

ORDINANCE NO. 1534(06)

**An Ordinance of the City of Lompoc,
County of Santa Barbara, State of California,
Amending Chapter 6 "Animals",
Requiring Sterilization Of
Dogs in the City**

WHEREAS, irresponsible breeding of animals contributes to pet overpopulation, inhumane treatment and neglect of animals, insufficient canine socialization and training, increased risk to the public safety, euthanasia of hundreds of animals annually at the City Shelter, and rising costs for animal control and care by the City; and

WHEREAS, pet overpopulation resulting from irresponsible dog breeding moved the California Legislature, in 1989, to enact Food and Agriculture Code Section 31683 which authorized cities and counties to adopt ordinances pertaining to mandatory spaying and neutering programs, and, most recently, in 2005, to approve Health and Safety Code Section 122331 to authorize local legislation pertaining to breed-specific sterilization and breeding programs; and

WHEREAS, under the authority of California Government Code Section 36901, the City Council may establish fines, penalties, and forfeitures to enforce the provisions of the Lompoc City Code; and

WHEREAS, the Council of the City of Lompoc enacts this Ordinance to reduce and control irresponsible breeding of dogs, so as to better protect the health, safety, and general welfare of the citizens of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMPOC HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 0600 is added to Chapter 6 of the Lompoc City Code to read as follows:

"Section 0600. Definitions.

For purposes of this Chapter, unless the context clearly indicates otherwise, the following words and phrases have the meanings set forth below:

- A. Animal means all nonhuman members of the animal kingdom, including domestic, exotic, and livestock species.

- B. Animal Control Officer means an officer or employee of the City of Lompoc or of the County of Santa Barbara authorized to carry out and enforce the powers, duties, and provisions of this Chapter relating to the care, control, and treatment of animals within the City.
- C. At Large means an animal that is off the premises of its owner or custodian and not restrained by a leash.
- D. Breeder means any person, business, or organization that is recognized as an animal breeder under the laws of the State of California.
- E. Cattery means any premises where five or more cats, four months of age or older, are kept and cared for, not including a licensed veterinary facility, animal shelter, or welfare organization, rescue facility, or shelter.
- F. Dangerous animal means an animal, except a law enforcement dog, which demonstrates any of the following behavior:
 - 1. An unprovoked attack that results in serious injury to, or the death of, any person when such person is acting lawfully;
 - 2. A second unprovoked attack within a 12-month period upon a person that requires a defensive action by any person to prevent bodily injury when the person is acting lawfully, or that results in less than a serious injury when the person is acting lawfully;
 - 3. An unprovoked attack that results in the death of another animal or livestock when the animal is or livestock are off the property of the owner of the attacking animal;
 - 4. A second unprovoked attack within a 12-month period on another animal or livestock that results in serious injury when the animal is or livestock are off the property of the owner of the attacking animal;
 - 5. An animal declared potentially dangerous that is kept thereafter in noncompliance with the conditions imposed by the Hearing Officer making such declaration; i.e., an animal that continues or is permitted to continue the behavior causing its declaration as potentially dangerous.
- G. Domestic Animal means any animal customarily kept by humans for pleasure or companionship, including, but not limited to, dogs, cats, birds, rabbits, hamsters, potbellied pigs, guinea pigs, mice, rats, iguanas, and the like, but not including feral cats.

