ORDINANCE NO. ____

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING LODI MUNICIPAL CODE TITLE 1 "GENERAL PROVISIONS" CHAPTER 1.10 "ADMINISTRATIVE ENFORCEMENT PROVISIONS", TITLE 6 "ANIMALS" SECTION 6.04.030 "REDEMPTION OF IMPOUNDED ANIMALS"; CHAPTER 6.08 "PROHIBITED ANIMALS"; SECTION 6.12.010 "LICENSE-REQUIRED"; SECTION 6.12.060 "VACCINATION—REQUIRED—CERTIFICATE—EXCEPTIONS"; SECTION 6.12.070 "BUSINESS OF BREEDING OR RAISING"; SECTION 6.12.110 "ANIMAL NOISE"; SECTION 6.12.120 "ANIMALS AT LARGE"; SECTION 6.12.150 "MANDATORY MICROCHIPPING OF DOGS AND CATS"; SECTION 6.14.020 "SANITATION OF PREMISES"; SECTION 6.14.030 "REMOVAL OF ANIMAL WASTE"; SECTION 6.14.050 "MANAGEMENT OF CAT POPULATION; PERMITTED ACTS"; SECTION 6.15.010 "DEFINITIONS"; AND SECTION 6.15.020 "BEHAVIOR PROHIBITED".

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

Section 1. Chapter 1.10 "Administrative Enforcement Provisions" of the Lodi Municipal Code is hereby amended to read as follows:

Chapter 1.10 - ADMINISTRATIVE ENFORCEMENT PROVISIONS

Article I. - Code Enforcement—Administrative Provisions

1.10.010 Declaration of purpose.

A. The city council finds that the enforcement of the Lodi Municipal Code and applicable state codes throughout the city is an important public service. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The city council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. After consideration of the recommendations of the community improvement division, the city council further finds that a comprehensive code enforcement system requires a variety of judicial remedies and administrative remedies to enforce violations of this code and applicable state codes. The city council also finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to this code. It is the purpose and intent of the city council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing process and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative enforcement action. The city attorney is authorized to develop policies and procedures relating to the qualifications, appointment, and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena powers, and other matters relating to administrative enforcement hearings.

B. The procedures established in this chapter shall be in addition to criminal, civil, or other legal remedies established by law, which may be pursued to address violations of this code or applicable state codes and the use of this chapter shall be at the sole discretion of the city.

1.10.020 Definitions.

“Administrative citation” means a document issued by an enforcement officer to a person violating the provisions of this code or applicable state code.

“Administrative order” means an order issued by an administrative hearing officer after a hearing requiring a responsible person to correct violations, abate a public nuisance, pay administrative fines, civil penalties, administrative costs, authorize the city to abate a public nuisance, assess a code enforcement lien, or take any other action as authorized or required by this code and applicable state codes.

“Assessment lien” means a lien recorded with the San Joaquin County recorder’s office for the purposes of collecting outstanding administrative citation fines, civil penalties, and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action. It shall also mean the same as a code enforcement lien.

Code Enforcement Lien. See definition of “assessment lien.”

“ Enforcement officer” means any City employee or agent of the City with the authority to enforce a provision of this code ’

“Director” shall include each of the directors of the following city departments: planning and community development, public works, parks, recreation and facilities, municipal utilities, finance, and the department of public safety and any of their designated agents or representatives within their jurisdiction.

“Hearing officer (or administrative hearing officer)” means any person appointed by the city attorney to preside over administrative hearings.

“Notice and order” means a document used in abatement actions and assessment of civil penalties involving serious code violations, which provide notice of municipal code, adopted uniform codes, or applicable state code violations and orders a responsible person to take certain steps to correct the violations within a definitive period of time. Civil penalties may also be imposed in conjunction with this notice.

“Notice of compliance” means a document issued by a director, which represents that a property has been brought into compliance with the criteria set forth under this code.

“Notice of satisfaction” means a document or form, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the city has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

“Notice of violation” means a written notice, which informs a responsible person of code violations present on the subject property, lists the required compliance actions, and contains specific information as required by this code. The notice of violation may be recorded with the San Joaquin County recorder’s office.

“Owner” applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, joint tenant, of the whole or a part of such building or land.

“Person,” unless it otherwise appears from the context as used, includes any person, firm, association, organization, partnership, business trust, company, corporation, public agency,

school district, the state of California, its political subdivisions and/or instrumentalities thereof or any other entity which is recognized by law as the subject of rights or duties.

"Property owner" means the record owner of real property as listed on the last equalized assessment roll maintained by the San Joaquin County assessor.

"Responsible person" means a person who a director determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the Lodi Municipal Code, adopted uniform codes, or applicable state codes. The term "responsible person" includes, but is not limited to, a property owner, tenant, person with a legal interest in the subject property, person in possession of the subject property, or person that exercises custody and control over the subject property.

"Shall" is mandatory and "may" is permissive. However, the use of the word "shall" in this chapter is not intended and shall not impose any mandatory duty to third parties by the city, its commissions, boards, officers, agents, or employees and is not intended and shall not impose any liability on the city, its commissions, boards, officers, agents, or employees.

.10.030 Administrative enforcement authority.

The community development director, enforcement officer, the fire chief, and other city directors and/or their designated agents have the authority and powers necessary to determine whether a violation of this code or applicable state codes exists and the authority to take appropriate action to gain compliance with the provisions of this code or applicable state codes. These powers include the power to issue notices of violation, administrative citations, notices and orders, and civil penalties, the power to inspect public and private property, and use the administrative remedies which are available under this code, adopted uniform codes, or applicable state codes.

1.10.040 Authority to inspect.

A director, a community improvement officer, enforcement officer, or other duly authorized agent are authorized to enter upon any property or premises within the city to ascertain whether the provisions of this code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples, or other physical evidence such as the use of a sound level measurement device to measure noise disturbances. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If an owner, occupant, or agent or other responsible person refuses permission to enter or inspect, the community improvement officer may seek an administrative inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure.

1.10.050 Code enforcement fees—Purpose.

A. The city council finds there is a need to recover costs incurred by the city in its code enforcement efforts including time spent by city personnel inspecting and reinspecting properties throughout the city, preparing and posting the various notices that are required under this code whenever a property is found to be in violation of a mandatory provision, processing a case file, towing inoperative vehicles, obtaining inspection warrants, and preparing for and appearing at administrative hearings, which procedures all become necessary when a responsible person fails to voluntarily correct code violations on his or her property. These additional code enforcement efforts are not usually undertaken or employed until after a responsible person has failed to respond on a voluntary basis to notices and/or warnings from the city or volunteers.

