of this section constitutes a misdemeanor.

6.18.030 VIOLATION--INFRACTION.

Except where specifically stated, any violation of this title is an infraction unless the defendant has been convicted of three or more violations of a particular section within the twelve-month period immediately preceding the commission of the offense, and then the violations of this title constitutes a misdemeanor.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. This ordinance shall be published one time in the "Lodi

News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this day of

_____
STEPHEN J. MANN
Mayor

Attest:

JENNIFER M. PERRIN
City Clerk

==========

State of California
County of San Joaquin, ss.

I, Jennifer M. Perrin, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1605 was introduced at a regular meeting of the City Council of the City of Lodi held February 1, 1995 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 1995 by the following vote:

Ayes:	Council Members -
Noes:	Council Members -
Absent:	Council Members -
Abstain:	Council Members -

I further certify that Ordinance No. 1605 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

JENNIFER M. PERRIN
City Clerk

Approved as to Form

BOBBY W. McNATT
City Attorney

To: Lodi City Council Members

From: Animal Friends Connection

Re: Title 6 (Animal Control provisions)

We commend you for considering and supporting our recommendation to raise the number of animals allowed per household from 3 to 5. We are confident this will generate more revenue from additional license fees. It will also make many Lodi citizens "legitimate"--citizens who are responsible pet owners but have more than 3 animals. This will also bring Lodi in line with what our neighboring cities are allowing--cities such as Tracy, Sacramento, Placerville, Davis and Livermore.

We support the Animal Fanciers Permit you have proposed. This will benefit both the City and pet owners by increasing revenue and giving animal lovers options.

We thank you for adding the clarification "excluding Sundays and holidays" regarding the 72 hours <u>any animal</u> must be held. As we were discussing this issue at the Council shirt sleeve session the euthanasia records, which seemed to be very minimal, were brought up. We realize this may not be a code item, but we would like to go on record as stating that at the bare minumum impound and euthanasia records should record breed, color, and sex--for cats as well as dogs. If there is a problem identifying the differences between "10 black or grey cats," Animal Control officers or volunteer personnel should give the animal an ID#. This number could be on a collar and should also be logged on a data card that contains date, time, sex, color and other distinguishing markings. This would be for cross checking purposes and to be accountable to the public.

Thank you again for considering our recommendations.

Sincerely,

Animal Friends Connection
Board of Directors