- H. Exotic Animal means any species of animal not normally considered domestic or livestock, those animals defined by California Fish and Game Code Sections 2116 and 2118.
- I. Feral Cat means an unsocialized cat without owner identification of any kind, usually exhibiting temperament and behavior connoting extreme fear and resistance to contact with people.
- J. Grooming Shop means any commercial establishment where animals are bathed, clipped, brushed, plucked, or otherwise groomed, not including a licensed veterinary facility, animal shelter, and welfare organization, animal rescue facility or shelter.
- K. Health Officer means the Public Health Officer of the Santa Barbara County or his or her designee.
- L. Hearing Officer means the person designated by the City Administrator to conduct the administrative hearings established by this Chapter.
- M. Kennel means any lot, building, structure, enclosure, or premises whereon or wherein five or more dogs, four months of age or older, are kept and maintained for any purpose whatsoever, not including a licensed veterinary facility, animal shelter, and welfare organization rescue facility or shelter.
- N. Law Enforcement Dog means a specially trained canine animal accompanying or assisting a public safety or peace officer engaged in law enforcement duties or in the training of said animal.
- O. License means a permit obtained from a government or quasi-government agency which allows a person, business, or organization to perform described acts or maintain described premises.
- P. Livestock means any animals kept by humans that do not customarily inhabit their owner's dwelling. This includes, but is not limited to, equine, bovine, ovine, caprine, and porcine species, and any species of chicken, duck, pigeon, goose, turkey, or other domesticated fowl, but excludes bees.
- Q. Owner means any person who keeps, has charge or custody of, or gives care to an animal for at least thirty consecutive days. Owner does not include veterinarians who are treating or caring for an animal in the regular practice of veterinary medicine, nor owners or operators of an animal grooming business, kennel, or pet shop while engaged in the regular practice of such business.
- R. Pet Shop means any premises where domestic or exotic animals are kept for the purposes of wholesale or retail sale, exchange, or hire to the public.

- S. Potentially Dangerous Animal means an animal, except a law enforcement dog, which demonstrates any of the following behavior:
1. Unprovoked terrorizing behavior toward a person who is acting lawfully;
 2. An unprovoked attack on a person that requires a defensive action by any person to prevent bodily injury when the person is acting lawfully;
 3. An unprovoked attack on any person that results in less than a serious injury when the person is acting lawfully;
 4. Any unprovoked behavior that constitutes a physical threat of bodily harm to any person when the person is off the property of the owner or keeper of the animal;
 5. An unprovoked attack on an animal or on livestock that results in serious injury when the animal is or livestock are off the property of the owner or keeper of the attacking animal.
- T. Serious Injury means any physical injury to a human or animal that requires sutures or corrective or cosmetic surgery, or results in muscle tears, puncture wounds, disfiguring lacerations, or severe bruising.
- U. Service Animal means a specially trained animal, usually a canine, assigned to a disabled person for the specific purpose of assisting that individual. Service animals include, but are not limited to, guide dogs for the vision or hearing impaired, canine companions, and pet-assisted therapy dogs.
- V. Shelter Supervisor means the supervising officer of the City's or County's animal shelter servicing the City of Lompoc, or his or her designee.
- W. Sterilization means the neutering of a male dog or cat and the spaying of a female dog or cat.
- X. Terrorizing Behavior is that action exhibited by an animal that, in a vicious or terrifying manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places.
- Y. Veterinary Facility means any premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof are practiced.
- Z. Welfare Organization means any nonprofit public benefit corporation that is organized for the purpose of improving the lives or welfare of animals."

SECTION 2. Section 0601 of Article 1 of Chapter 6 of the Lompoc City Code is revised to read as follows:

“Section 0601. Animals Running At Large Prohibited; Exception for Dogs on Leash

- A. It shall be unlawful for any person owning or having possession, charge, custody, or control of any dog or other animal, to cause, permit, or allow the dog or other animal to run, stray, be uncontrolled, or in any manner be in, upon, or at large upon a public street, sidewalk, park, or other public property, or in or upon the premises or private property of another person; provided however that dogs are permitted upon the streets and other places of the City if on a leash not exceeding six feet in length and under the immediate care and control of the owner or other person having the care, custody, and control of said dog. Any animal not kept under restraint or so confined or enclosed as provided in this Chapter is hereby declared to be a nuisance to public health and safety.

