AGENDA

Victor P. Lopez, Mayor

Diana Guerra Silva, Mayor Pro Tem | **Gilbert Garcia, Council Member**
Minerva Pineda, Council Member | **Josie Cervantes, Council Member**

WEDNESDAY, FEBRUARY 25, 2015 - 6:30 P.M.
Orange Cove Community Center
1705 Anchor Avenue, CA 93646

A. Call to Order/Welcome

1. Roll Call
2. Invocation
3. Flag Salute

B. Confirmation of Agenda

C. Public Forum

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

D. Consent Calendar

1. Consideration of a Resolution Approving the City's Warrants (019946-16251A)

Recommendation: Staff recommends that the City Council adopt Resolution 2015-11 approving the City's warrants.

E. Administration

City Engineer:

1. **SUBJECT:** Consideration of Resolution No. 2015-08 regarding the abandonment of the following alley and street rights of way: The Park/Railroad Alley between 10th and 11th Streets; E. Railroad Ave. between Park Blvd. and Center St.; Eleventh St. south of Park Blvd. to the alley; Fourth St. from E. Railroad Ave. to W. Railroad Ave.; I St. from 2nd St. to Hills Valley Rd.; Second St. from Adams Ave. South for 200 feet; Portions of B, C, D, E, G and H Streets between Hills Valley Road and the west boundary of the Friant-Kern Canal.

   Recommendation: It is recommended that the City Council adopt Resolution No. 2015-08 Declaring Intention to Vacate Various Alley and Street Rights of Way and setting a hearing regarding same.

City Manager:

2. **SUBJECT:** Consideration of a Resolution Approving a Donation in the Amount of $500.00 to the Orange Cove Women's Adult Soccer Team for Practice Equipment and Liability Insurance

   Recommendation: Staff recommends that the City Council adopt Resolution No. 2015- 09 approving a donation in the amount of $500.00 to the Orange Cove Women's Adult Soccer Team for the purchase of practice equipment and liability insurance

3. **SUBJECT:** Consideration of a Resolution Approving a Donation in the Amount of $500.00 to the Orange Cove High School Track and Field Team for the Purchase of Practice Equipment

   Recommendation: Staff recommends that the City Council adopt Resolution 2015-10 approving a $500.00 donation to the Orange Cove High School Track and Field Team for practice equipment

4. **SUBJECT:** Second reading of Ordinance No. 370, Repealing Chapters 6.04 and 6.08 of Title 6 of the Orange Cove Municipal Code Relating to Animals and Adding New Title 6 and Chapters 6.04 to 6.32 relating to Animal Regulations

   Recommendation: Council to consider adoption of Ordinance No. 370 Repealing Chapters 6.04 and 6.08 of Title 6 of the Orange Cove Municipal Code Relating to Animals and Adding New Title and Chapters 6.04 to 6.32 relating to Animal Regulations

F. City Manager's Report

G. City Attorney's Report

H. City Council Communications

I. Adjournment

ADA Notice: In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (559) 626-4488 ext. 214. Notification 48 hours prior to the meeting will enable the City to make arrangements to ensure accessibility to this meeting.

Documents: Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at front counter at City Hall and at the Orange Cove Library located at 815 Park Blvd., Orange Cove, CA during normal business hours. In addition, most documents are posted on City's website at cityoforangecove.com.

STATEMENT ON RULES OF DECORUM AND ENFORCEMENT

The Brown Act provides that members of the public have a right to attend public meetings, to provide public comment on action items and under the public forum section of the agenda, and to criticize the policies, procedures, or services of the city or of the acts or omissions of the city council. The Brown Act also provides that the City Council has the right to exclude all persons who willfully cause a disruption of a meeting so that it cannot be conducted in an orderly fashion.

During a meeting of the Orange Cove City Council, there is a need for civility and expedition in the carrying out of public business in order to ensure that the public has a full opportunity to be heard and that the Council has an opportunity to conduct business in an orderly manner. The following is provided to place everyone on notice of the rules of decorum and enforcement.

GENERAL RULES OF DECORUM

While any meeting of the City Council is in session, the following rules of decorum shall be observed:

1. All remarks shall be addressed to the City Council as a whole and not to any single member, unless in response to a question from a member of the City Council.
2. A person who addresses the City Council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct (i) which is likely to provoke others to violent or riotous

behavior, (ii) which disturbs the peace of the meeting by loud and unreasonable noise, (iii) which is irrelevant or repetitive, or (iv) which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

3. A person, other than members of the Council and the person, who has the floor, shall not be permitted to enter into the discussion unless requested by the Mayor to speak.
4. Members of the City Council may not interrupt a person who has the floor and is making public comments. Members of the City Council shall wait until a person completes his or her public comments before asking questions or commenting. The Mayor shall then ask Councilmembers if they have comments or questions.
5. No person in the audience at a Council meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Council meeting.

ENFORCEMENT OF DECORUM RULES

(Resolution No. 2012-16)

While the City Council is in session, all persons must preserve order and decorum. A person who addresses the City council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct which is likely to provoke others to violent or riotous behavior, which disturbs the peace of the meeting by loud and unreasonable noise, which is irrelevant or repetitive, or which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

The Mayor or other presiding officer shall request that a person who is breaching the rules of decorum cease such conduct. If after receiving such a warning, the person persists in breaching the rules of decorum, the Mayor or other presiding officer may order the person to leave the City Council meeting. If such person does not leave, the Mayor or presiding officer may request any law enforcement officer who is on duty at the meeting as sergeant-at-arms to remove the person from the Council Chambers. In the event there is no one from law enforcement present, the Mayor or presiding officer may direct the City Manager to contact law enforcement.

In accordance with the Point of Order Rule 4.6, the majority of the Council may overrule the Mayor if the majority of the Council believes the Mayor or other presiding officer is not applying the rules of decorum appropriately.

Resolution No. 2015 - 11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA ALLOWING CERTAIN CLAIMS AND DEMANDS (CITY WARRANTS)

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Orange Cove, California, as follows:

SECTION 1: That in accordance with Section 37202 of the Government Code, the Finance Director, or her designated representative, hereby certifies, and the City Manager hereby approves the accuracy of the following demands and to the availability of funds for payment thereof.

EXAMINED

_____

Lan Bui, Finance Director

APPROVED

_____

Sam Escobar, City Manager

SECTION 2: That the following claims and demands (Warrant Numbers 019946-16251A) attached hereto and incorporated herein by reference, have been audited as required by law and the same are hereby allowed in the amounts hereinafter set forth on the attached.

SECTION 3: That the following claims and demands have been certified pursuant to Government Code Section 37208, and conforming to the City's adopted budget.

_____

June Bracamontes, City Clerk

SECTION 4. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 5. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

****

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on February 25, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Victor P. Lopez, Mayor

ATTEST:

_____
June Bracamontes, City Clerk

APPROVED AS TO FORM:

_____
Bianca Sparks, City Attorney

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF ORANGE COVE)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed City Clerk of the City of Orange Cove and that the foregoing resolution was duly adopted at a regular meeting of the City Council held on the 25th day of February, 2015.

_____
June Bracamontes
City Clerk

For the Meeting of: February 25, 2015

CITY OF ORANGE COVE
REPORT TO THE CITY COUNCIL

To: Orange Cove City Council

From: Gary D. Horn, City Engineer

Subject: Resolution of Intention to Abandon Various Alley and Street Rights of Way

Attachments: Maps and Resolution

RECOMMENDATION:

We recommend that the Council adopt the attached Resolution of Intention to abandon various alley and street rights of way and set a date for the public hearing.

EXECUTIVE SUMMARY:

There are several alleys and street rights of way that are not being used for either of those purposes. Some of them contain utility lines and public utility easements will be reserved for those uses. The Council must set a date for a public hearing, notices must be posted on the sites and a notice must be published in a newspaper. If the abandonment is approved then fee title will revert to the adjacent property owners to the center line of the right of way.

BACKGROUND:

The City Staff is aware of several locations where public street rights of way exist but there either are no paved streets, or the street paving is not being used. In several locations there are existing sewer and water mains that must remain and therefore a public utility easement will be reserved over the area. This would allow the vacated area to be paved or landscaped so long as access to the utilities for maintenance is available. No buildings could be built in the easement. Ownership of the abandoned area will accrue to the adjacent property owners.

The proposed abandonments are as follows:

1. The East/West Alley between 10th Street and 11th Street north of Park Blvd. Adjacent property

Prepared by: GH Approved by: _____

REVIEW: City Manager: SC Finance: _____ City Attorney: _____

TYPE OF ITEM: **COUNCIL ACTION:** **APPROVED** **DENIED** **NO ACTION**

____ Consent
____ Info Item
____ Action Item
____ Department Report
____ Redevelopment Agency
____ Public Hearing
____ Matter Initiated by a Council Member
____ Other
____ Continued to: _____

owners on each side of the alley have extended their fences to about the centerline of the alley right of way. There is a city sewer main and a water main in the alley right of way.

2. East Railroad Avenue diagonal between Center Street and Park Boulevard. There is existing pavement but no curb and gutter along the street. The city has existing sewer and water mains in the right of way. The proposal is to abandon the right of way so that half of the street area goes each of the adjacent property owners. The Bank of the Sierra owns the property on the southwest side of the right of way. The bank is agreeable to dedicate an easement along Center Street to provide for a more direct connection of the trail from Center Street in exchange for the abandonment of the street right of way.

3. Eleventh Street from Park Boulevard South to existing alley. The AC Market parking lot covers the alley area. There are existing sewer, water and overhead utilities in the alley.

4. Fourth Street crossing of Pedestrian/Bike Trail. When the Rails to Trails Project was originally planned a street crossing was to be constructed near the Fourth Street alignment. The Council dedicated right of way for a public street. During construction it was determined that the new street would negatively impact the existing residence on the south side of West Railroad Avenue. The Council directed that the new street crossing be moved to the current location at Third Street. New right of way will be dedicated concurrently with the abandonment.

5. I Street between 2nd Street and Hills Valley Road. There are overhead utilities, but no pavement or city utilities in this street. The adjacent parcels have access to other public streets.

6. Second Street from Adams Avenue to 200 feet South.

7. Portions of B, C, D, E, G and H Streets falling within the Friant-Kern Canal. These street rights of way were never abandoned when the canal was constructed.

The abandonment process requires that the Planning Commission review the proposal and make a report as to the conformity of the proposed abandonments with the City's adopted General Plan. Following the Planning Commission report, the Council must hold a noticed public hearing prior to adopting a resolution of abandonment. We propose that the Planning Commission consider the item at its meeting on March 17 and that the Council schedule the public hearing for March 25, 2015.

REASON FOR RECOMMENDATION:

The rights of way being proposed for abandonment are not being used for public vehicular or pedestrian transportation. Utility easements will be reserved where needed. Abandonment will allow the surface area to be used beneficially by the adjacent property owners and in some cases legitimize the current use.