B. The city council further finds the assessment of fees for the services listed in subsection A of this section, are an appropriate method to recover costs incurred for the additional work that is undertaken by city staff when a responsible person fails to voluntarily correct code violations on his or her property in a timely manner. The assessment and collection of these code enforcement fees shall not preclude the imposition of, and shall be in addition to, any administrative or judicial civil penalties or fines for violations of this code or applicable state codes.

1.10.060 Assessment of reinspection fees.

Whenever an enforcement officer, community improvement officer and/or designated staff inspects, reinspects, processes a case file, prepares and posts a notice of intent to abate, a notice of violation, notice to vacate, notice and order of demolition, abandoned vehicle abatement notice, seeks and obtains an inspection warrant, prepares for and appears at an administrative hearing, or any other action as may be hereinafter designated by resolution of the city council, for which an action has been initiated to obtain compliance with this code or applicable state code, a director shall assess the appropriate code enforcement fee against the responsible person.

1.10.070 Amount of reinspection fees.

A code enforcement fee schedule shall be established and revised as necessary by the city council to reflect current costs. The code enforcement fee schedule shall be filed in the city clerk's office.

1.10.080 Code enforcement fees exemption.

No fee shall be charged if any of the following circumstances exist:

A. A notice of compliance has been issued;

B. It is determined that the previously identified responsible person has not caused the code violation; or

C. The responsible person fully complies with any notice of violation or warning before the compliance reinspection deadline set by code enforcement staff.

1.10.090 Notification of assessment of reinspection fees.

A. Where the assessment of code enforcement fees is authorized under this chapter, the director shall provide the responsible person with a written notice assessing code enforcement fees. The written assessment shall contain the following information: (1) the amount of fees charged; (2) the corresponding dates when code enforcement action took place; and (3) a deadline by which the code enforcement fee must be paid.

B. Notification of the code enforcement fee assessment shall be provided to the responsible person by any of the means outlined in this chapter.

C. Code enforcement fees may be assessed as part of any judicial or administrative enforcement action as provided for in this chapter.

D. Code enforcement fees collected pursuant to this chapter shall not be duplicated in any other action to recover these identical costs.

E. The failure of any responsible person to receive notice of the code enforcement fees shall not affect the validity of any fees imposed under this chapter.

1.10.100 Collection of reinspection fee.

The city shall collect the assessed code enforcement and late fees by the use of all appropriate legal means, including but not limited to: referral to the finance department for collection or assessment against the property.

Article II. Notice of Violation

1.10.110 Notice of violation—Procedures.

Whenever it is determined that a violation of this code, adopted uniform codes, or applicable state codes exists, the director, enforcement officer, the community improvement officer, or other duly authorized agent may issue a notice of violation to the responsible person(s). The notice of violation shall include the following information:

A. The name of the responsible party;

B. The name of the owner, if different from the responsible person;

C. Street address of the property at issue;

D. The code sections in violation;

E. A description of the conditions which violates the applicable codes;

F. A list of necessary corrections to bring the property into compliance;

G. A deadline or specific date to correct the violations listed in the notice of violation; and

H. A list of the potential consequences for failure to comply with the notice including, but not limited to: criminal prosecution, civil injunction, administrative abatement, administrative citations, civil penalties, revocation of permits, recordation of the notice of violation, and withholding of future municipal permits.

1.10.120 Service of notices.

Whenever any notice is required to be given under this code, the notice shall be served in the following manner unless a different procedure is specifically stated to apply:

A. Personal service or certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice shall be sent by regular mail to the responsible person. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail.

B. Posting the notice conspicuously on or in front of the subject property.

C. Mailings to the property owner shall be sent to the address listed in the last equalized assessment roll of the San Joaquin County assessor.

D. In the event the responsible person is someone other than the property owner, a copy of the notice shall also be mailed to the property owner.

Service by certified or regular mail in the manner described above shall be effective on the date of mailing.

The failure of any person with an interest in the subject property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this chapter.

The notice requirements in this section do not apply to initial notices of violation, courtesy notices, which may be sent by regular mail. Service of a courtesy notice by regular mail is effective on the date of mailing.

1.10.130 Proof of notice.

Proof of giving any notice may be made by the certificate of any officer or employee of the city, or by affidavit of any person over the age of eighteen years, which shows service in conformity with this chapter, or other provisions of law applicable to the subject matter concerned.

1.10.140 Recordation of notices of violation—Purpose.

The city council finds that there is a need to give notice of pending enforcement actions to persons who may subsequently acquire the property as a means by which to ensure the violations will be corrected. An appropriate method to accomplish this is through the issuance and recordation of notices of violation. The procedures established in this chapter shall be in addition to criminal, civil, or any other remedy established by law, which may be pursued to address violations of this code or applicable state codes.

1.10.150 Procedures for recordation.

A. Once a director has issued a notice of violation to a responsible person and the property remains in violation after the deadline established in the notice of violation, the director may record the notice of violation with the San Joaquin County recorder's office.

B. Before recordation, a director shall provide to the responsible person a notice of intent to record stating that a notice of violation will be recorded unless a written request to appeal this action is received pursuant to the procedures outlined in this chapter. The letter shall be served in accordance with the methods set forth in this chapter.

C. If a written request to appeal is not received within the time frame specified, the director may thereafter cause the notice of violation to be recorded, if the violations remain.

D. The recorded notice of violation shall include the name of the property owner, the assessor's parcel number, the street address, the parcel's legal description, and a copy of the latest notice of violation.

E. Any costs associated with recording or removal of the notice of violation may be assessed against the property as provided for in this chapter.

1.10.160 Service of notice of violation.

A copy of the recorded notice of violation shall be mailed to the responsible person and to the property owner and/or any other persons who have requested copies of such notices pursuant to any of the methods of service set forth in this chapter.

1.10.170 Procedures to appeal recordation.

A. An appeal of the director's notice of intent to record the notice of violation shall follow the procedures set forth in this chapter.