Section 0601.5. Owner of Animal At Large Causing Injury Guilty of Misdemeanor; Information to be Provided After Attack

- A. A person who owns, keeps, or is in charge or control of a dog or other animal, and who permits, allows, or causes the dog or other animal to run, stray, be uncontrolled, or in any manner be in, upon, or at large upon a public street, sidewalk, park, or other public property or in or upon the premises or private property of another person is guilty of a misdemeanor if said dog or other animal bites, attacks, or causes injury to any human being or other animal.
- B. Any person convicted of a misdemeanor under this provision shall not own, possess, control, or be in charge of any animal of the species of the animal which bit, attacked, or injured a person or animal, for a period of three years from the date of conviction and the Animal Control Officer shall not issue or renew any license or permit to the person so convicted for said species of animal.
- C. When any stray dog, whether leashed or unleashed, while on public property within the City or upon the private property of any person, including its owner or keeper, bites, attacks, or injures in any manner a human being or another animal, such dog's owner, keeper, or custodian is required forthwith to provide to the victim, or to an agent designated by the victim, the name and address of the attacking animal's owner and/or person in charge of its care and keeping. The owner or keeper of the attacking dog shall also provide to the victim or his or her agent licensing, rabies, and vaccination information pertaining to the attacking dog, and sufficient information for the victim to contact the insurance carrier of the person responsible for the attacking dog."

SECTION 3. Section 0614.C of Article 1 of Chapter 6 of the Lompoc City Code is amended to read as follows:

“Section 0614. Dog Defecation; Removal by Owners

- C. This Section shall not apply to disabled persons accompanied by a service animal used for their assistance.”

SECTION 4. Section 0618 of Division 2 of Article 2 of Chapter 6 of the Lumpoc City code is amended to read as follows:

“Section 0618. Licenses – Exceptions

- A. The provisions of Section 0617 do not apply to the following:
1. Dogs under the age of four months;
 2. Service dogs;
 3. Dogs owned, kept, in the custody of, or controlled by nonresidents of the City who are traveling through or visiting the City for a period of thirty days or less;
 4. Dogs brought to the City exclusively for the purpose of entering the same in any dog show or exhibition, and which are actually entered in and kept at such show or exhibition;
 5. Dogs under treatment in the custody and control of animal hospitals, or veterinary facilities;
 6. Dogs for sale in duly licensed pet shops;
 7. Dogs owned, kept, or controlled by any person having a permit to keep and maintain a kennel, and provided that such dogs are kept enclosed within such pet shop or kennel; and
 8. Dogs under the ownership, custody, and control of the owner of a kennel duly licensed under the provisions of this Division or his or her duly authorized employee or agent when such dogs are removed from such kennel in the bona fide operation thereof for the purpose of exercise or training, provided that any such dog shall bear an identification tag attached to a collar, harness, or other device, which tag shall be of a size and type designated by the Animal Control Officer, furnished at the sole cost and expense of the owner of such kennel, setting forth the name and address of such kennel. A dog bearing such tag shall be treated in all respects as a licensed dog in the event of its escape and subsequent impoundment.”

SECTION 5. Sections 0648 and 0649 of Division 3 of Article 3 of Chapter 6 of the Lompoc City Code are amended to read as follows:

“Section 0648. Redemption of Impounded Animals.

- A. The Animal Control Officer shall keep any animal impounded for at least six business days, not including the day of impoundment, unless such animal is sooner reclaimed by the owner or person entitled to its custody. Sundays and holidays observed by the pound shall not be included in said six days. Redemption shall be made by exhibiting to the Animal Control Officer the license certificate or license tag issued by the Animal Control Officer showing that the license for an impounded dog for the then current year has been paid, and by paying the Animal Control Officer any charges provided for. Upon redemption being made, the Animal Control Officer shall release the animal provided that in all cases any charges provided for keeping such animal shall be paid.
- B. No cat or dog shall be released to any person other than the owner or keeper unless such cat or dog is sterilized or unless the payment for such sterilization has been deposited with the Animal Control Officer and the person to whom the dog or cat is released agrees in writing to cause such dog or cat to be sterilized. Upon notice to the Animal Control Officer that the dog or cat has been sterilized, the deposit shall be forwarded to the licensed veterinarian performing such sterilization.
- C. Except as exempted in Section 0657 of this Chapter, no dog shall be released to its owner or keeper unless such dog is sterilized. The owner or keeper of a dog subject to mandatory sterilization may appeal such determination as set forth in Section 0657.5 of this Code.