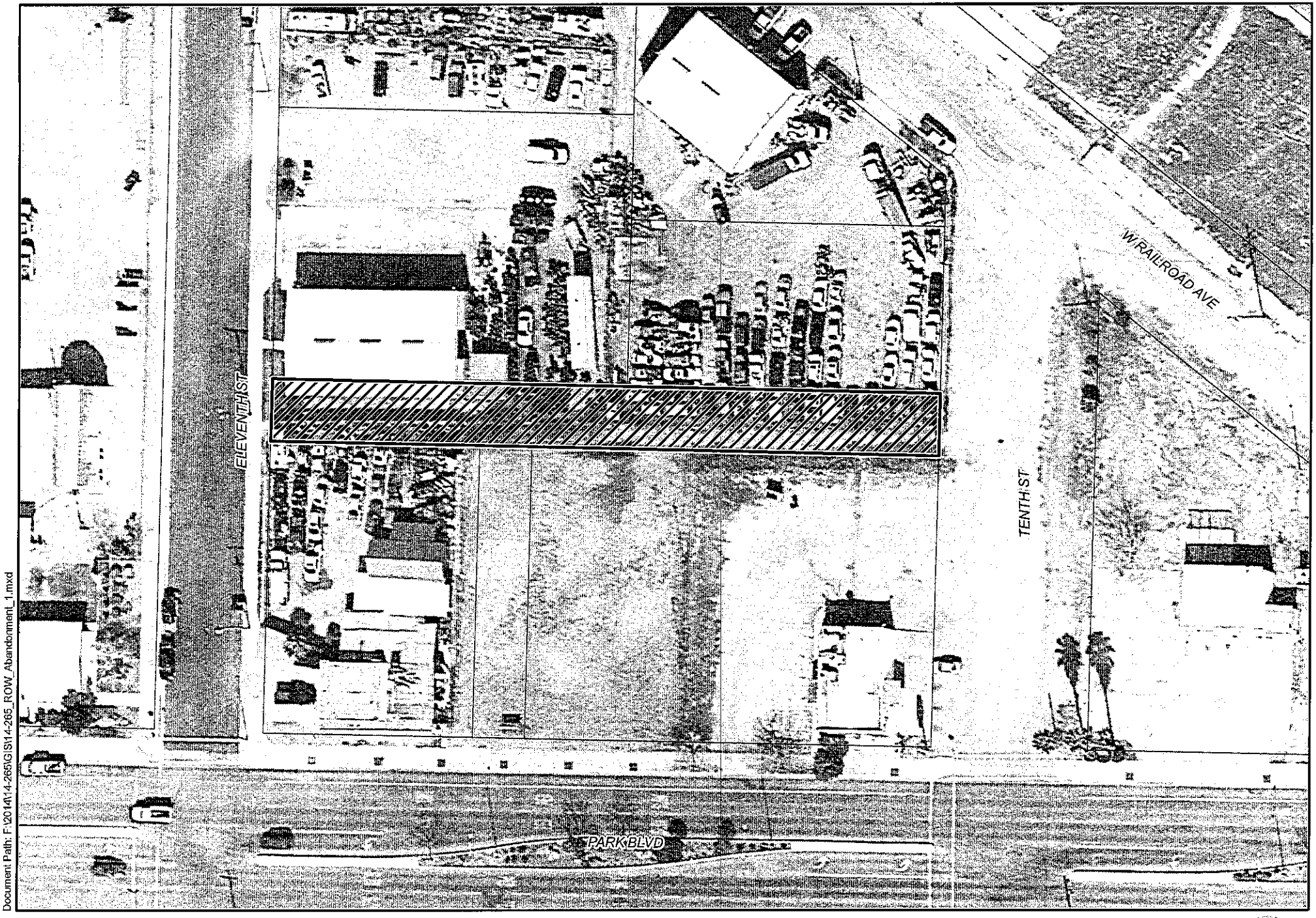
FISCAL IMPACT: None

ALTERNATIVES: Council may decide not to abandon any of the proposed rights of way.

ACTIONS FOLLOWING APPROVAL:

Following the adoption of the Resolution of Intention, the item will be reviewed by the Planning Commission and then a public hearing noticed and held by the City Council for final approval.

CONFLICT OF INTEREST: None



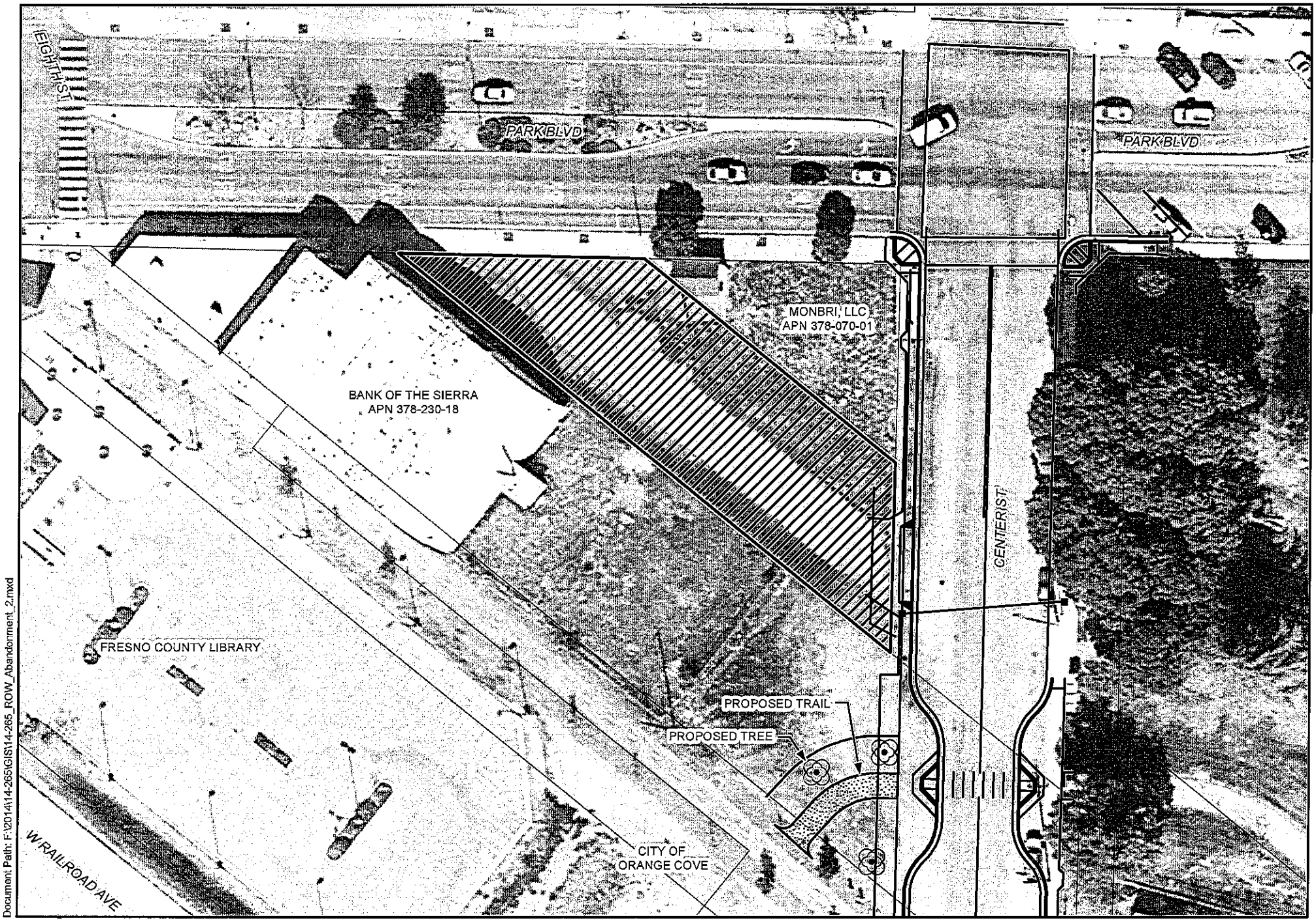
Alley to be Abandoned

0 30 60 Feet

Alley Abandonment
Exhibit 1

Yamabe & Horn Engineering, Inc.

Document Path: F:\2014\14-265\GIS\14-265_ROW_Abandonment_1.mxd



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Right of Way to be Abandoned

0 25 50 Feet

Street Abandonment
Exhibit 2

Yamabe & Horn Engineering, Inc.

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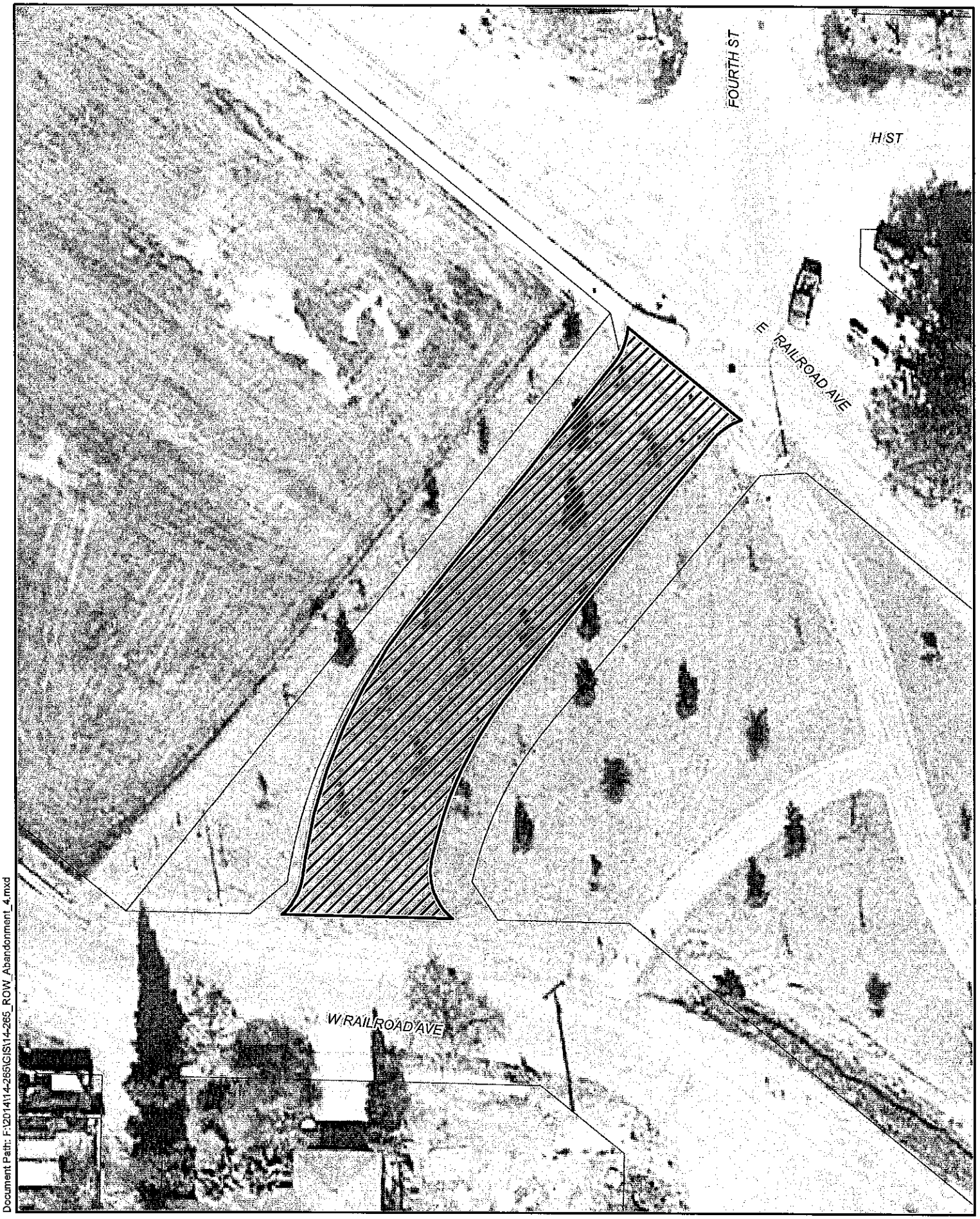
Right of Way to be Abandoned

0 15 30 Feet

Street Abandonment
Exhibit 3

Yamabe & Horn Engineering, Inc.



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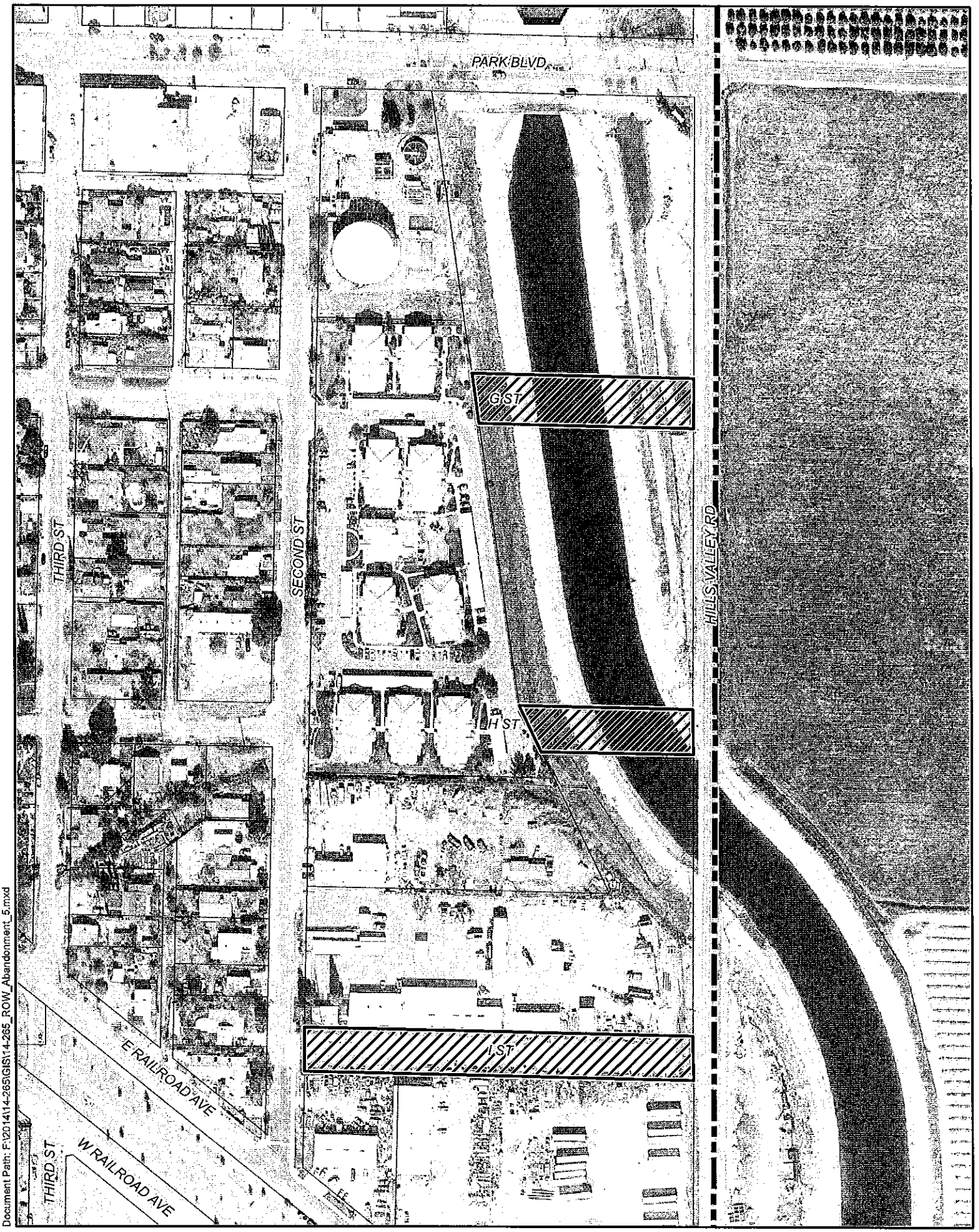
Right of Way to be Abandoned

0 20 40 Feet

Street Abandonment
Exhibit 4

Yamabe & Horn Engineering, Inc.