B. Upon receiving a written appeal, the director shall schedule a hearing pursuant to the procedures set forth in this chapter. The purpose of the hearing is for the responsible person or property owner to state any reasons why a notice of violation should not be recorded.

C. The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.

1.10.180 Appeal hearing—Recordation of notice.

A. At the appeal hearing, the hearing officer shall only consider evidence that is consistent with the city attorney's rules and procedures for administrative hearings, and that is relevant to the following issues:

   1. Whether the conditions listed in the notice of violation violate this code or applicable state codes; and

   2. Whether the director afforded the responsible person with due process by adhering to the notification procedures specified in this chapter.

B. If the hearing officer affirms the director's decision, the director may proceed to record the notice of violation.

C. If the hearing officer determines that recordation is improper, the hearing officer shall invalidate the director's decision to record the notice of violation.

1.10.190 Notice of compliance—Removal procedures.

A. When the violations listed on the notice of violation have been corrected, the responsible person or property owner may file with the director a written request for a notice of compliance on a form provided by the city.

B. Once the director receives this request, the director shall reinspect the property within ten days from receipt of the request to determine whether the violations listed in the notice of violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.

C. The director shall provide a notice of compliance to the responsible person or property owner if the director determines that:

   1. All violations listed in the recorded notice of violation have been corrected;

   2. All necessary permits have been issued and finalized;

   3. All administrative fines or civil penalties have been paid; and

   4. The party requesting the issuance of the notice of compliance has paid an administrative fee to reimburse the city for all administrative costs.

D. Administrative costs may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing, and any other processing costs associated with the violations specified on the notice of violation.

E. If the director denies a request to issue a notice of compliance, the director shall serve the requesting party, the responsible person, and the property owner with a written explanation within five days from the inspection setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in this chapter

F. The director's decision denying a request to issue a notice of compliance constitutes the final decision in the matter and is not appealable.

1.10.200 Prohibition against issuance of municipal permits.

For properties where a notice of violation has been recorded, the city may withhold permits for repair, construction, and/or alteration on the affected property until a notice of compliance has been issued by the director. The city may not withhold permits, which are necessary to obtain a notice of compliance or which are necessary to correct serious health and safety violations.

1.10.210 Cancellation of recorded notice of violation.

The director shall record or cause to be recorded the notice of compliance with the San Joaquin County recorder's office. The recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation.

Article III. Administrative Citations

1.10.220 Administrative citations—Authority.

A. Any person violating any provisions of this code, adopted uniform codes, or applicable state code may be issued an administrative citation by an enforcement officer as provided in this chapter.

B. Each and every day a violation of this code, adopted uniform codes, or applicable state code exists constitutes a separate and distinct offense.

C. An administrative fine shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the city unless otherwise noted on the citation.

D. Fines assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this chapter.

1.10.230 Administrative citations—Procedures.

A. Upon discovering any violation of this code, adopted uniform codes, or applicable state codes, an enforcement officer may issue an administrative citation to a responsible person in the manner prescribed in this chapter. The administrative citation shall be issued on a form approved by the city attorney.

B. If the responsible person is a commercial business, the enforcement officer shall attempt to locate the business owner and issue the business owner an administrative citation. If the enforcement officer can only locate the manager of the commercial business, the administrative citation may be given to the manager of the business. A copy of the administrative citation shall also be mailed to the business owner or responsible person in the manner prescribed in this chapter.

C. The administrative citation shall be signed by the issuing enforcement officer.

D. Method of Service.

    1. Signature. Once the responsible person is located, the enforcement officer shall attempt to obtain the signature of that person on the administrative citation. However, if the responsible person refuses or fails to sign the administrative citation, it shall not affect the validity of the citation and subsequent proceedings.

    2. If the enforcement officer is unable to locate the responsible person, then the administrative citation shall be mailed to the responsible person in the manner prescribed in this chapter.

3. Posting. If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person in the manner prescribed by this chapter.

E. A copy of the administrative citation shall thereafter be mailed to the responsible person and to the owner of the property if different from the responsible person in the manner prescribed by this chapter. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this chapter.

1.10.240 Contents of administrative citation.

Any administrative citation that is issued shall contain all of the following information:

A. The date and location of the violations and the approximate time the violations were observed;

B. The code sections violated and a brief description of how the sections are violated;

C. Where appropriate, the action required to correct the violations;

D. Set forth a deadline by which the violations must be corrected and the consequences of failing to comply;

E. The amount of fine imposed for the violations, if any;

F. An explanation as to how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine; and

G. Identify all rights and procedures of appeal.

1.10.250 Appeal of administrative citation.

An appeal from the issuance of an administrative citation shall follow the procedures set forth in this chapter.

1.10.260 Fines for administrative citations.

A. If the responsible person fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the fine shall increase at a rate specified in subsection B of this section.

B. The fines assessed for each administrative citation issued for the same violations shall be as follows:

1. First administrative citation	$100.00
2. Second administrative citation	$250.00
3. Third and subsequent administrative citation(s)	$500.00

C. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the city.

D. All fines assessed shall be payable to the city, unless otherwise directed on the citation.

E. The community development director is authorized, under direction and upon approval of the city attorney, to establish policies and procedures for the certification, decertification, and conduct of the community awareness and responsibility education classes, to establish that persons receiving a fine under an administrative citation have the option of attending a certified community awareness and responsibility education class prior to the citation

becoming delinquent in lieu of paying the fine. A person may not use this option more than once in any twelve-month period.

F. For all delinquent, unpaid administrative citation fines, there shall be a penalty imposed in the amount of ten percent of the citation fine amount and an additional one percent per month of the total amount of such fine for each month during the time that said fine remains unpaid after its delinquency date. The delinquency date for an administrative citation fine shall be sixty days following the imposition of the fine, or the appeal determination of the administrative hearing officer, whichever is later.

1.10.270 Failure to pay administrative citation fine.

The failure of any person to pay the fines assessed by an administrative citation within the time specified on the citation may result in the director referring the matter to the finance department or other designated agent for collection. Alternatively, the director shall pursue any other legal remedy to collect the fines including, but not limited to, those remedies provided in Title 1, Chapter 1.08 of this code.

1.10.280 Allocation of administrative citation fines.

Administrative fines collected pursuant to this article shall be deposited into the special revenue fund.