Section 0649. Disposition of Unredeemed Animals.

At any time after the expiration of the required period of six business days, the Animal Control Officer may, without further notice and without advertising in any manner, place for adoption, sell, or give away any animal not reclaimed or redeemed as provided in this Article, provided that any dog adopted or given away, which will be kept in Santa Barbara County, shall be licensed. No cat or dog shall be released to any person except upon neutering or spaying under the process provided in Section 0648. Any cat or dog that is impounded pursuant to this Article shall, prior to the killing of that animal for any reason other than irremediable suffering, be released to a welfare organization animal rescue or adoption organization if requested by the organization prior to the scheduled killing of that animal. In addition to any required spay or neuter deposit, the pound or shelter, at its discretion, may assess a fee, not to exceed the standard adoption fee, for animals released. No impounded animal may be transferred to anyone for the intended use of the animal for research or testing.”

SECTION 6. Subsection A of Section 0651 of Article 4 of Chapter 6 of the Lompoc City Code is hereby repealed and replaced by Section 0600.

SECTION 7. Sections 0657 and 0657.5 are added to Article 5 of Chapter 6 of the Lompoc City Code, to read as follows:

“Section 0657. Sterilization of Dogs Required; Exemptions.

- A. No person shall own or keep any dog within the City limits that the person knows, or should know, has not been spayed or neutered. This Section does not apply to animals meeting any criterion listed below.
1. Dogs under the age of four months;
 2. Service dogs;
 3. Dogs owned, kept, in the custody of, or controlled by nonresidents of the City who are traveling through or visiting the City for a period of thirty days or less;
 4. Dogs brought to the City exclusively for the purpose of entering the same in any dog show or exhibition, and which are actually entered in and kept at or near such show or exhibition;
 5. Dogs that are show dogs or breeding dogs, evidence of which must be submitted within ten days after request therefore by the Animal Control Officer. Evidence includes, but is not limited to, proof of registration with the American Kennel Club, American Dog Breeders Association, United Kennel Club, or similar national registry, or documentation that the dog has been or is being trained for the purpose of show, field trials, or agility trials.
 6. Dogs under treatment in the custody and control of animal hospitals or veterinary facilities;
 7. Dogs on sale in duly licensed pet shops;
 8. Dogs owned, kept, or controlled by any person having a permit to keep and maintain a kennel, provided that such dogs are kept enclosed within such pet shop or kennel and identified as set forth in Section 0618.A.8 during exercise and training;
 9. Law enforcement dogs;
 10. Any dog for which a state-licensed veterinarian has certified in writing that sterilization has a high likelihood of serious physical injury or death to the dog due to the dog's age or medical condition;

11. Any dog whose owner or keeper produces a valid exemption letter for such dog from the City Administrator or the City's Hearing Officer, as set forth in Section 0657.5 of this Code.

Section 0657.5 Sterilization Exemption Hearing.