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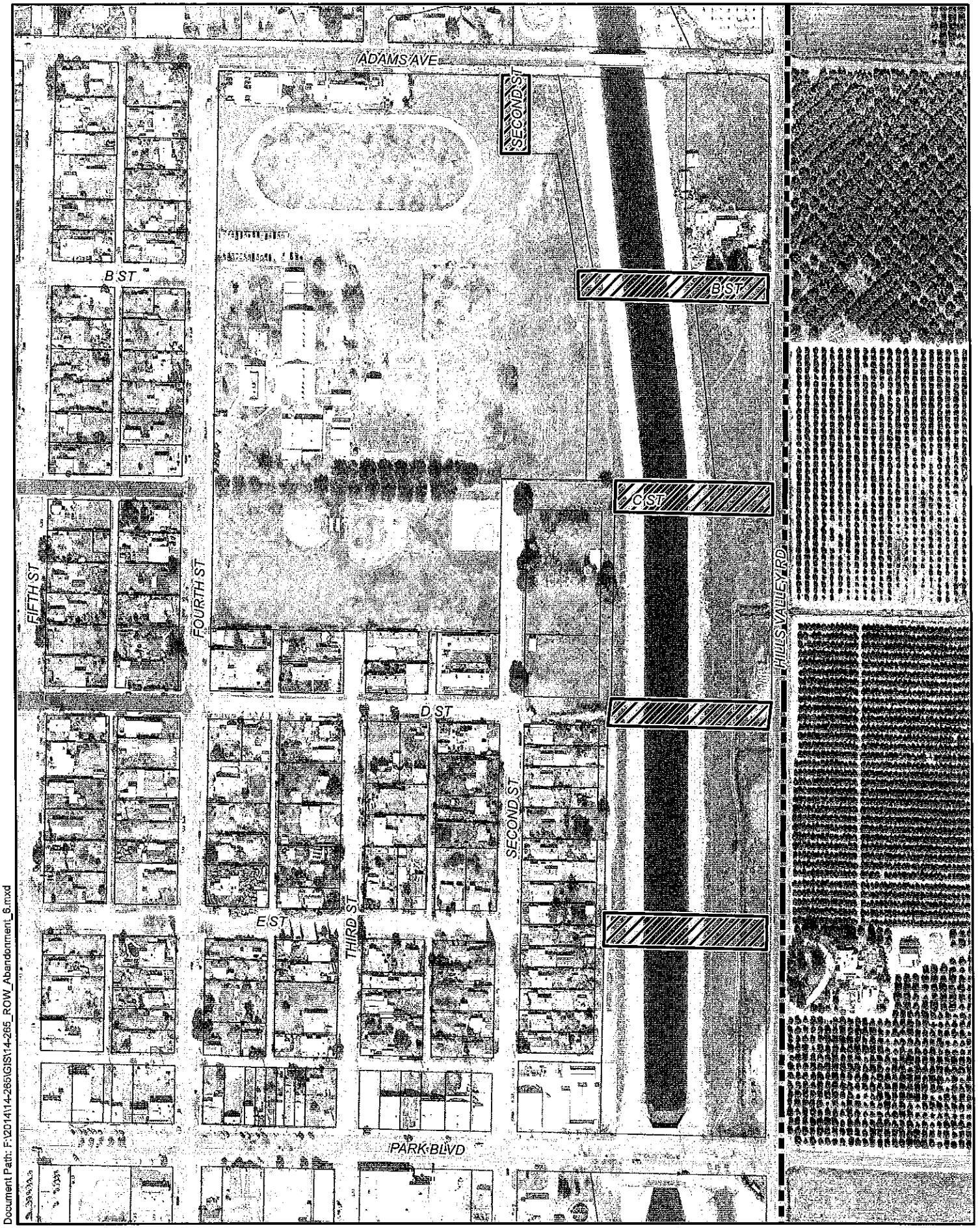
Right of Way to be Abandoned

0 100 200 Feet

Street Abandonment
Exhibit 5

Yamabe & Horn Engineering, Inc.



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Right of Way to be Abandoned

0 150 300 Feet

Street Abandonment
Exhibit 6

Yamabe & Horn Engineering, Inc.

RESOLUTION NO. 2015-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA, DECLARING INTENTION TO VACATE VARIOUS ALLEY AND STREET RIGHTS OF WAY

WHEREAS, the City Council may initiate a proceeding for abandonment of public streets pursuant to the provisions of Chapter 3 of the Public Streets, Highways and Service Easements Vacation Law, Streets and Highways Code Section 8320; and

WHEREAS, the City Council has received a report from the City Manager and City Engineer listing alley and street rights of way which are not being used for street or highway purposes.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Orange Cove, California, as follows:

1. The above recitals are true and correct and are adopted as the findings of the City Council.

2. That it is the intention of the City Council of the City of Orange Cove to vacate the alley and street rights of way as shown on Exhibit "A" attached hereto, and incorporated herein by reference, and according to the maps on file in the office of the City Clerk of the City of Orange Cove pursuant to the provisions of Chapter 3 of the Public Streets, Highways and Service Easements Vacation Law, Streets and Highways Code Section 8300 et. seq.

3. That on March 25, 2015 at 6:30 p.m., or as soon thereafter as possible, at Orange Cove City Hall, 633 Sixth Street, Orange Cove, CA be fixed as the time and place when and where all persons interested in the proposed vacations may appear before the City Council and be heard in relation thereto.

4. Notice of the proposed vacation shall be published for at least two successive weeks in a newspaper circulated in the City of Orange Cove and posted in the area of the proposed vacation for at least two successive weeks before the hearing as provided in Streets and Highways Code Sections 8322 and 8323.

5. Pursuant to the provisions of Government Code Section 65402, the Planning Commission of the City of Orange Cove is directed to review the proposed abandonments for

conformity with the adopted General Plan for the City of Orange Cove and make a report to the City Council on or prior to March 25, 2015.

6. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

7. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on February 24, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Victor P. Lopez, Mayor

ATTEST:

APPROVED AS TO FORM

_____

June Bracamontes, City Clerk

_____

Bianca Sparks, City Attorney

EXHIBIT "A"

The alley and street rights of way as shown on the map of the Town of Orange Cove recorded in Volume 7 at Pages 93 through 96, Fresno County Records, as follows:

1. The East/West Alley in Block 61 between Tenth Street and Eleventh Street North of Park Boulevard and South of West Railroad Avenue, subject to reservation of a public utility easement.

2. East Railroad Avenue lying southwesterly of Block 70 and between Center Street and Park Boulevard, subject to reservation of a public utility easement.

3. Eleventh Street from Park Boulevard South to the existing East/West alley, subject to reservation of a public utility easement.

4. Third Street between East Railroad Avenue and West Railroad Avenue.

5. I Street from Second Street to Hills Valley Road, subject to reservation of a public utility easement.

6. Second Street from Adams Avenue to 200 feet South.

7. B Street adjacent to Blocks 1 and 24 between Second Street and Hills Valley Road.

8. C Street Adjacent to Blocks 24 and 25 from Hills Valley Road to a point 200 feet East of the West Right of Way line for Second Street.

9. D Street adjacent to Blocks 25 and 50 between Hills Valley Road to a point 200 feet East of the West Right of Way line for Second Street.

10. E Street adjacent to Blocks 50 and 51 between Hills Valley Road to the East Right of Way line for the alley lying East of Lots 6 and 7 of Tract No. 2407 according to the map thereof recorded in Volume 27 of Plats at Page 74, Fresno County Records.

11. G Street adjacent to Blocks 75 and 76 between Hills Valley Road and the westerly boundary, extended, of the right of way for the Friant-Kern Canal.

12. H Street adjacent to Blocks 76 and 101 between Hills Valley Road and the westerly boundary, extended, of the right of way for the Friant-Kern Canal.

Resolution No. 2015-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA APPROVING A DONATION TO THE ORANGE COVE WOMEN'S SOCCER TEAM IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500.00) FOR THE PURCHASE OF PRACTICE EQUIPMENT AND LIABILITY INSURANCE

WHEREAS, the Orange Cove Women's Soccer Team ("Team") has been in existence approximately 3-4 years; consist of 15-20 players, and practice is held at the Orange Cove Gene Welch Field; and

WHEREAS, the Team has requested a donation from the City in the amount of Five Hundred Dollars ($500.00) for the purchase of practice equipment and liability insurance; and

WHEREAS, the City's donation serves a public purpose in that it allows the Team to continue to offer a recreational activity to the City's residents. Recreational activities promote City values, encourage individuals to be engaged in the community, and help improve public safety. Access to exercise may improve the overall health of the City's residents and enhance the quality of life of the community.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Orange Cove, California, as follows:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the City Council.

SECTION 2. The City's donation serves a public purpose in that it allows the Team to continue to offer a recreational activity to the City's residents. Recreational activities promote City values, encourage individuals to be engaged in the community, and help improve public safety. Access to exercise may improve the overall health of the City's residents and enhance the quality of life of the community.

SECTION 3. The City Council hereby approves the donation of Five Hundred Dollars ($500.000) to the Orange Cove Women's Soccer Team for the purchase of practice equipment and liability insurance, subject to the following conditions:

a. The City's donation shall only be used for the purchase of practice equipment and liability insurance, unless otherwise approved by the City Manager, in writing.
b. Within 15 days of purchase of the practice equipment and liability insurance, the Team shall remit the invoices for same to the City.
c. Any excess funds shall be remitted to the City within six (6) months of the adoption of this Resolution.

SECTION 4. The City Manager is hereby authorized and directed to take such other and further action consistent with this resolution, in order to implement this Resolution on behalf of the City.

SECTION 5. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

****

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on February 25, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Victor P. Lopez, Mayor

ATTEST:

_____
June Bracamontes, City Clerk

APPROVED AS TO FORM:

_____
Bianca Sparks, City Attorney

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF ORANGE COVE)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed City Clerk of the City of Orange Cove and that the foregoing resolution was duly adopted at a regular meeting of the City Council held on the 25th day of February, 2015.

_____
June Bracamontes
City Clerk

Resolution No. 2015 -10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA APPROVING A DONATION TO THE ORANGE COVE HIGH SCHOOL TRACK AND FIELD TEAM IN THE AMOUNT OF FIVE HUNDRED DOLLARS ($500.00) FOR THE PURCHASE OF PRACTICE EQUIPMENT

WHEREAS, the Orange Cove High School Track and Field Team ("Team") has approximately 80 students participating and was 2nd in league; and

WHEREAS, the Team has requested a donation from the City in the amount of Five Hundred Dollars ($500.00) for the purchase of practice equipment; and

WHEREAS, the City's donation serves a public purpose in that it allows the Team to continue to offer a recreational activity to the City's youth. Recreational activities promote City values, encourage youth to be engaged in the community, and help improve public safety. Access to recreational activities reduces the likelihood of youths being engaged in undesirable activities, and contributes to the overall reduction in crime. Involvement in sports builds leaders amongst youth and teaches young people how to work as part of a team. Further, access to exercise may improve the general health of the City's residents and enhance the quality of life of the community.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Orange Cove, California, as follows:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the City Council.