Article IV. Abatement

1.10.290 Abatements—Declaration of purpose.

The city council finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of public nuisances and code violations. The procedures established in this chapter are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this code or applicable state codes. This chapter governs all other nuisance abatement procedures established in other chapters of this code unless other procedures are specifically stated to apply.

1.10.300 Authority.

Any condition caused, maintained, or permitted to exist in violation of any provisions of this code or an applicable state code, which constitutes a public nuisance, may be abated by the city pursuant to the procedures set forth in this article.

1.10.310 General procedures.

A. Abatement Notice.

1. Whenever the director determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Section 15.30.030 or as declared in any other specific section of this code, including adopted uniform codes or applicable state codes, an abatement notice may be issued to the responsible person to abate the public nuisance.

2. The abatement notice shall contain a description of the subject property in general terms reasonably sufficient to identify the location of the property. It shall refer to specific sections of this code, adopted uniform codes, or applicable state code violations, which render the property a public nuisance.

3. The abatement notice shall describe the action required to abate the public nuisance, which may include, but is not limited to: corrections, repairs, demolition, removal,

obtaining the necessary permits, vacation of tenants or occupants, or other appropriate action and shall establish time frames by which each action must occur.

4. The abatement notice shall explain the consequences should the responsible person fail to comply with the terms of the notice.

5. The abatement notice shall identify all applicable hearing and appeal rights.

B. Service of Abatement Notice. The abatement notice shall be served by any of the methods of service listed in this chapter.

1.10.320 Abatement of a public nuisance by the city.

A. Once the director follows the procedures set forth herein and the time for compliance has lapsed, if the violations remain, the nuisance conditions may be abated by city personnel or by a private contractor.

B. City personnel or a private contractor can enter upon private property in a reasonable manner as provided by law to abate the nuisance conditions as specified in the abatement notice or abatement order.

C. If the responsible person abates the nuisance conditions before the city performs the actual abatement pursuant to an abatement notice or abatement order, the director may still assess all costs incurred by the city against the responsible person pursuant to the procedures set forth herein.

D. When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the director. The report shall contain the names and addresses of the responsible persons of each parcel, the name and address of the property owner, if different from the responsible person, the tax assessor's parcel number, and a legal description of the property, if the responsible person is an owner.

E. The director shall schedule a confirmation of costs hearing before an administrative hearing officer pursuant to the procedures set forth in this chapter, unless waived in writing by all responsible persons.

F. All administrative and actual costs incurred by the city in abating the violations may be assessed and recovered against the responsible person pursuant to the provisions set forth in this chapter.

1.10.330 Summary abatement.

This article governs the procedures relating to summary abatement of public nuisances.

1.10.340 Authority.

Whenever the director determines that an imminent health and safety hazard exists that requires immediate correction or elimination, the director may exercise the following powers without prior notice to the responsible person:

A. Order the immediate vacation of any tenants and prohibit occupancy of the subject property until all repairs are completed;

B. Post the premises as unsafe, substandard, or dangerous;

C. Board, fence, or secure the building or site;

D. Raze and grade that portion of the premises or site to prevent further collapse and remove any hazard to the general public;

E. Make any minimal emergency repairs as necessary to eliminate any imminent health and safety hazard; or

F. Take any other action as appropriate under the circumstances.

1.10.350 Procedures.

A. The director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the city during the summary abatement process shall be assessed, collected, and recovered against the responsible person through the procedures outlined in this chapter.

B. The director may also pursue any other administrative or judicial remedy established by law to abate any remaining public nuisance.

Article V. Administrative Penalties

1.10.360 Declaration of purpose.

The city council finds that there is a need for an alternative method of enforcement for enforcing more serious violations of this code, adopted uniform codes, and applicable state codes. The city council further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement. The administrative assessment of civil penalties is in addition to any other administrative or judicial remedy established by law, which may be pursued by the city to address serious violations of this code, adopted uniform codes, or applicable state codes.

1.10.370 Authority.

A. Any person violating any provision of this code, adopted uniform codes, or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in this chapter.

B. Each and every day a violation of any provision of this code or applicable state code exists constitutes a separate and distinct violation.

C. Civil penalties may be directly assessed in conjunction with a notice and order issued by the director, or affirmed by a hearing officer. Civil penalties assessed shall be collected in accordance with the procedures specified in this chapter.

D. Civil penalties for violations of any provision of this code, adopted uniform codes, or applicable state codes shall be assessed at a daily rate determined by the director or hearing officer pursuant to the criteria listed in this chapter. Except as authorized pursuant to state and federal laws, the maximum civil penalty shall be one thousand dollars per violation per day with the maximum amount of civil penalties not exceeding one hundred thousand dollars per parcel or structure for any related series of violations occurring within the twelve-month period immediately preceding the latest violation.

1.10.380 Procedures—Issuance of notice and order.

A. Whenever the director determines that a violation of one or more provisions of this code, adopted uniform codes, or applicable state codes has occurred or continues to exist, a civil penalty may be issued in conjunction with a notice and order to the responsible person.

B. The notice and order shall refer to all code sections violated and describe how each section is or has been violated.

C. The notice and order shall refer to the dates and locations of the violations.

D. The notice and order shall address the action required to correct the outstanding violations and establish time frames for completion.

E. The notice and order shall establish a daily amount of civil penalties. The director shall determine the daily amount of civil penalties pursuant to the criteria in set forth in this article.

F. The notice and order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the notice and order until the violations are corrected.

G. If a director determines that the violations are continuing, the notice and order shall demand that the responsible person cease and desist from further action causing the violations, or take affirmative action to cease from maintaining or permitting the violation to exist, and commence and complete all action to correct the outstanding violations under the guidance of the appropriate city departments.

H. The notice and order shall enumerate any other consequences should the responsible person fail to comply with the terms and deadlines as prescribed in the notice and order.

I. The notice and order shall identify appropriate hearing procedures as required by this chapter.

J. The notice and order shall be served upon the responsible person by any one of the methods of service listed in this chapter.

K. The notice and order shall identify the factors used by the director in determining the duration and the daily amount of civil penalties.

L. More than one notice and order may be issued against the same responsible person if it encompasses either different dates or different violations.

1.10.390 Determination of civil penalties.

A. In determining the date when civil penalties started to accrue, a director may consider the date when the department first discovered the violations as evidenced by the issuance of a notice of violation or any other written correspondence.