- A. Whenever a dog is subject to mandatory sterilization pursuant to this Code the owner or keeper of such animal may request a public hearing to be held before the City's Hearing Officer. This request shall be made to the Hearing Officer within ten days after notice to such owner or keeper that sterilization of such dog is required. The owner or keeper of the dog may appear in person at the hearing or present a sworn written statement showing good cause why said dog should be exempted from mandatory sterilization. Good cause shall be shown by the owner's or keeper's presentation of facts in mitigation of mandatory sterilization.
- B. The Hearing Officer shall consider all facts, testimony, and sworn written statements as to the reason for the requested exemption. The Hearing Officer shall not be limited by technical rules of evidence. Not later than ten calendar days after the conclusion of this hearing, the Hearing Officer shall issue his or her written determination regarding exemption or nonexemption from mandatory sterilization, the reasons therefore, and such other conclusion as he or she deems appropriate under the circumstances, to protect the rights of the owner or keeper of said dog and to carry out the laws relating thereto.
- C. If the owner or keeper of the dog wishes to appeal the Hearing Officer's determination, he or she may, within ten calendar days after the determination, request a hearing before the City Administrator. The hearing shall be held in accordance with Subsections 0657.5.B, and 0657.5.C, above. The decision of the City Administrator shall be final, notwithstanding any other contrary provision of the City Code.
- D. If good cause for exemption from sterilization is not established by the dog's owner or keeper, the dog shall be sterilized as set forth below.
 1. A veterinarian, chosen by the Animal Control Officer, shall spay or neuter the dog. The owner or keeper of the dog shall pay the cost of such sterilization and reclaim the dog from the veterinarian after the sterilization procedure is completed; or
 2. A state-licensed veterinarian, chosen by the owner or keeper of the dog, shall spay or neuter the dog. The animal shelter may release the dog either to the owner or keeper or directly to the veterinarian prior to the sterilization; provided, however, that if the shelter releases the dog to the owner or keeper, he or she must first sign an affidavit affirming that he or she will arrange for the dog to be spayed or neutered within five days after the dog's release. Upon completion of the sterilization procedure, the owner or keeper shall

provide written documentation to the Animal Control Officer verifying that such procedure occurred. If the Animal Control Officer does not receive such documentation within thirty days after the dog's release, or if the owner or keeper of the dog fails to have the dog spayed or neutered within five days after the dog's release, the Animal Control Officer shall have the authority to impound the dog, and the owner or keeper may be charged with a violation of Section 0657 of this Code."

SECTION 8. Section 0659 is added to Chapter 6 of the Lompoc City Code to read as follows:

"Section 0659. Penalties for Violations.

- A. The violation of any provision of this Chapter may be prosecuted by the City Attorney, or redressed by civil action, as set forth in Section 0107 of this Code.
- B. Every violation determined to be an infraction is punishable by:
 - 1. A fine not exceeding one hundred dollars (\$100) for a first offense;
 - 2. A fine not exceeding two hundred dollars (\$200) for a second offense within one year after the first conviction; and
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation of this Chapter within one year after the second conviction.
- C. Every violation determined to be a misdemeanor is punishable by a fine of up to one thousand dollars (\$1,000) per violation or by incarceration in the County Jail for up to six months, or both."

SECTION 9. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, clauses, or phrases be declared unconstitutional or invalid.

SECTION 10. MAXIMUM PUBLICITY. Council encourages City staff to coordinate with the County of Santa Barbara and other interested parties to publicize the requirements of this Ordinance, educate pet owners about the negative effects of pet overpopulation, develop financial assistance programs where practical, and solicit the cooperation and support of the citizens of the City of Lompoc and the County of Santa Barbara in this endeavor to improve the public health, safety, and welfare.

SECTION 11. GRACE PERIOD. Council hereby directs that, on and after the effective date of this Ordinance, every person who applies for issuance or renewal of a license for an unaltered dog shall be advised of the requirements of this Ordinance and allowed

not less than an additional ninety days in which to comply with the applicable requirements of Lompoc City Code Chapter 6. Each person applying for issuance or renewal of a dog license is entitled to only one grace period. The City Administrator is directed to coordinate with the County of Santa Barbara to establish the necessary administrative procedures to implement this grace period.

SECTION 12. EFFECTIVE DATE. This Ordinance is effective on and after the thirty-first day after its adoption.

This Ordinance was introduced on September 19, 2006, and duly adopted by the City Council of the City of Lompoc, at its regular meeting on October 3, 2006, by the following electronic vote:

AYES: Councilmember(s):

NO: Councilmember(s):

Dick DeWees, Mayor
City of Lompoc

ATTEST:

Donna N. Terrones, City Clerk
City of Lompoc