SECTION 2. The City's donation serves a public purpose in that it allows the Team to continue to offer a recreational activity to the City's youth. Recreational activities promote City values, encourage youth to be engaged in the community, and help improve public safety. Access to recreational activities reduces the likelihood of youths being engaged in undesirable activities, and contributes to the overall reduction in crime. Involvement in sports builds leaders amongst youth and teaches young people how to work as part of a team. Further, access to exercise may improve the general health of the City's residents and enhance the quality of life of the community.

SECTION 3. The City Council hereby approves the donation of Five Hundred Dollars ($500.000) to the Orange Cove High School Track and Field Team for the purchase of practice equipment, subject to the following conditions:

a. The City's donation shall only be used for the purchase of practice equipment, unless otherwise approved by the City Manager, in writing.
b. Within 15 days of purchase of the practice equipment, the Team shall remit the invoices for same to the City.

c. Any excess funds shall be remitted to the City within six (6) months of the adoption of this Resolution.

SECTION 4. The City Manager is hereby authorized and directed to take such other and further action consistent with this resolution, in order to implement this Resolution on behalf of the City.

SECTION 5. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

****

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on February 25, 2015, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Victor P. Lopez, Mayor

ATTEST:

_____
June Bracamontes, City Clerk

APPROVED AS TO FORM:

_____
Bianca Sparks, City Attorney

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF ORANGE COVE)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed City Clerk of the City of Orange Cove and that the foregoing resolution was duly adopted at a regular meeting of the City Council held on the 25th day of February, 2015.

_____
June Bracamontes
City Clerk

ORDINANCE NO. 370

AN ORDINANCE OF THE CITY OF ORANGE COVE REPEALING CHAPTERS 6.04 AND 6.08 OF TITLE 6 OF THE ORANGE COVE MUNICIPAL CODE RELATING TO ANIMALS AND ADDING NEW TITLE 6, CHAPTERS 6.04 TO 6.32 RELATING TO ANIMAL REGULATIONS.

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapters 6.04 and 6.08 of Title 6 the Orange Cove Municipal Code are repealed.

SECTION 2. Chapters 6.04 to 6.32 shall be added to Title 6 of the Orange Cove Municipal Code to read as follows:

TITLE 6

ANIMAL REGULATIONS

Chapter 6.04

Definitions

6.04.010 Designated

For the purposes of this title, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A. **Animal Regulations Ordinance**. Chapters 6.04 to 6.32 of Title 6 may also be referenced as Animal Regulations Ordinance.

B. **Animal Services Division**. The division of the City primarily responsible for enforcing provisions of Title 6, Animal Regulations Ordinance and State animal control laws which shall be established in writing by the City Manager.

C. **Animal Services Officer**. Animal Services Officer shall include police officers and any other employee designated to serve as Animal Services Officer by the City Manager.

D. **Animal Shelter**. The Orange Cove Animal Shelter or any other facility designated by the City Manager for the purpose of impounding and caring for animals found in violation of Chapter 6, the Animal Regulations Ordinance, or surrendered to the City by their owners or finders. Any such facility shall be devoted to the welfare, protection, and humane treatment of all animals.

E. **At large**. The presence of any animal when it is off the premises of its owner and not restrained by a chain or leash under the control of a responsible person physically capable of retaining control of the animal. At large shall also mean when the animal is on the premises of its owner and not under the immediate effective physical control of the owner sufficient to prevent ingress and egress of the animal. At large shall not include any animal while being trained in obedience or other training class or while being exhibited at a show or obedience trial and under the immediate effective physical or vocal control of a person.

F. **Business days**. Every day the Animal Shelter is open for business, which is seven days a week, Sunday through Saturday, excluding Thanksgiving, Christmas, and Easter. (See also working days.)

G. **Cat**. Any member of the feline species (*Felis Catus*) customarily confined or cultivated by man as a pet.

H. **Coop**. A covered enclosure for the shelter of fowl.

I. **Curb**. To so restrain or control an animal that it does not defecate on property other than that of its owner except by the express consent of the owner of such other property.

J. **Destroy**. Putting an animal to death by euthanasia or other humane method.

K. **Dog**. Any member of the canine species (*Canis Familiaris*) customarily confined or cultivated by man as a pet, but excludes other members of the family *Canidae*.

L. **Enclosure**.

1. Within a fence line or structure suitable to prevent the entry of young children, and which is suitable to confine an animal in conjunction with any other measures that may be necessary to keep the animal confined. The enclosure shall be designed in order to prevent the animal from escaping; or

2. In an enclosed and locked (with a key or combination lock) pen or structure, suitable to prevent the animal from escaping or the entry of unauthorized persons. The pen or structure shall have secure sides and a secure top that protects the animal from the elements. All sides must be embedded into the ground no less than two (2) feet unless the bottom is adequately secured to the sides. The structure must be kept in a clean and sanitary condition and provide adequate light and ventilation. The enclosure shall not be less than fifty (50) square feet in area, and of sufficient height to prevent each animal confined therein to stand in a natural erect position.

M. **Euthanasia**. The humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that involves anesthesia, produced by an agent which causes the painless loss of consciousness and death during such loss of consciousness by injection.

N. **Excessive Noise**. The utterance of barks, howling, whining, cries, screeching, squeaking, squawking, or any noise which is loud, frequent, and continual over a period of time and which disturbs the peace and comfort of a person or persons of ordinary sensitivity. The following shall be presumed to disturb the peace and comfort of a person or persons of ordinary sensitivity: (1) excessive noise for a continuous period of ten (10) minutes; or (2) excessive noise for a continuous period of five (5) minutes on three separate occasions within any sixty (60) minute period. Continual shall mean excessive noise with intervals of less than sixty (60) seconds between the noise. It shall not be deemed to the excessive if at the time of the noise a person or persons were teasing or provoking the animal by trespassing or threatening to trespass upon the private property of the owner.

O. **Farm Animals**. Livestock, fowl, and other animals commonly kept or raised on a farm including, but not limited to, any swine, sheep, goat, horse, donkey, mule, burro, cattle, goat, swine, chicken, duck, goose, guinea fowl, pea fowl, peacock, turkey, dove, pigeon, game bird or similar bird intended for human consumption or for the production of eggs for human consumption.

P. **Fee Schedule**. The schedule of fees adopted from time to time by resolution of the City Council.

Q. **Harbored**. The feeding or sheltering of an animal for two consecutive days or more.

R. **Horse**. An animal of the genus *Equus*, including, but not limited to, horses, mules, donkeys, and burros.

S. **Household pets**. Domestic animals ordinarily permitted in a place of residence, kept for company and pleasure, such as: dogs; cats, guinea; pigs; rats; rabbits; mice; budgies, canaries, cockatiels, cockatoos, finches, lorikeets, lovebirds, macaws, parakeets, parrots, toucans, and similar birds; Vietnamese potbellied pigs as provided for in this chapter; turtles; lizards and snakes as permitted in this chapter; and other similar animals generally considered to be kept as pets, excluding farm animals.

T. **Impound**. The taking up and confinement of any animal in the Animal Shelter or a veterinary hospital.

U. **Lot**. A single parcel of land for which a legal description is filed of record or the boundaries of which are shown on a subdivision map or record of survey filed in the office of the Fresno County Recorder.

V. **Menacing Animal**. An animal which engages in the behavior defined in Section 6.1.308 of this chapter.

W. **Owner**. The legal owner and any person who owns, possesses, harbors, controls, or has custody of 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 rebuttably presumed to the owner of any animal owned, possessed, harbored, controlled, or in custody on the property.

X. **Peaceably and lawfully upon property or premises**. A person on a property in the performance of any duty imposed upon him/her by the laws of this State or any city or county, or by the laws or postal regulations of the United States, or when he/she is on such property upon invitation, expressed or implied.

Y. **Person**. Any individual, domestic or foreign corporation, partnership, association of any kind, trust, fraternal society or cooperative.

Z. **Pet**. Any animal kept for pleasure rather than utility.

AA. **Physical Control**. Any animal restrained by a chain or leash under the control of a responsible person physically capable of retaining control of the animal or confined by a fence or other adequate enclosure so that the animal remains within the real property limits of its owner.

BB. **Potentially dangerous animal**. Any animal, which, when unprovoked, does any of the following:

1. On two separate occasions within the prior thirty-six (36) month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal are off the premises of the owner of the animal or when the person is peaceably and lawfully upon the premises of the owner:

2. Bites a person causing a less than severe injury;

3. Has inflicted severe injury or seriously bitten a domestic animal;

4. On two separate occasions within the prior thirty-six (36) month period, has inflicted injury, or otherwise caused injury attacking a domestic animal, but has not inflicted severe injury or seriously bitten the animal.

CC. **Premises**. Any lot or parcel of land owned, leased or rented by a person.

DD. **Quarantine**. The isolation of any animal within a substantial enclosure to avoid its contact with other animals or unauthorized persons.

EE. **Sanitize**. To make physically clean and remove and destroy to a practical minimum agents injurious to health.

FF. **Supervisor of Animal Services**. The City Manager or his/her designee.

GG. **Seriously bitten**. Multiple bites to a human being or animal resulting in breaks to the skin.

HH. **Severe injury**. Any physical injury to a human being or animal that results in muscle tears, disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.

II. **Stall**. A covered enclosure or shelter, barn, stable, or other outbuilding for the shelter of farm animals.

JJ. **Sustained**. For administrative citations, a failure to timely appeal the administrative citation or a decision from the hearing officer upholding the citation. For criminal citations and complaints, a plea of guilty or nolo contendere or a finding of guilt by a court or jury.

KK. **Unprovoked animal**. An animal that has confronted, attacked, or injured a person or animal and has not been teased, tormented, abused, or assaulted by the person or animal confronted, attached or injured.

LL. **Vicious animal**. Any animal:

1. Which when unprovoked has seriously bitten, inflicts severe injury on, or kills a human being;

2. Which when unprovoked on two separate occasions within the prior thirty-six (36) month period has bitten a person causing a less than severe injury;

3. Which when unprovoked has killed a domestic animal;

4. Which when unprovoked on two separate occasions within the prior thirty-six (36) month period has seriously bitten or inflicted severe injury on a domestic animal;

5. Previously determined to be and currently listed as a potentially dangerous animal which continues the behavior which led to the potentially dangerous determination;

6. Previously determined to be and currently listed as a potentially dangerous animal which is not, at all times while on the premises of the owner, kept indoors or in an enclosure;

7. Previously determined to be and currently listed as a potentially dangerous animal which, when off the owner's premises, is not restrained by a substantial leash of not more than six (6) feed in length, and under the control of a responsible adult physically capable of retaining control of the animal;

8. Previously determined to be and currently listed as a potentially dangerous animal, which is not properly licensed and vaccinated as required by this chapter;

9. Previously determined to be and currently listed as a potentially dangerous animal, which is maintained in violation of any of the conditions imposed pursuant to a stipulation entered into between an owner and the City, by a hearing officer, or by a court order in connection with a declaration that the animal is potentially dangerous;

10. Previously determined to be and currently listed as a potentially dangerous animal, which is removed from the City without notifying the Animal Services Division of the changed condition and the new location of the animal in writing within two (2) working days.

MM. **Reptile**. Any cold blooded animal including, but not limited to, turtles, snakes, lizards, crocodiles and alligators.

NN. **Vietnamese Potbellied Pigs**. Male and female (neutered and spayed) Vietnamese potbellied pigs kept in accordance with the requirements of this chapter and the City's zoning ordinances.

OO. **Wild or exotic animal**. Shall mean the following:

1. Any animal described in California Fish and Game Code Sections 2116 and 2118, or in any addition to Fish and Game Code Section 2118 by regulation of the Fish and Game commission as provided for in those sections;

2. Any animal not normally kept as a domesticated animal or household pet, including, but not limited to, alligators, crocodiles, lions, monkeys, and tigers;

3. Any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch, or other means;

4. Any hybrid animal which is part wild animal and is capable of transmitting rabies, except livestock hybrids, and for which no rabies prophylaxis is recognized or authorized by the state;

5. A potentially dangerous or vicious animal over which the owner has evidenced a failure to maintain control.

PP. **Working days**. Monday through Friday excluding City recognized holidays. (See also business days.)

Chapter 6.08

License and Registration of Dogs and Potbellied Pigs

6.08.010 Licenses and registration required: Fees.

A. Every person owning, possessing, keeping, harboring or having custody of any dog over four months old, and all Vietnamese potbellied pigs, shall obtain a license for each dog and potbellied pig. Appropriate license fees shall be paid annually. The license fees shall be set forth in the City's Fee Schedule or by separate resolution. Such license shall be

obtained, and the fee therefor paid within thirty (30) days after the day upon which a dog is four months old, within thirty (30) days after acquisition of a dog if over four months old, within thirty (30) days after acquisition of potbellied pig, or within thirty (30) days of moving into the City.