B. The assessment of civil penalties shall end when all action required by the notice and order has been completed.

C. In determining the amount of the civil penalty to be assessed on a daily rate, the director may consider some or all of the following factors:

1. The duration of the violation;
2. The frequency or recurrence of the violation;
3. The seriousness of the violation;
4. The history of the violation;
5. The responsible person’s conduct after issuance of the notice and order;
6. The good faith effort by the responsible person to comply;
7. The economic impact of the penalty on the responsible person;
8. The impact of the violation upon the community;
9. Any other factors that justice may require.

1.10.400 Recovery of civil penalties

The director may collect all civil penalties and related administrative costs by the use of all appropriate legal means, including, but not limited to, the recordation of a code enforcement lien pursuant to the procedures set forth in this chapter. If unable to collect the obligation, the director may refer the obligation to the city attorney to file a court action to recover these penalties and costs.

1.10.410 Cancellation of code enforcement lien.

Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the director shall, within ten days from the date payment is made or decision is final, record a notice of satisfaction with the San Joaquin County recorder's office. The notice of satisfaction shall include the same information as provided for in the original code enforcement lien. Such notice of satisfaction shall cancel the code enforcement lien.

1.10.420 Administrative costs.

The director or hearing officer is authorized to assess any reasonable administrative costs. Administrative costs may include scheduling and processing of the hearing and all subsequent actions.

1.10.430 Failure to comply with notice and order.

The director shall request the city attorney to appoint a hearing officer and the director shall establish a date, time, and place for the civil penalties hearing in accordance with this chapter when the responsible person fails to comply with the terms of the notice and order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines, or failure to refrain from continuing violations of this code, adopted uniform codes, or applicable state codes.

1.10.440 Civil penalties hearing.

A. The procedures for the civil penalties hearing are the same as the hearing procedures set forth in this chapter.

B. The hearing officer shall only consider evidence that is relevant to the following issues: (1) whether the responsible person has caused or maintained a violation of this code or applicable state code that existed on the dates specified in the notice and order; and (2) whether the amount of civil penalties assessed by the director pursuant to the procedures and criteria outlined in this chapter was reasonable.

Article VI. Administrative Hearings

1.10.450 Administrative hearing procedures.

These sections establish the procedures for the use of administrative hearing officers and the procedures governing administrative hearings.

A. Qualifications of Administrative Hearing Officer. The city attorney shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the city as hearing officers.

B. Appointment of Administrative Hearing Officer. Hearing officers presiding at administrative hearings shall be appointed by the city attorney and compensated by the city. The city attorney shall develop policies and procedures relating to the appointment and compensation of hearing officers.

C. Disqualification of Hearing Officer. Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of a hearing officer shall be promulgated by the city attorney.

D. Powers of Hearing Officer.

1. The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.
2. The hearing officer, upon receipt of a written request which is submitted no later than five days before the hearing, shall subpoena witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The city attorney shall develop policies and procedures relating to the issuance of subpoenas in administrative hearings, including the form of the subpoena and related costs.
3. The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist granting a new hearing.
4. The hearing officer has the authority to require the responsible person to post a code enforcement performance bond to ensure compliance with an administrative order.

E. Failure to Obey Subpoena. It is unlawful for any person to refuse to obey a subpoena issued by a hearing officer.

1.10.460 Procedures for requesting an appeal hearing.

A. A person served with one of the following documents, order or notices may file an appeal within ten calendar days from the service of the notice:

1. Any civil penalty notice and order issued;
2. An administrative citation issued pursuant to this chapter;
3. An application for a waiver of fees.

B. The appeal shall be made in writing stating the grounds for the appeal and filed with the director on or before the tenth day after service.

1.10.470 Procedures for notification of administrative hearing.

A. Where an administrative remedy or proceeding provides for an appeal procedure, the director shall request the city attorney to appoint a hearing officer and to schedule a day, time, and a place for the hearing.

B. Written notice of the time and place of the hearing shall be served at least ten calendar days prior to the date of the hearing to the responsible person.

C. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the city attorney.

D. The notice of hearing shall be served by any of the methods of service listed in this chapter.

1.10.480 Procedures at administrative hearing.

A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the city attorney.

B. The city bears the burden of proof at an administrative hearing to establish the existence of a violation of this code, adopted uniform codes, or applicable state codes.

C. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his case.

1.10.490 Failure to attend administrative hearing.

Any responsible person who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that the hearing was properly noticed.

1.10.500 Administrative order.

A. The decision of the hearing officer shall be entitled “Administrative Order” and shall be issued in accordance with this chapter and the rules and procedures promulgated by the city attorney.

B. Once all evidence and testimony are completed, the hearing officer shall issue an administrative order, which affirms, modifies, or rejects the director’s action. In the case of a notice and order of civil penalty, the administrative order may affirm, modify, or reject the daily rate or duration of the civil penalties depending upon the review of the evidence and may increase or decrease the total amount of civil penalties and costs assessed.

C. The hearing officer may issue an administrative order that requires the responsible person to cease from violating this code, adopted uniform codes, or applicable state codes and to make necessary corrections within a specific time frame.

D. As part of the administrative order, the hearing officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the responsible person’s ability to complete compliance by specified deadlines.

E. The hearing officer may issue an administrative order, which imposes additional civil penalties that will continue to be assessed until the responsible person complies with the hearing officer’s decision and corrects the violation.

F. The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative order.

G. The administrative order shall become final on the date of service of the order.

H. The administrative order shall be served on all parties by any one of the methods listed in this chapter.

1.10.510 Judicial review.

Once an administrative order becomes final as provided in this chapter, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6 or as may be amended hereafter.

1.10.520 Failure to comply with the administrative order misdemeanor.

A. After the hearing officer issues an administrative order, the director shall monitor the violations and determine compliance.

B. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative order, the director may use all appropriate legal means to recover the civil penalties, administrative costs, and obtain compliance with the administrative order, including seeking an injunction.

C. Failure to comply with an administrative order constitutes a misdemeanor.

Section 2. Lodi Municipal Code Section 6.04.030 “Redemption of impounded animals.” is hereby amended to read as follows:

Section 6.04.030 - Redemption of impounded animals.