B. Failure to register and pay the required fee within the term prescribed shall cause such fee to become delinquent and the penalties set forth in the City's Fee Schedule or by separate resolution shall be added to the regular fee and collected by the City at the time of such delinquent registration.

C. The license fee may be prepaid for a one, two, or three year period, provided that for dogs the applicant presents a valid rabies vaccination certificate valid for the entire term of the license.

D. Exemptions:

1. Service dogs for the disabled. Dogs being raised, trained and used to aid disabled persons shall be licensed without fee. Such dogs shall be either a guide dog, service dog, or signal dog as defined in California Civil Code Section 54.1.8.

2. Government. Dogs owned and used by the county, municipal corporations, or other public agencies, including dogs used by law enforcement agencies in the performance of law enforcement activity, shall be licensed without fee.

3. Temporary. Dogs brought into the City for the purpose of participating in any dog show or whose owners are nonresidents or temporarily within the City need not be licensed.

6.08.020 Application for license.

Application for dog licenses shall be made on forms approved by the Animal Services Division and shall include the following for each animal: the name and address of owner; address where the dog is kept; name, breed, age, sex, color and description of the animal; spay/neuter certificate unless a valid exception applies; and current rabies vaccination certificate issued by a licensed veterinarian that is valid for the entire term of the license being issued.

Application for potbellied pig licenses shall be made on forms approved by the Animal Services Division and shall include the following for each animal: proof of registration with a nationally recognized registry; proof that the pig has been spayed or neutered; and a current vaccination certificate issued by a licensed veterinarian that the pig has been vaccinated as directed by the City Manager that is valid for the entire term of the license being issued.

6.08.030 Certificate of vaccination.

A. A license shall not be issued for any dog that has attained the age of four months or over unless a valid certificate of rabies vaccination is presented with the license fee. The

certificate of vaccination must show all items required by State law, including, but not limited to, the following:

1. The name, address and telephone number of the dog's owner;
2. The description of the dog, including breed, color, age, name and sex;
3. The date of immunization;
4. The type of rabies vaccine administered;
5. The name of the manufacturer;
6. The lot number of the vaccine used.

B. Such certificates shall bear the signature of the veterinarian administering the vaccine or a signature authorized by him/her, and in addition such certificate shall be stamped, printed, or typed with his/her name, address and telephone number for legibility.

6.08.040 Licenses under another jurisdiction.

A dog or Vietnamese potbellied pig brought into the City that has been licensed in another county or city within the State shall meet all the conditions set forth in this chapter and the owner shall apply for the transfer of the license within thirty (30) days of moving into the City. The fee for transfer shall be as set forth in the City's Fee Schedule or by separate resolution. Regardless of the term of such license in the issuing jurisdiction, the license shall expire at the expiration of the rabies vaccination certificate.

6.08.050 Collar and tag.

Upon payment of the license fee, the City shall issue to the owner a license certificate for the effective period and a metallic tag for each dog or each Vietnamese potbellied pig so licensed. The tag shall have stamped thereon the year for which it was issued and a number corresponding with the number of the certificate. Tags shall not be transferable.

For dogs, the owner shall provide the dog with a suitable collar or other device to which the license shall be securely attached. The dog shall wear the collar and tag at all times that the dog is in the City and not confined indoors or in an enclosed yard or pen. Vietnamese potbellied pigs are not required to wear a tag, but the owner must show proof of licensing.

The owner or person in control of the animal shall show the license receipt and tag at any time upon demand by an animal services officer. A refusal to show proper registration upon demand is a violation of this section.

6.08.060 Tagging an animal not described in application.

It is unlawful for any person to attach a license tag to the collar of any dog or Vietnamese potbellied pig except the animal that is described in the application for such license tag.

6.08.070 Duplicate tags.

Lost license tags may be replaced by surrendering to the City the receipt for the lost license and by paying to the City a fee. This fee shall be as set forth in the City's Fee Schedule or by separate resolution. After complying with the above provision, the City shall again register the animal, and issue a new license tag.

6.08.080 Refunds.

No refunds or credits shall be made on any license because of the death of any licensed animal or the owner leaving the City before the expiration of the license period.

6.08.090 Penalties.

Violations of Chapter 6.08 are infractions and may also be cited as Administrative Citations.

Chapter 6.12

Restriction on Numbers and Types of Animals; Prohibition of Animals At Large; and Menacing Animals

6.12.010 Restriction on number of household pets.

The maximum number of household pets allowed in a household or on any premises shall be as follows:

A. Three (3) dogs;

B. Three (3) cats;

C. Two (2) Vietnamese potbellied pigs;

D. Three (3) reptiles;

E. The combined maximum number of dogs, cats, and potbellied pigs shall be three (3) animals;

F. The combined maximum number of all household pets other than dogs, cats, potbellied pigs and reptiles shall be three (3) animals;

G. The combined total of all household pets shall be six (6) animals.

The City Manager may allow the occupant of the premises to maintain additional household pets on a temporary basis and on such terms and conditions as the City Manager may require, if the City Manager determines that removal of the animal(s) would be dangerous to the health and

well-being of the animal(s). Additional animals may also be allowed if the zoning requirements for the premises permit the operation of a kennel and the owner or occupant has obtained the necessary permits to operate a kennel on the premises.

The keeping of household pets in excess of the maximum allowed herein shall be considered to be the operation of a kennel or breeding facility and shall be subject to the City's zoning standards for kennels and breeders, which generally require that kennels and breeding facilities be located within the Rural Residential (R-A), Commercial and Light Manufacturing (C-M), or Light Manufacturing (M-1) zone district and that operators obtain a conditional use permit.

6.12.020 Vietnamese potbellied pigs.

The keeping of Vietnamese potbellied pigs shall be in accordance with the following provisions:

A. All Vietnamese potbellied pigs must be spayed or neutered prior to licensing.

B. Vietnamese potbellied pigs are subject to the City's "leash law."

C. No more than two Vietnamese potbellied pigs shall be permitted at any one single-family residence. Pigs are prohibited from any multiple-family dwelling.

D. Vietnamese potbellied pigs in excess of twenty-two (22) inches in height or weighing over one hundred twenty (120) pounds shall be prohibited.

E. All Vietnamese potbellied pigs must show registration with a nationally recognized registry to assure that they are a potbellied pig and not an agricultural variety.

F. All Vietnamese potbellied pigs shall be properly vaccinated prior to licensing as directed by the designated Supervisor of Clovis Animal Services.

G. Vietnamese potbellied pigs shall be maintained in a clean and sanitary condition free from obnoxious smells and substances.

6.12.030 Farm animals.

No person shall keep or maintain any farm animals except as follows:

A. In connection with bona fide schools, colleges, universities, research organizations, and laboratories engaged in the field of scientific research and education;

B. On the grounds of any district agricultural fair or rodeo which may be located within the City;

C. In a zone established by the zoning laws of the City where such animals are specifically permitted, provided there is compliance with such zoning laws relating to such animals.

6.12.040 Wild, exotic, and nondomestic animals and reptiles.

No person shall own, have, keep or maintain in the City any wild, exotic, or nondomestic animal or reptile, except as follows:

A. The City Council may, by resolution, grant a permit for the keeping or transporting in the City of any such animal solely for exhibition or experimental purposes under such conditions as may be imposed and for such a period of time as may be permitted, and in accordance with all applicable, federal, State and local laws and regulations;

B. Wild animals specifically allowed by the State Department of Fish and Game and in accordance with Department of Fish and Game regulations and permit conditions shall be allowed subject to the provisions of this chapter. Any permit required by the Department of Fish and Game for the keeping of any wild animal must be obtained by the owner and shown to any animal services officer upon demand.

6.12.05 Reptiles.

The keeping of reptiles is limited to turtles, lizards and snakes and excludes other reptiles such as crocodiles and alligators. It shall be unlawful for any person to own and keep within the City any reptile that is determined by the City Manager to be a nuisance or danger to persons or other animals.

6.12.060 Bees.

No person shall keep or maintain within the City any stand of bees except in conjunction with an existing agricultural operation.

6.12.070 Animals at large.

No owner of any animal, except a cat which has been spayed or neutered, shall cause, permit, or allow any such animal to be at large in the City. A violation of this provision is an infraction. An animal that is at large three or more times within a twelve (12) month period shall be deemed a public nuisance and the owner shall remove the animal from the City incorporated limits. A failure to remove the animal in violation of this section is a misdemeanor.

6.12.080 Menacing animals.

Any animal which annoys or harasses persons or other animals, including neighbors, passersby or passing vehicles, damages private or public property, is allowed to run at large, or is allowed to defecate or urinate on public property or on private property without the consent of the owner shall be deemed a nuisance subject to abatement as follows:

A. For non-continuing nuisances which do not require immediate correction, the City Manager may issue a written order to the owner of any offending animal directing that such nuisance be abated. In the order, the City Manager may direct the owner to take certain actions to prevent the nuisance from reoccurring. The order shall be delivered to the owner either by personal service, first class postage prepaid mail to the owner's last known address, or securely posted in a conspicuous place on the property where the animal is located. A failure to follow the directions of the City Manager in the order of abatement is a violation of

this section. In addition, each and every day the nuisance exists after the service of the order shall be deemed a violation of this section. The animal may also be seized and impounded.

B. For continuing nuisances which require immediate corrective action, any animal services officer may issue an order to the owner to immediately abate the nuisance. The order may be made orally or in writing. If the owner is unavailable, or if the owner fails to comply with the order of the animal services officer, the animal may be seized and impounded. A failure to follow the directions of the animal services officer in the order of abatement is a violation of this section.

Chapter 6.16

Seizure and Impoundment of Animals

6.16.010 General.

Any animal services officer may seize and impound an animal found running at large or otherwise in violation of the provisions of this chapter. The animal services officer is specifically authorized to seize and impound an animal required to be but not licensed under this chapter and a menacing animal in violation of an order from an animal services officer.

6.12.020 Dangerous animals.

If upon investigation an animal services officer determines that there is probable cause to believe that an animal is vicious or otherwise poses an immediate threat to public safety, the animal services officer may seize and impound the animal pending administrative hearings or court proceedings held to determine disposition of the animal pursuant to this chapter. Animals impounded pursuant to this section may, if the City Manager determines it is not contrary to public safety, be confined at the owner's expense in a kennel or veterinarian facility approved by the City Manager.

6.16.030 Sick, injured or mistreated animals.

Upon discovery of a sick, injured or mistreated animal, the animal services officer may seize and impound such animal in accordance with the provisions of California Penal Code Section 597.1.

6.16.040 Impoundment by individuals for trespassing animals.

The owner of private property, or his representative, may take up and detain any animal found trespassing upon such private property. Any person taking up and detaining any animal pursuant to the provisions of this section shall immediately notify an animal services officer of the address where the animal is detained and shall turn the animal over to the animal services officer upon demand for impounding.

6.16.050 Records of animals.

Upon receiving any animal, the animal services officer shall make a complete registry, entering the breed, color, and sex of such animal and whether or not the animal is licensed. If the animal is licensed, the animal services officer shall enter the name and address of the owner and the number of the license tag. In addition to the foregoing, the animal services officer shall make a record of any other information required by State law and maintain those records for the required time period.

6.16.060 Microchip Identification Device

Animal services shall implant each dog or cat impounded at the animal shelter, not previously microchipped, with a microchip identification device. The owner of such dog or cat shall be obligated to pay for the cost associated with the implantation of the microchip identification device as part of the impound fee. It shall be the owner's responsibility to have correct and current information registered with the microchip company at all times.

6.16.070 Notice to owners of impounded animal.

Within a reasonable time consistent with the purposes of this chapter and State law, after the impounding of any animal, the owner if known, shall be notified of the time and place of the seizure either in person, by telephone, or by United States mail. If the owner of the animal is unknown, written notice shall be posted for not less than four consecutive days in a conspicuous place outside the Animal Shelter.

6.16.080 Redemption.

A. The owner of any animal, other than a potentially dangerous or vicious animal, a sick, injured or mistreated animal, or an animal prohibited in the City, may reclaim and redeem such animal upon:

1. Satisfactory proof of ownership;

2. Payment of the costs and expenses incurred by the City for impounding and maintaining such animal, including the payment of costs and expenses incurred by the City for implanting a microchip;

3. Payment of a deposit for the animal not being spayed or neutered as required by this chapter;

4. Payment of any fees or penalties provided for in this chapter;

5. Payment of a redemption fee;

6. Payment of any previously incurred fees, penalties, and sustained administrative citation fines under this chapter relating to the impounded animal;

7. For animals at large, proof satisfactory to the City Manager that the animal will be securely confined and adequately cared for; and

8. For menacing animals, proof satisfactory to the City Manager that the owner will comply with the orders of the City Manager.

B. Redemption shall be conditioned upon:

1. The acquisition of any required license and the payment of any license fees not yet paid within the required time period;

2. The payment of any sustained administrative citation penalties if an administrative citation is issued by the City for a violation of this chapter which led to the impoundment.

3. If the owner of a redeemed animal fails to timely acquire a required license and pay any license fees, or pay administrative citation fines, the redeemed animal may be impounded by any animal services officer for an additional redemption period.

C. The license fee, the costs and expenses for impounding and maintaining the animal, the microchip fee, the redemption fee, and any penalties shall be in an amount established in the City's Fee Schedule or by separate resolution. The penalties and deposit for not having an animal spayed or neutered shall be as provided for in the City's Fee Schedule, by resolution, or State law as applicable. The penalties for administrative citations shall be those set forth in the citation.

D. An animal impounded as potentially dangerous or vicious shall be subject to disposition as provided for in Chapter 6.24 through 6.1.608 of this title. Animals impounded as sick, injured or mistreated animals, shall be subject to disposition as provided for in Penal Code Section 597.1.

E. Notwithstanding satisfaction of the requirements for redemption, the City Manager, at his/her discretion, may refuse to permit the redemption of any animal impounded pursuant to the provisions of this chapter, or any other municipal, county or State law, until in his/her opinion the need for the retention of such animal no longer exists.

The City Manager shall document in writing the need for the retention of an animal under this subsection and notify the owner of his/her right to contest that determination by filing a written request for a hearing within two (2) working days of receipt of the determination. If the owner requests a hearing, the City Manager shall schedule a hearing before a hearing officer appointed by the City Manager. The hearing shall be held within five (5) working days. The hearing shall be conducted in accordance with the procedures set forth in Section 6.24.030 of this chapter. The hearing officer's decision shall be final.

6.16.090 Duration of impoundment.

A. Dogs and cats. All impounded dogs and cats shall, unless sooner redeemed, be kept in the Animal Shelter for the period of time required by State law, as may be amended from time to time.

B. Farm animals. Any impounded farm animals shall, unless sooner redeemed, be kept in the Animal Shelter for the period of time required by State law, as may be amended from time to time, and in accordance with State requirements for impounding farm animals.

C. Other animals. Any other impounded animal shall, unless sooner redeemed or adopted, be kept in the Animal Shelter for the period of time required by State law, as may be amended from time to time and if no time is provided for not less than four (4) business days.

6.16.100 Abandonment.

Except as otherwise provided in this chapter, an impounded animal which is not redeemed within the specified holding period, whether due to a failure to satisfy monetary obligations or otherwise, shall be considered to be abandoned by its owner and shall become the property of the City. Such animal may be adopted or euthanized. Abandonment does not relieve the owner's obligation to pay all fees related to the impounding and keeping of the animal.

6.16.110 Voluntary surrender: Fees.

A. Upon request, an owner may surrender his/her animal to the Animal Shelter for placement for adoption or other disposition. Any animal that is voluntarily surrendered to or deposited with the Animal Shelter by the owner shall immediately thereafter become the property of the City. It shall be understood that no guarantee of placement will be made, and humane disposal will be at the discretion of the City Manager.

B. Any owner of an animal who voluntarily surrenders an animal to the Animal Shelter shall be subject to a fee as set forth in the City's Fee Schedule or by separate resolution for each animal.

C. The surrender of an animal by an owner to the Animal Shelter, subsequent to impoundment for a violation of this chapter or any provisions of State law, shall not relieve the owner of the obligation to pay such charges as set forth in this chapter incurred prior to such surrender, plus accumulated boarding charges, veterinary charges or any other charges related to the impounding and keeping of the animal.

6.16.120 Removing animal from custody without permission prohibited.

No person shall remove any animals from the custody of an animal services officer, from the Animal Shelter, or from a City holding facility or vehicle without permission from an animal services officer.

Chapter 6.20

Health and Safety Provisions: Animal Welfare

6.20.010 Vaccinations.

A. General. The owner of any household pet animal in the City shall have the animal vaccinated by a licensed veterinarian against the following diseases:

B. Dogs. No person shall keep, harbor or maintain any dog over the age of four (4) months within the City limits unless such dog has been vaccinated by a licensed veterinarian with a canine rabies vaccine approved by and in the manner prescribed by the State Department of Public Health. The vaccination shall be administered by a veterinarian or through county recognized clinics, and a certificate of vaccination shall be obtained by the owner. The certificate of rabies vaccination shall accompany the license application and shall be valid if in compliance with the following immunization schedule:

1. Primary immunization. Primary immunization shall be defined as the initial inoculation of an approved canine rabies vaccine administered to young dogs between the ages of four to twelve (12) months.

2. Revaccination intervals. The interval for revaccination of dogs administered primary immunization between the ages of four to twelve (12) months will be twelve (12) months, or as otherwise required by the State Department of Health. The interval for primary or revaccination of dogs administered rabies vaccines over the age of twelve (12) months shall be at least once every three years, or as otherwise required by the State Department of Health.

No dog need be vaccinated for rabies where a licensed veterinarian has certified that the vaccination would endanger the dog's health and the local health officer endorses on the certificate his/her approval. The certificate must bear the date of issuance and must be renewed each year. Any dog subject to this exemption shall not be allowed off the premises of the owner.

6.20.020 Cage and pen requirements.

No person shall keep or maintain any live animal in a cage, coop, hutch, pen, yard or space which is less than three (3) times as large in floor space as the total size of all live animals which may be kept therein, and which is not of sufficient height to permit each animal to stand in a natural erect position. This section shall not apply to the Animal Shelter nor shall it preclude a veterinarian, any person engaged in showing animals, or an animal groomer from temporarily confining an animal in a smaller container for medical, showing or grooming purposes.

6.20.030 Sanitary enclosures.

A. Every person keeping any animal shall at all times keep cages, coops, hutches, pens, yards or other enclosures wherein such animal is kept in a clean and sanitary condition, and shall remove excreta and manure therefrom every day, or as often as is necessary so as not to become a nuisance in the neighborhood or to any person in the neighborhood.

B. No person shall at any time maintain any lot or other premises, or any portion thereof, in the City, upon which any animal is kept in an unsanitary condition or in such

condition as to cause the same to be infested with flies or insects or to create any noxious or offensive odors.

6.20.040 Stray animals.

Any person discovering a stray or apparently lost animal shall report the same to the Animal Services Division. Any person who apprehends or picks up a stray or lost animal shall report the same to the Animal Services Division within eight (8) hours thereafter and shall release such animal to an animal services officer upon demand. A violation of this section is an infraction.

6.20.050 Diseased or injured animals.

A. Notwithstanding any provisions of this chapter, an impounded animal which is determined by a licensed veterinarian or the City Manager to constitute a health or safety hazard, shall be destroyed or otherwise disposed of without delay by an animal services officer or the veterinarian.

B. An impounded animal which is determined by a licensed veterinarian or the City Manager to be suffering extreme pain due to disease or injury, and where there is no reasonable probability that the animal will recover from its disease or injury, may be destroyed without delay by an animal services officer or the veterinarian.

C. Any animal services officer, police officer or sheriff's deputy may humanely destroy an animal in the field which is too severely injured to move or where a veterinarian is not readily available, and where it would be more humane to dispose of the animal.

6.20.060 Dogs, cats and other animals to be curbed.

Should any dog, cat and/or other animal defecate on any public property or on the private property of any person, the person owning or having custody of the animal shall immediately remove the feces from any such place to a site not prohibited by law. A violation of this section is an infraction.

6.20.070 Abandonment of animals prohibited.

No person shall abandon any animal with the intention of avoiding the responsibility for its custody and care.

6.20.080 Dumping of animals at the animal shelter prohibited.

No person shall leave any animal at the Animal Shelter except when an animal services officer is available to accept the animal.

6.20.090 Animal care.

A. No owner shall fail to provide his/her animals with adequate food and water, proper, clean, and sanitary shelter, protection from the weather and veterinary care when needed to

prevent suffering. The humane care and treatment of all animals shall be maintained at all times.

B. Every person who keeps an animal confined in an enclosed area shall provide it with an adequate exercise area. If the animal is restricted by a chain or leash, the chain or leash shall be affixed in such a manner that it will prevent the animal from becoming entangled or injured, in such a manner that it will permit the animal's access to adequate shelter, food and water, and in accordance with Health and Safety Code Section 122335.

6.20.100 Animals not to be abused.

No person shall beat, cruelly ill-treat, torment, tease, overload, overwork or otherwise abuse an animal, nor cause, instigate or permit any dogfight, cockfight, or combat between animals or animals and humans, excluding police canines, within the City, nor shall any parent allow or permit his/her minor child to so treat any animal.

6.20.110 Killing or butchering of animals.

No person may kill or butcher an animal within the City limits except as specifically permitted by the laws of the State, and in compliance with all federal, State and local requirements.

6.20.120 Poisoning animals prohibited.

No person shall place, leave or expose, in any place accessible to any animals, with the intent to kill or harm such animals, any poisonous substance or ingredient, or any edible or any other substance or ingredient which has in any manner been treated or prepared with any poisonous substance or ingredient.

6.20.130 Farm animals.

Farm animals shall only be kept as permitted by the City's zoning ordinance. In addition, no person shall keep, harbor, or possess any farm animal unless the following conditions are satisfied:

A. All places and premises upon which farm animals are kept shall be open at all times for inspection by City or County of Fresno health inspectors and by any animal services officer.

B. Farm animals shall be confined by a suitable fence. A suitable fence is any fence which is good, strong, substantial and sufficient to prevent the ingress and egress of farm animals.

C. Farm animals shall not be kept inside any building used for human habitation.

6.20.140 Animals suspected of having rabies.

A. Restrictions on the keeping of animals capable of transmitting rabies. It shall be unlawful for any person to own, keep, harbor or possess within the City limits any animal capable of transmitting the rabies virus unless such animal can be properly immunized with a rabies vaccine approved by the State Department of Health.

B. Reporting requirements.

1. Rabies is declared to be a reportable disease. Every veterinarian practicing in the City and every person providing professional medical treatment for animal bites by an animal of a species subject to rabies shall, whenever rabies is suspected, immediately notify the animal services department within the proper jurisdiction.

2. Every veterinarian practicing within the City, or having vaccinated any animal residing within City limits, shall provide a copy of every rabies immunization certificate which he/she issues for all animals immunized to the animal services department within the proper jurisdiction.

3. Any person or parent or guardian of such person, or an owner of an animal, bitten or scratched by an animal of a species subject to rabies shall immediately report such incident to the Animal Services Division.

C. Quarantine and impoundment.

1. All animals in violation of California Health and Safety Code Sections 121575 *et. seq.* or of the rabies control provisions of this chapter, shall be quarantined or impounded and shall be subject to destruction in some humane manner or to other disposition as provided by this chapter.

2. Veterinarians practicing in the City who have custody of an animal suspected of having rabies shall hold and not release that animal to the owner pending instructions from the appropriate animal services department or a local health officer on quarantine requirements.

D. Notification of quarantine restrictions. The City Manager shall issue a written notice to the owner or person harboring an animal within the City suspected of having rabies, or of having been exposed to rabies, that such animal be quarantined for a period of ten (10) days, or for such period as required by State law. Upon issuance of the notice, the owner or person harboring the animal shall surrender the animal for a supervised quarantine at the Animal Shelter, the costs of which shall be borne by the owner. The animal may be reclaimed by the owner if adjudged free of rabies and upon the payment of board fees as established in the City's Fee Schedule or by separate resolution and upon compliance with the licensing provisions of this chapter. At the discretion of the City Manager, such quarantine may be on the premises of the owner. For stray animals whose ownership is not known, such quarantine shall be at the Animal Shelter.

E. Quarantined animal at large. It shall be unlawful for any person to allow any quarantined animal to run at large or fail to keep the animal quarantined after being so notified. A violation of this subsection is a misdemeanor.

F. Killing of animals suspected of having rabies. No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, unless in self-defense or the defense of others, nor remove such animal from the City without written permission from the City Manager.

G. Quarantine of dogs serving the disabled. Notwithstanding any other provision of this chapter, a guide dog, service dog, or signal dog as defined in California Civil Code Section 54.1 shall not be quarantined in the absence of evidence that he/she has been exposed to rabies unless his/her owner fails:

1. To keep the dog safely confined to the premises of the owner; or

2. To keep the dog available for examination at all reasonable times.

H. Quarantine of dogs used by law enforcement agency. Notwithstanding any other provision of this section, a dog used by any state, county, city, or city and county law enforcement agency shall not be quarantined after biting any person if such bite occurred while the dog was being used for any law enforcement purpose. The law enforcement agency shall make the dog available for examination at any reasonable time. The law enforcement agency shall notify the animal services department within its jurisdiction if the dog exhibits any abnormal behavior.