A. Licensed Animals. The owner or person having custody or control of an animal licensed pursuant to this title that is impounded may redeem said animal upon submission of proof that the animal is microchipped with current information on the owner reclaiming the animal, or in the event the animal is not microchipped, the animal must be microchipped with current owner information prior to redemption, and 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 custody or control of any unlicensed animal, not otherwise prohibited by this title, that is impounded may redeem said animal upon submission of proof that the animal is microchipped with current information on the owner reclaiming the animal, or in the event the animal is not microchipped, the animal must be microchipped with current owner information prior to redemption, and 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 custody of an out-of-town animal taken up and impounded may redeem within four business days, not including the day of impoundment, Sundays or holidays, upon submission of proof that the animal is microchipped with current information on the owner reclaiming the animal, or in the event the animal is not microchipped, the animal must be microchipped with current owner information prior to redemption, along with any necessary anti-rabies vaccinations, and 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 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.

Section 3. Lodi Municipal Code Chapter 6.08 "Prohibited Animals" is hereby amended to read as follows:

Chapter 6.08 PROHIBITED ANIMALS

Sections:

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.
6.08.060 Prohibited animal feeding.
6.08.070 Enforcement of violations.

Section 6.08.010 - Definitions

A. "Chipping" means the injection of a microchip below the skin of an animal by a veterinarian, registered veterinary technician, or other qualified staff.

B. "Community cat" means any feral or free roaming cat that may or may not have an owner.

C. "Domesticated animals" means those nonferal animals commonly kept as household pets and includes:

1. Dogs (canis familiaris);
2. Cats (felis catus);
3. Reptiles such as lizards or nonpoisonous snakes under six feet in length; and
4. Rabbits.

D. "Feral Cat" means a non-domesticated cat or one which has reverted from its domesticated state into an unstable condition being unsociable, untamed, and living as a wild animal.

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

1. Horses, mules, burros or jacks;
2. Turkeys, guinea hens, peacocks, roosters or similar fowl;
3. Bulls, cows, hogs, pigs, goats, sheep and llamas.

F. "TNR" shall mean trap, neuter, and return.

G. “TNR program” shall mean a program in which feral and community cats are humanely trapped by the public or colony caretakers and brought to a veterinarian facility that is licensed by the State to be sterilized, vaccinated against rabies, and ear tipped. The cat is then returned to the location that is their original location.

H. “Wild animals” means those feral animals, not commonly kept as household pets, including but not limited to:

1. The following members of the class mammalian:
    a. Order carnivors, except the domestic dog (canis familiaris) and the domestic cat (felis catus), but including, but not limited to, the family Felidae (such as ocelots, margays and cougars) and family Canidae (such as wolves, wolf hybrids, coyotes and jackals); and
    b. Order Columbae (such as doves and pigeons) unless registered with a homing pigeon club-California Government Code Section 65852.6; and
    c. Order Marsupialia (such as kangaroos and opossums); and
    d. Order Chiroptera (bats); and
    e. Order Primata (such as monkeys, chimpanzees and gorillas); and
2. Reptiles that are poisonous or in excess of six feet in length or thirty pounds in weight; and
3. Any nondomestic 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.

It is unlawful to harbor, keep or have within the city any livestock as defined in Section 6.08.010 (B), with the exception of poultry animals, as set forth in Section 6.08.025 of this Chapter. It is unlawful to slaughter livestock within City limits.

6.08.025 Certain poultry animals permitted.

The total number of poultry animals allowed shall not exceed five in number on any one residential lot, with no more than two of those animals being ducks. Poultry animals may be kept purely for home consumption and not for commercial purposes, subject to the provisions of this Code. Permissible poultry animals include female chicken hens, ducks, and quail. Male poultry animals are prohibited.

A. Feed for poultry animals shall be contained and enclosed so as not to attract rodents, insects, and other vermin.

B. Poultry animals shall be kept in the rear yard of residential units and not permitted in the front yard.

C. Poultry animals shall be kept in fenced areas, cages or coops that are sufficiently adequate to prevent the poultry animals from escaping from the property and to prevent wildlife predators from gaining entry. Poultry animals must be secured at night in a predator-proof enclosure, cage or coop, to protect from dogs, coyotes, raccoons or other predators.

D. It is unlawful to slaughter poultry animals within City limits.

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. 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 or kittens during any twelve-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.

6.08.060 Prohibited animal feeding.

A. It shall be unlawful for any person to create a public nuisance by free feeding any wild animals including feral cats.

B. It shall be unlawful for any person to make available more food supply than is reasonably adequate for the number of legally allowed domesticated cats the person may own.

C. This section shall not apply to persons to who qualify for a TNR program adopted by the City to reduce the feral cat population.

6.08.070 Enforcement of violations.
A violation of this chapter shall be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 4. Lodi Municipal Code Section 6.12.010 “License-Required” is hereby amended to read as follows:

Section 6.12.010 – License-Required

A. It is unlawful for any person to harbor, keep or have any dog or cat excluding community and feral cats 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. A violation of this section shall be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 5. Lodi Municipal Code Section 6.12.060 “Vaccination—Required—Certificate—Exceptions” is hereby amended to read as follows:

6.12.060 - Vaccination—Required—Certificate—Exceptions.

A. The person owning or having custody or control of a dog or cat 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 anti-rabies vaccine approved by and in a manner prescribed by the State Department of Public Health.

B. No license to keep a dog or cat shall be issued for any dog or cat, which has attained the age of four months or over, unless a valid, official certificate of vaccination with anti-rabies 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 does not expire within the first six-month period for which the license is to be issued.

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

D. A violation of this section shall be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 6. Lodi Municipal Code Section 6.12.070 “Business of breeding or raising” is hereby amended to read as follows:

Section 6.12.070 - Business of breeding or raising.

A. Any person who is engaged in the business of breeding or raising dogs or cats that produce offspring for sale or transfer (“breeder”) shall obtain a business tax certificate and pay a tax as set by resolution of the city council, subject to the requirements and exemptions set forth in Title 3 Revenue and Tax of the Lodi Municipal Code.

B. Any breeder shall be allowed the whelping of a single (1) litter for each breeding animal (dog or cat) within any twelve-month period. A litter is any live offspring produced at one (1) birth of a dog or cat.

C. At no time shall the breeder be allowed to maintain more than four (4) breeding animals of any variety (dogs or cats) within any business or household; nor shall the breeder whelp more than two (2) animals during the same breeding period (a breeding period is from whelping until the offspring are eight (8) weeks of age).

D. No puppies or kittens may be sold, adopted, bartered, gifted or otherwise transferred, until it has reached the age of at least eight (8) weeks, unless the transfer of a puppy or kitten less than eight (8) weeks old is authorized in writing by a licensed California veterinarian in accordance with State law.

E. The breeder selling or otherwise transferring a dog or cat, shall maintain written records for each dog or cat sold or transferred for a period of three (3) years, including a bill of sale with the name, address and telephone number of the animal's new owner.

F. Breeders are subject to reasonable inspections of the breeding premises to ensure that state health or safety laws and city ordinances relating to the keeping and care of animals are met.

Section 7. Lodi Municipal Code Section 6.12.110 "Animal Noise" is hereby amended to read as follows:

6.12.110 – Animal Noise.

No person shall keep or permit to remain in any premises within the city any animal which continuously and incessantly produces noise at any time during the day or night to the disturbance of any other person. "Continuous and incessant noise" means producing noise for an aggregate period of ten minutes or more duration during any one-hour period which disturbs the peace of another person, including barking, howling, crying, baying, squealing 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 animal, or the animal was not being teased or provoked in any manner. A violation of this section shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 8. Lodi Municipal Code Section 6.12.120 "Animals at large" is hereby amended to read as follows:

6.12.120 – Animals at large.

A. No person owning any dog or other domesticated animal, excluding community and feral cats and service animals unleashed for medical reasons, 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 subsection C of this section, 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, excluding community and feral cats, 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, excluding community and feral cats, 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.

D. When not in an enclosed area, any dog, cat or other domesticated animal, excluding community and feral cats, must be in the immediate presence, control or supervision of the person owning, or having the care, custody or possession of said animal or be restrained.

E. A violation of this section shall be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 9. Lodi Municipal Code Chapter 6.12 "Dogs and Cats" is hereby amended to add Section 6.12.150 "Mandatory Microchipping of Dogs and Cats" as follows:

6.12.150 - Mandatory Microchipping of Dogs and Cats.

A. All dogs and cats over the age of three (3) months must be implanted with an identifying microchip. The owner or custodian is required to provide the microchip number to animal services, and shall notify animal services of any change of ownership of the dog or cat, or any change of address or telephone number. Nothing in this section supersedes, eliminates, or alters the requirements of sections 6.12.010 – 6.12.030, and any other licensing requirements of this chapter.

B. Exemptions. The mandatory microchipping requirements shall not apply to any of the following:

   1. A dog or cat with a high likelihood of suffering serious bodily injury, if implanted with the microchip identification, due to the health conditions of the animal. The owner or custodian must obtain written confirmation of that fact from a California licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, which date must be stated in the written confirmation.

   2. A dog or cat which would be impaired of its athletic ability or performance if implanted with the microchip identification. The owner or custodian must obtain written confirmation of that fact from a California licensed veterinarian. If the dog or cat is able to be safely implanted with an identifying microchip at a later date, which date must be stated in the written confirmation.

C. Transfer, sale of dogs and cats.

   1. An owner or custodian who offers any dog, over the age of three (3) months, for sale, trade, or adoption must provide the microchip identification number and the valid dog license number with the offer of sale, trade or adoption. The license and microchip numbers must appear on a document transferring the dog to the new owner. The owner or custodian shall also advise animal services of the name and address of the new owner or custodian in accordance with subdivision (A) of this section. An owner or custodian who offers any dog, over the age of three (3) months, for sale, trade, or adoption and fails to provide animal services with the name and address of the new owner, is in violation of this chapter and shall be subject to the penalties set forth herein.

2. An owner or custodian who offers any cat, over the age of three (3) months, for sale, trade, or adoption must provide the microchip identification number with the offer of sale, trade or adoption. The microchip numbers must appear on a document transferring the cat to the new owner. The owner or custodian shall also advise animal services of the name and address of the new owner or custodian in accordance with subdivision (A) of this section. An owner or custodian who offers any cat, over the age of three (3) months, for sale, trade, or adoption and fails to provide animal services with the name and address of the new owner, is in violation of this chapter and shall be subject to the penalties set forth herein.

3. When a puppy or kitten under the age of three (3) months implanted with microchip identification is sold or otherwise transferred to another person, the owner or custodian shall advise animal services of the name and address of the new owner or custodian, and the microchip number of the puppy or kitten within ten days after the transfer. If it is discovered that an owner or custodian has failed to provide animal services with the name and address of the new owner and the microchip number of the puppy or kitten, the owner or custodian shall be subject to the penalties set forth in this chapter.

D. When an impounded dog or cat is without microchip identification, in addition to satisfying applicable requirements for the release of the animal, including but not limited to payment of impound fees pursuant to this chapter, the owner or custodian shall also do one of the following:

1. Have the dog or cat implanted with a department microchip by a department registered veterinarian technician or veterinarian or designated personnel at the expense of the owner or custodian;

2. At the discretion of the Director, the dog or cat may be released to the owner or custodian if he or she signs a statement under penalty of perjury, representing that the dog or cat will be implanted with a microchip and that he or she will submit a statement within ten days or less, of the release, signed by a California licensed veterinarian, confirming that the dog or cat has been so implanted and provide the microchip number to animal services or allow animal services to scan the dog or cat for the microchip to verify.

E. Fees for microchip identification device. The fee for an identifying microchip device shall be included in the cost of adoption when adopting a dog or cat from a City of Lodi animal shelter. The fee for an identifying microchip device shall be the amount set forth in per animal for all other animals. If an animal has already been implanted with an identifying microchip device by some other facility, there will be no fee to have the identification microchip number entered into animal services' registry as required by subdivision (A) of this section.

F. Penalties. A violation of this section shall either be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

G. Allocation of fees and fines collected. All costs, fees, and fines collected under this section shall be paid to animal services for the purpose of defraying the cost of the implementation and enforcement of this program and for low-cost microchipping programs administered by animal services.

Section 10. Lodi Municipal Code Section 6.14.020 “Sanitation of premises” is hereby amended to read as follows:

6.14.020 – Sanitation of premises.

A. It is 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 is 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 calendar days without said animal waste or fecal matter being placed in an airtight bag or other container and removed from the property within seven calendar 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.

D. A violation of this section shall either be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 11. Lodi Municipal Code Section 6.14.030 “Removal of animal waste” is hereby amended to read as follows:

6.14.030 – 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 physically disabled person who has custody or control of a guide or service dog.