6.20.150 Spay and neuter of cats and dogs.

A. Spaying or neutering prior to adoption. No dog or cat shall be made available for adoption unless the dog or cat is spayed or neutered in accordance with California Food and Agricultural Code Sections 30503 and 31751.3 or is otherwise exempt pursuant to subsection B. below.

B. Spaying or neutering a dog or cat over the age of four (4) months. No person within the City shall own a dog or cat over the age of four (4) months that has not been spayed or neutered, unless valid written documentation is provided to show proof that the animal is exempt from the requirement to be spayed or neutered by reason of one of the following, and is in compliance with subsection C. below:

1. The dog or cat is a breed approved by and is registered with a registry or association recognized by the City Manager, whose program and practices are consistent with the humane treatment of animals, and the dog or cat is actively used to show or compete and has competed in at least one show or sporting competition hosted by or under the approval of the recognized registry or association within the last two years, or is being trained or groomed to show or compete and is too young to have yet competed.

2. The dog is being trained or has been appropriately trained and is actively used in a manner that meets the definition of guide, signal or service dog as set forth in California Civil Code Section 54.1 or Penal Code Section 365.5, or the dog is enrolled in a guide, signal or service dog breeding program administered by a person licensed under Chapter 9.5 (commencing with Section 7200) of Division 3 of the California Business and Professions Code.

3. The dog is appropriately trained or is in the process of being trained and is actively used by law enforcement agencies or the military for law enforcement, military or rescue activities.

4. The owner of the dog or cat provides a letter to Animal Services from a licensed veterinarian certifying that either: the animal's health would be best served by spaying or neutering after a specified date, in which case a deposit as set forth in the City's Fee Schedule or by separate resolution shall be provided to ensure spaying or neutering by the owner after the specified date; or that due to age, poor health, or illness it is unsafe to spay or neuter the animal at any time. This letter shall include the veterinarian's license number and be updated periodically as necessary.

5. The dog or cat has been registered for breeding pursuant to this chapter.

C. Unaltered dogs and cats. An unaltered dog or cat shall be implanted with an animal microchip identification device identifying the owner of the animal. The dog license application for an unaltered dog shall contain the information requested by animal services, including the identification number of the implanted animal microchip identification device, the name and address of the owner, and the location at which the dog will be maintained. A license for an unaltered dog shall not be transferable, and shall not be issued to any person under the age of eighteen (18) years.

D. Violations for not spaying or neutering. First time violators of this section shall be provided with a sixty (60) day notice to comply prior to the issuance of a citation or the initiation of an enforcement action.

E. Applicability: Time to spay or neuter a dog or cat. The provisions of this section shall become operative on the effective date of this ordinance. However, an unaltered dog that has a valid dog license from the City shall not be subject to this subsection until the dog license expires.

6.20.160 Breeding Dogs and Cats.

A. It is unlawful for any person to breed any dog or cat within the City that is not registered with the City Manager pursuant to this section, unless a conditional use permit has been obtained authorizing the operation of a kennel or breeding facility as required by the City's zoning ordinance.

B. Any person required to register their animals for breeding shall register with Animal Services on forms approved by the City Manager. The registration form shall include, at a minimum, the following information:

1. The name, address and telephone numbers of the dog or cat's owner;
2. The name, address and telephone numbers of the location where the dog or cat will be kept, if different than the name and address of the dog or cat's owner;
3. The description of the dog or cat, including breed, color, age, name and sex;
4. The date of immunization for the dog or cat;
5. The type of rabies vaccine administered to the dog or cat; and
6. The license number of the dog.

Registration information must be updated within thirty (30) days of any changes.

C. Violation. Failing to register a dog or cat for breeding, or failing to update registration information within thirty (30) days of any changes, is a violation of this chapter subject to enforcement in the same manner as any other violation of the Municipal Code.

6.20.170 Sale and other transfer of dogs and cats.

A. No person shall display, sell, offer for sale, barter, or give away any kitten or puppy under eight (8) weeks of age.

B. No person shall display, sell, offer for sale, barter, or give away any dog or cat in any public street, alley, lane, sidewalk, or other public property or in front of any business not owned by him or her or at any swap meet.

C. No person shall give away any dog or cat as a prize or as an inducement to enter into any contest, lottery, drawing, game, competition, place of business, or business arrangement.

D. No person shall sell, barter, exchange or offer for adoption whether for compensation or otherwise any dog or cat to any minor under the age of eighteen (18) years without the written permission of one of the minor's parents or legal guardians.

E. No person shall sell, adopt or otherwise transfer any dog or cat in violation of any provisions of this chapter.

F. These prohibitions shall not apply to:

1. Government agencies; non-profit animal rescue organizations exempt from taxation under Internal Revenue Code section 501(c)(3); or humane societies or societies for the prevention of cruelty to animals if such societies are

incorporated under the provisions of California Corporations Code Section 10400 and the Nonprofit Public Benefit Corporation Law in Part 2 of the California Corporations Code, beginning at Section 5110;

2. Permitted dog or cat shows; or

3. Permitted pet stores which sell or otherwise transfer dogs or cats, whether for compensation or otherwise, within the store.

6.20.180 Prohibition of animals at certain special events.

A. Notwithstanding any other provision of the Municipal Code, no person shall allow any animal, whether with or without a leash (except in an enclosed vehicle), to be on any portion of a public street, alley, lane, sidewalk, or other public property used for a special event involving the closure of City streets. The City shall designate the boundaries of the special event at the time the street closure is authorized.

B. Notwithstanding subsection A of this section, neighborhood block parties are exempt from this section and the Council may, by resolution, exempt a special event from the prohibition set forth in this Section.

C. The City shall cause to be posted during the special event signs evidencing the prohibition set forth in this Section at all street entrances to the special event, at each corner of the boundaries of the special event, and at intervals along the exterior boundaries of the special event of not more than five hundred (500) feet.

D. The City may condition street closure authorizations on meeting the requirements of this section.

E. Private property owners and their agents within the boundaries of the special event area may post additional signs evidencing the prohibition set forth in this section.

F. This section shall not apply to: (1) any guide dog, signal dog, service dog, or other animal individually trained to provide assistance to an individual with a disability; (2) dogs used by or under the authority of police or law enforcement agencies for law enforcement purposes; or (3) animals which are part of the special event or an exhibit at the special event, or horses used by or under the authority of police or law enforcement agencies for law enforcement purposes.

6.20.190 Care of feral cats

It shall be unlawful for any person within the City to intentionally provide food, water, or other forms of sustenance to a feral cat or feral cat colony.

6.20.200 Feeding of Birds

It shall be unlawful for any person to feed any household or wild birds outdoors in a manner that creates: harmful health and/or sanitation conditions; destruction of property; unsightly or

increased slipperiness of sidewalks; animal dependency; attraction of coyotes, squirrels, rats and/or other vermin; or otherwise creates an unreasonable disturbance, such as noise, so as to disturb the peace and comfort of two (2) or more persons of ordinary sensitivity from different surrounding households.

6.20.210 Animal Establishments

Every person who owns, conducts, or operates a pet shop, pet store, pet dealer, commercial kennel, private kennel, boarding kennel, grooming parlor, animal menagerie, animal shelter, or horse establishment shall comply with all provisions of the Lockyer-Polanco-Farr Pet Protection Act (California Health and Safety Code Sections 122125 *et. seq.*, the Pet Store Animal Care Act; California Health and Safety Code Sections 122350 *et. seq.*) or any similar laws that may be subsequently enacted, and all applicable provisions of this chapter.

6.20.220 Sentry Dog Business

Every person who owns, conducts, or operates a sentry dog company or business shall comply with the provisions of The Dog Act of 1969 (California Health and Safety Code Sections 121875 *et. seq.*, any similar laws that may be subsequently enacted, and all applicable provisions of this chapter.

Chapter 6.24

Keeping of Potentially Dangerous and Vicious Animals

6.24.010 Investigation, confinement, seizures and impoundment.

A. Whenever an animal suspected of being potentially dangerous or vicious is reported, an animal services officer shall investigate the circumstances and if the officer finds that the animal shows a propensity to attack, bite, scratch, annoy or harass people or other animals without provocation, or displays any other such behavior, the officer shall notify the owner in writing, stating the facts and circumstances. The animal services officer may order that the animal be kept within an enclosure, securely leashed or otherwise controlled.

B. If the animal services officer has probable cause to believe an animal may be designated as "potentially dangerous" or "vicious" under this chapter, and the owner is unwilling or unable to properly contain and/or control the animal immediately or the animal poses an immediate threat to the safety of persons or domestic animals, the animal may be seized pending the outcome of a hearing or trial and any appeals conducted pursuant to this chapter, or during the period of time the owner requires to comply with any requirements imposed hereunder. Any animal seized hereunder shall be impounded and kept at the Animal Shelter at the owner's expense.

C. The animal's owner shall be charged for all costs incurred or fees applicable with respect to such impoundment unless a finding is made that the animal is not potentially dangerous or vicious, in which case the owner shall be charged only for independently

incurred impound costs and fees, if any. An animal held under the provisions of this section shall not be released until the owner pays all charges as specified in Chapter 6.16.080 of this title. If the owner refuses to pay such charges, the animal shall be treated as abandoned by the owner, and disposed of pursuant to Chapter 6.16.100 of this title. Disposal of the animal does not release the owner from his/her responsibility to pay the keeping charges.

D. The owner of an animal that has bitten another animal or person shall, upon demand from any animal services officer, demonstrate to the animal services officer that the animal has been properly immunized with a rabies vaccine in accordance with the provisions of this Chapter or otherwise release the animal to the animal services officer for inspection or quarantine.

6.24.020 Petition to declare animal as potentially dangerous or vicious.

If an animal services officer has investigated and determined that there is probable cause to believe that an animal is potentially dangerous or vicious, the City Manager, the Chief of Police or their designee may prepare a petition to have the animal declared potentially dangerous or vicious. The petition may be filed with the Court or the City Manager. If filed with the Court, the procedures set forth in Food and Agricultural Code Sections 31621 through 31624, as those sections may be amended from time to time, shall apply. If filed with the City Manager, the procedures set forth in this chapter shall apply. The petition shall be on forms prescribed by the Judicial Council or by the City Attorney's office.

6.24.030 Administrative hearing.

There is hereby created an administrative procedure for the hearing of petitions filed with the City Manager. Hearings for classification as "potentially dangerous" or "vicious" shall be conducted as follows:

A. The owner shall be given, by first class mail with return receipt requested, or personal service, notice of a hearing, a copy of the petition, and notice of the restrictions that will apply to the animal if it is classified as a potentially dangerous or vicious animal. A failure of the owner to receive notice by first class mail with return receipt requested shall not affect the validity of these proceedings.

B. The owner may waive his/her right to a hearing by filing a written waiver with the Animal Services Division, whereupon the Animal Services Division shall make the findings and apply the sanctions provided in this chapter.

C. If the animal has not been impounded, the hearing shall be set not less than five (5) working days nor more than thirty (30) days after the notice was mailed to the owner by first class mail with return receipt requested or the owner was personally served. If the animal has been impounded, the hearing shall be set not less than five (5) days after the notice was mailed to the owner by first class mail with return receipt requested or the owner was personally served, and within fifteen (15) days of the date of impoundment. The owner of the animal may agree to an earlier or later hearing date.

D. If the owner fails to appear at the hearing, the hearing shall nevertheless proceed, and an appropriate order shall be issued.

E. The hearing shall be conducted before a hearing officer appointed by the City Manager. 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. The City Manager shall establish a list of qualified persons who are capable of acting on behalf of the City as hearing officers.

F. The hearing shall be conducted informally and the technical rules of evidence shall not apply. The hearing officer shall consider all relevant evidence presented at the hearing. The officer filing the petition shall be present at the hearing and shall present evidence that the animal is potentially dangerous or vicious by witness testimony or affidavits, incident reports, and other records.

G. The hearing officer may continue hearings, based on good cause, as established by one of the parties to the hearing.

H. After the hearing, the owner or keeper of the dog shall be notified in writing of the determination and orders issued, either personally or by first class mail with return receipt requested. The hearing officer shall make a written determination within fifteen (15) days after the hearing is concluded, unless the animal has been impounded, in which case the determination shall be made in five (5) working days. The decision of the hearing officer shall be final. A failure of the owner to receive notice by first class mail with return receipt requested shall not affect the validity of these proceedings.

I. If the owner or keeper of the animal contests the determination, he or she may, within five (5) days of the service of the notice of determination if service is by personal service, or within six (6) days of service of the notice of determination if service is by mail, appeal the decision of the hearing officer to the Fresno County Superior Court. The owner or keeper of the animal shall serve personally or by first class mail with return receipt requested notice of the appeal to the City. Any such appeal shall be a trial de novo.

J. The determination of the court hearing the appeal shall be final and conclusive upon all parties.

6.24.040 Disposition of potentially dangerous or vicious animals.

A. Vicious Animals. If an animal is determined to be vicious, the following sanctions shall be applied:

1. The animal shall be released to the Animal Shelter for euthanasia. At the discretion of the City Manager, the animal may be immediately removed from the City limits subject to approval by the receiving jurisdiction's department of animal control and provided the receiving jurisdiction determines that the animal does not pose a substantial threat to public health and safety at the new location.

2. The owner of the vicious animal shall be prohibited from owning, possessing or controlling other animals of the same species for a period of three (3) years after the original determination that the animal is vicious.

3. If the animal is not euthanized, the owner shall register the animal as vicious and pay a fee as set forth in the City's Fee Schedule or by separate resolution.

4. If the animal is not euthanized, the owner shall authorize the Animal Services Division to implant the animal with a microchip identification device, and the owner shall pay for the cost associated with the implementation of the microchip.

5. If the animal is not euthanized, the animal shall be licensed and vaccinated in the jurisdiction where the animal is to be taken.

6. If the animal is not euthanized, the owner shall spay or neuter the animal, at the owner's expense, within ten (10) days after the vicious animal determination. The owner shall provide a deposit in the amount of one thousand dollars ($1,000.00) to ensure the spay or neuter of the animal which deposit shall be forfeited if the owner does not provide proof of the spay or neuter within the ten (10) day time period. In addition, the failure to have the animal spayed or neutered shall be considered a violation of this section.

7. The owner of the animal shall be liable for all redemption fees incurred pursuant to chapter 6.16.080 of this title. Those fees shall be paid within six (6) days of the decision of a hearing officer or court, and before the animal is released from the Animal Shelter. If the owner fails to pay those fees and redeem the animal from the Animal Shelter within six (6) days of the decision of the hearing officer or court, the animal shall be deemed abandoned.

B. Potentially Dangerous Animals. If an animal is designated "potentially dangerous" the following sanctions shall be applied:

1. The owner of such animal shall immediately keep such animal securely inside the owner's or custodian's dwelling, in an enclosure on the owner's or custodian's premises, or under other adequate control as approved by the City Manager. If an approved means of restraint is impossible or impracticable, such animal shall be impounded in the Animal Shelter at the owner's expense, until such time as the owner of such animal shall provide for an approved means of restraint. If the owner of the animal does not provide an approved means of restraint within six (6) days of the decision of the hearing officer or court, the animal shall be deemed abandoned.

2. The owner of a potentially dangerous animal shall conspicuously display signs with a symbol warning of the presence of a potentially dangerous animal.

3. While off the owner's premises, a potentially dangerous animal shall at all times be restrained by a substantial chain or leash not exceeding six (6) feet in

length, held by and under the control of a responsible adult physically capable of retaining control of the animal.

4. All potentially dangerous animals shall be properly licensed and vaccinated. In addition, the City shall include a designation of potentially dangerous in the registration records of such animal, and the owner shall pay an annual potentially dangerous animal registration fee, in addition to the regular license fee. The fee shall be as set forth in the City's Fee Schedule or by separate resolution.

5. A potentially dangerous dog shall be spayed or neutered, at the owner's expense, within thirty (30) days of a potentially dangerous animal determination. The owner shall provide a deposit in the amount of one thousand dollars ($1,000.00) to insure the spay or neuter of the animal which deposit shall be forfeited if the owner does not provide proof of the spay or neuter within the thirty (30) day time period. In addition, the failure to have the animal spayed or neutered shall be considered a violation of this section.

6. The owner of the animal shall be liable for all redemption fees incurred pursuant to chapter 6.16.080 of this title. Those fees shall be paid within six (6) days of the decision of a hearing officer or court, and before the animal is released from the Animal Shelter. If the owner fails to pay those fees and redeem the animal from the Animal Shelter within six (6) days of the decision of the hearing officer or court, the animal shall be deemed abandoned.

6.24.050 Failure to meet requirements: Inspection.

If all requirements for owners of potentially dangerous or vicious animals are not satisfied, or the owner is unable or unwilling to implement them, the animal shall be euthanized either by the Animal Shelter or by a licensed veterinarian. Proof of euthanasia shall be provided to the City Manager within three (3) days of its occurrence. The City Manager is authorized to make whatever inspections he/she deems necessary to ensure compliance with these provisions.

6.24.060 Notification of change of status.

A potentially dangers animal shall not be sold, bartered, given away, or laced in a new home without prior notification of and approval by the Animal Services Division. Any new owner must comply with the requirements of this section. If the animal in question dies, or is sold, transferred, or permanently removed from the City where the owner of the records resides, the owner of the potentially dangerous animal shall notify the Animal Services Division of the changed condition and new location of the animal in writing within two (2) business days.

6.24.070 Harboring a vicious animal as a misdemeanor: Disposition of vicious dogs through citation or criminal complaint: Other rights not restricted.

A. The keeping or harboring of a vicious animal, including a vicious dog, shall be considered a misdemeanor. As an alternative to filing a petition to have an animal declared vicious pursuant to this chapter, if an animal services officer has investigated and determined

that there is probable cause to believe that an animal is vicious, the animal services officer may issue a misdemeanor criminal citation or may submit the case to the City Attorney for filing of a criminal complaint. Upon conviction for a violation of this section, the Court may order the destruction of the animal or any conditions to insure that the animal is confined to an enclosure and such other measures to keep the animal under physical control. The animal may be seized and impounded pending final disposition by the Court.

B. Nothing in this Animal Regulations Ordinance shall limit the right of any person or officer to take any proceedings against a potentially dangerous or vicious animal or the owner thereof otherwise permitted or provided by federal, State or local law, including the Municipal Code.

6.24.80 Penalties for violation.

Violations of this chapter or any orders from a Court, a hearing officer, or the City Manager pursuant to this shall be deemed misdemeanors. Such violations shall also carry civil penalties up to one thousand dollars ($1,000.00).

Chapter 6.28

Excessive Animal Noise

6.28.010 Prohibition on harboring animals which make excessive noise.

No person shall keep, maintain or harbor, or cause or permit to be kept, maintained, or harbored, upon any premises within the City, any dog or animal which creates excessive noise. A violation of this section is a misdemeanor unless the City Attorney files the action as an infraction.

6.28.020 Enforcement action.

If an animal services officer determines upon investigation that there is probable cause to believe that the owner of the animal is maintaining an animal which creates excessive noise, the officer may take the following actions:

A. First offenses. For first time offenses, the officer should issue a warning to the owner of the animal notifying the owner of the excessive noise complaint(s) and inform the owner of steps necessary to correct the problem and the consequences if the owner fails to take corrective steps.

B. Second offenses. For second offenses, the officer should issue a first offense administrative citation or submit the matter to the City Attorney for enforcement.

C. Third and subsequent offenses. For third and subsequent offenses, the officer should issue the next level administrative citation or submit the matter to the City Attorney for enforcement.

D. Seizure and impoundment. The investigating officer may seize and impound an animal which is creating excessive noise. The owner of such animal shall be responsible for the costs of impoundment as provided for in Section 6.16.080 of this chapter.

6.28.030 Removal of animal from city.

Upon a third sustained offense within an eighteen (18) month period, the animal making the excessive noise shall be deemed a public nuisance requiring the owner to permanently remove the animal from the City. A failure to remove the animal shall be a misdemeanor.

Chapter 6.32

Enforcement

6.32.010 Entry on premises to seize and impound animals.

A. Any animal services officer or police officer may enter upon private property without a warrant for the following purposes:

1. When the officer has the express permission of the owner or occupant of the premises;

2. When the officer has probable cause to believe that any rabid, injured, sick, abandoned, mistreated or neglected animal is present;

3. When in pursuit of any animal at large in the City;

4. To seize and impound a potentially dangerous or vicious animal in accordance with Chapter 6.24 of this title;

5. When the officer has probable cause to believe that there exists in any building or upon any premises or property any condition which may be in violation of this chapter;

6. When the officer observes a violation of this chapter occurring upon any building or upon any premises or property, or when entry on the building, premises or property is necessary to prevent a continuing violation of this chapter;

7. When the officer is aiding with the execution of a search and/or seizure warrant;

8. Upon exigent circumstances or for any other lawful reason.

B. Before entering private property without the consent of the occupant, the officer shall make reasonable attempts to contact the occupant of the property, if possible.

C. If none of the circumstances exists for entry on private property without a warrant, the officer shall obtain a warrant before entering private property.

D. In no event shall entry on private property be more extensive than that necessary to seize the animal or to prevent further violations of this chapter or other animal services laws.

E. Neither the animal services officer, the police officer, or the City shall be liable for any damages from a reasonable entry.

F. Nothing in this section shall prevent an officer from entering private property during the performance of the officer's duties and under other legal authority.

6.32.020 Authority to arrest and to issue notices to appear.

Pursuant to the provisions of California Penal Code Section 836.5, any animal services officer, any police officer, the City Manager, or other person authorized by the City Council shall have the power and duty pursuant to this chapter to investigate complaints of violations of any provision of this chapter, and may arrest a person without a warrant whenever he/she has reasonable cause to believe that the person to be arrested has committed an infraction or a misdemeanor in his/her presence, which is a violation of this chapter, and may issue a citation to such person to appear in court to answer such charges.

6.32.030 Obstructing officers unlawful.

It is unlawful and shall be a misdemeanor for any person to willfully resist, delay or obstruct any animal services officer in the discharge or attempt to discharge any duty of his/her office.

6.32.040 Applicability of State Laws: Conflicts in the Municipal Code.

A. Notwithstanding the provisions of this chapter, the provisions of the California Food and Agricultural Code, Health and Safety Code, Penal Code, and Code of Regulations relating to animal health, control and care, and rabies control, shall apply when such provisions are more stringent than the provisions of this chapter.

B. If a section elsewhere in the Municipal Code is in conflict with a provision of this chapter, the more stringent provision shall apply.

6.32.050 Use of equipment to impound and firearms authorized.

In performance of his/her duties, an animal services officer shall have the authority to employ the use of a tranquilizer gun and any animal-control equipment or device in common use within the State, necessary to take up and impound an animal.

6.32.060 Liability of city.

No liability shall be incurred by the City for the disposition of any animal made pursuant to the provisions of this chapter.

6.32.070 Animal Services Fees.

Fees will be charged for animal services and shall be as set forth by City Fee Schedule or by separate resolution.

6.32.080 Mutual aid authority.

An animal services officer, upon receiving a request for assistance from another animal services officer, another animal services department, peace officer or public official, or having requested assistance from another animal services department, shall be empowered to enforce all State, city, county or municipal codes and/or chapters which are related to his/her field of enforcement in that jurisdiction.

6.32.090 Cost recovery for animal and police services.

When an animal services officer or police officer responds to an animal at large, a menacing animal, or an animal creating excessive noise more than three times within a forty-eight (48) hour period, the owner of the animal shall be liable for the cost to provide special services to respond to the animal at large, menacing dog or excessive noise. Charges shall include a reasonable charge for the officer's time, the actual cost of any equipment used or damaged, together with an additional ten (10) percent for administrative overhead. These charges shall be computed and a bill submitted to the owner of the animal. The bill shall be a debt owed to the City and a failure to pay that bill within thirty (30) days is a violation of the Municipal Code. If the City is obligated to initiate litigation to recover this debt, the owner shall be liable for cost of suit, attorneys' fees, and cost of collection.

6.32.100 Violations: Penalties.

Violations of Title 6 shall be misdemeanors unless a particular section designates that a violation is an infraction. The City Attorney may file any violation of this Title deemed a misdemeanor as an infraction. Each and every day a violation exists is a separate offense.

SECTION 3. The City Clerk is authorized to cause this ordinance or a summary of this ordinance to be published in a newspaper of City circulation in the Reedley Exponent, a newspaper of City circulations published and circulated in the City of Orange Cove, within fifteen (15) days after its adoption. If a summary of the ordinance is published, the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted at City Hall at least five (5) days prior to the meeting at which the ordinance is adopted and again after the meeting at which it is adopted. The ordinance shall become effective thirty (30) days after its adoption.

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The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on _____ and was passed and adopted at a regular meeting of the City Council held on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
City Clerk

APPROVED:

_____
Mayor, City of Orange Cove