D. A violation of this section shall either be an infraction or subject to the enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 12. Lodi Municipal Code Chapter 6.14 “is hereby amended to add Section 6.14.050 “Management of Cat Population; Permitted Acts” as follows:

Section 6.14.050 - Management of Cat Population; Permitted Acts.

A. Definitions.

1. “Community cat” shall mean a cat whose needs are indirectly supplied by humans. Community cats may live in a shelter provided by human habitation (e.g., industrial sites or farm sheds), or be free-roaming within a community. Their temperament may vary from skittish to friendly, and may have many caregivers. Community cats may acquire much of their food by scavenging (e.g., rubbish tip sites, feeding by residents).

2. “Eartipping” shall mean the removal of the distal one-quarter of a community cat’s left ear, which is approximately 3/8-inch, or 1 cm, in an adult and proportionally smaller in a kitten. This procedure is performed under sterile conditions while the cat is under anesthesia, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian. Eartips are designed to identify a community cat as being sterilized and lawfully vaccinated for rabies.

3. “Feral cat” shall mean a cat without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people. A feral cat is not socialized to people.

4. “Feral cat colony” or “colony” shall mean a group of cats that congregate more or less together as a unit, and although not every cat in a colony may be feral, any cats that congregate with a colony shall be deemed to be part of it.

5. “Feral cat colony caretaker” or “colony caretaker” shall mean any person who provides food, water, shelter, and humanely traps cats within the colony.

6. “Owner” means a person who owns, possesses, harbors, or controls an animal. In the case of a minor, the parents or guardians of the minor shall be deemed the owner. All adults residing at the same property address shall be presumed to be the owner of any animal owned, possessed, harbored, or controlled on the property.

7. “Ownership” means any person, keeping, harboring, controlling, having custody of, or possessing one (1) or more free roaming cats for a period of not less than seventy-two (72) hours.

8. “TNR” shall mean trap, neuter, and return.

9. “TNR program” shall mean a program in which feral and community cats are humanely trapped by the public or colony caretakers and brought to a veterinarian facility that is licensed by the State to be sterilized, vaccinated against rabies, and ear tipped. The cat is then returned to the location that is their original location in accordance with this chapter.

B. Permitted Acts. The following actions shall be permitted in the City of Lodi as part of Trap-Neuter-Return (TNR) Program:

1. Trapping, for the sole purpose of sterilizing, vaccinating for rabies, and eartipping community cats and feral cats, in compliance with any applicable federal or state law, and under the supervision of a licensed veterinarian, where applicable.

2. An eartipped cat received by local shelters will be returned to the location where trapped unless veterinary care is required. A trapped eartipped cat will be released on site unless veterinary care is required.

3. Community cat caregivers and colony caretakers are empowered to reclaim impounded community cats and feral cats without proof of ownership solely for the purpose of carrying out Trap-Neuter-Return and/or returning eartipped cats to their original locations.

4. A person who returns a community cat or feral cat to its original location while conducting Trap-Neuter-Return is not deemed to have abandoned the cat.

C. Trap-Neuter-Return shall be the preferred disposition for impounded community cats and feral cats. Animal control and the local shelter are authorized and encouraged to conduct Trap-Neuter-Return or to direct impounded community cats and feral cats to a Trap-Neuter-Return program.

Section 13. Lodi Municipal Code Section 6.15.010 "Definitions" is hereby amended to read as follows:

6.15.010 - Definitions.

A. "Animal section" means that section of the Lodi Police Department designated by the chief of police as being responsible for animal control and/or services within the city.

B. "Enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a potentially dangerous dog or vicious dog. The enclosure shall be securely locked, shall have secure sides and bottom sufficient to prevent the dog from escaping, and shall be of sufficient size to provide the dog with an adequate exercise area. A top may be required for the enclosure if necessary to assure the dog's containment.

C. "Impoundment" means the taking into custody of an animal by a police officer or an animal services officer.

D. "Muzzle" means a device that is placed over the snout of an animal to keep it from biting. A muzzle is primarily solid with air holes to allow the animal to breathe and drink usually made in leather, wire, plastic, nylon or similar materials.

E. "Potentially dangerous dog" means:

1. Any dog which, when unprovoked, on two separate occasions within the prior thirty-six-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog; or
2. Any dog which, when unprovoked, bites a person causing a less severe injury than that defined in subsection 6.15.010(F) of this section; or
3. Any dog when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury while attacking a domestic animal or permitted poultry off the property of the owner or keeper of the dog.

F. "Severe injury" means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

G. “Unprovoked” means without being intentionally incited to aggressive action.

H. “Vicious dog” means:

1. Any dog which has been trained to fight or which is owned or maintained for this purpose; or
2. Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being; or
3. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues the behavior described in the definition of potentially dangerous dog or is maintained in violation of the requirements of a potentially dangerous dog; or4. Any dog which, when unprovoked on two separate occasions within the prior thirty six-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury, while attacking a domestic animal or permitted poultry off the property of the owner or keeper of the dog.

Section 14. Lodi Municipal Code Section 6.15.020 “Behavior prohibited” is hereby amended to read as follows:

6.15.020 Behavior prohibited.

A. Vicious dog. It is 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 any prohibited behavior as defined in section 6.15.010 (H).

B. Potentially dangerous dog. It is 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 any prohibited behavior as defined in section 6.15.010 (E).

C. Further prohibited. It is unlawful for any dog, when unprovoked, to kill, seriously bite, inflict injury, or otherwise cause injury by attacking the following:

1. a guide dog for the blind, a service dog for the disabled, a hearing dog for the deaf; or

2. a domestic animal or permitted poultry off the property of the owner or keeper of the dog.

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

Section 15. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 16. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or

applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 17. No Conflicts. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 18. Effective Date and Publication. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the Ordinance within fifteen (15) days after its passage, a summary of the Ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council, and a certified copy shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1).

Approved this ___ day of _____, 2026

_____
RAMON YEPEZ
MAYOR

ATTEST:

_____
OLIVIA NASHED
City Clerk

State of California
County of San Joaquin, ss.

I, Olivia Nashed, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held _____, 2025, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2026, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

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

_____
OLIVIA NASHED
City Clerk

Approved to Form:

_____
KATIE O. LUCCHESI
City Attorney KL