

**NOTICE OF ADOPTION OF AN ORDINANCE OF THE CITY OF KINGSBURG  
AMENDING, IN ITS ENTIRETY, CHAPTER 6.04 OF TITLE 6 OF THE KINGSBURG  
MUNICIPAL CODE PERTAINING TO DOGS AND OTHER ANIMALS**

**NOTICE IS HEREBY GIVEN**, that on September 21, 2016, the City Council for the City of Kingsburg did adopt an ordinance Amending, in its entirety, Chapter 6.04 of Title 6 of the Kingsburg Municipal Code Pertaining to Dogs and Other Animals by the following vote:

Council Member voting aye: Roman, Creighton, Dix and Mayor Blayney

Council Members voting no: None

Council Members abstaining: None

Council Members absent: Smith

**The text of the ordinance is set forth below:**

**ORDINANCE NO. 2016-004**

**AN ORDINANCE OF THE CITY OF KINGSBURG AMENDING, IN ITS ENTIRETY, CHAPTER  
6.04 OF TITLE 6 OF THE KINGSBURG MUNICIPAL CODE  
PERTAINING DOGS AND OTHER ANIMALS**

The City Council of the City of Kingsburg does hereby ordain as follows:

**Section 1.** Chapter 6.04 of Title 6 of the Kingsburg Municipal Code is amended in its entirety as follows:

**6.04.010 Definitions.**

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in the following subsections of this section shall govern the construction, meaning and application of the words and phrases used in this chapter 6.04; and except to the extent a particular word or phrase is otherwise specifically defined herein, the definitions contained in Chapter 1.04 of Title 1 of this code, shall also govern the construction, meaning and application of the words and phrases used in this chapter. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative, as the case may be.

“Animal”: Any living vertebrate member of the animal kingdom.

“Animal Control Officer”: Unless otherwise designated by the State of California, City of Kingsburg, or Fresno County, the Chief of Police shall designate a police employee as the Animal Control Officer. In addition, all police officers of the city are required to perform the duties of the Animal Control Officer as may be required by the Chief of Police.

“At Large”: Means an animal off the premises of the person owning or having the possession, charge, custody, or control of the animal and not under the immediate control of a person by means of an enclosure, leash, rope, or other means of immediate effective physical control.

“Bird”: Any member of the bird family, including, but not limited to, parakeets, cockatiels, macaws, parrots, finches, conures and swans, domesticated to serve as a pet.

“Breeder”: Any person or entity which breeds two (2) or more litters of dogs in one year for sale or profit.

“Cat”: Any member of the feline family, male or female, domesticated to serve as a pet.

“Dog”: Any member of the canine family, male or female, domesticated to serve as a pet.

“Domesticated Animals”: Dogs, cats, small mammals, reptiles, amphibians and birds kept and maintained as household pets.

“Fowl”: Any chicken, duck, goose, turkey, guinea, pigeon, peacock or other fowl.

“Hearing Officer”: The Chief of Police or any designee of the Chief of Police.

“Impoundment”: Shall mean the taking up and confinement of any animal in the Pound or an animal shelter, veterinary hospital, or other facility.

“Litter”: A litter means two (2) or more offspring from one or more female dogs or cats located at the same premises.

“Livestock”: Any horse, pony, mule, burro, jack or jennie, cow, bull, calf, heifer, sheep, goat, swine, hog, pig, and all other domestic or domesticated animals other than household pets.

“Owner”: Any individual, partnership, limited liability company, corporation or other entity owning, having an interest in, having custody or possession of, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

“Person”: Any individual, partnership, limited liability company, corporation or other entity.

“Potentially Dangerous Dog” means any of the following:

1. Any dog which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.

Any dog which, when unprovoked, bites a person causing a less severe injury than as defined in Food and Agriculture Code Section 31604.

3. Any dog which, when unprovoked, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.

“Pound”: Means the place provided by the city for the impounding of animals, whether maintained directly by the city, or person pursuant to an agreement or contract with the city or in conjunction with another city or county.

“Premises”: Means a house, other dwelling, a yard or other area so enclosed as to prevent an animal from escaping.

“Private Property”: Means all property not defined as a “public place”.

“Public Event”: Means any event or festival permitted by the city that results in the gathering of people in areas closed to vehicular traffic.

“Public Place”: Any park, public building, playground, street, road, alleyway, or other place open to the general public.

“Restraint”: A leash not in excess of eight feet (8'), a tethered lead, or a fenced enclosure which keeps the animal under the control of a person or within the premises of the owner of the animal or the person who has possession, charge, custody or control of the animal.

“Unlicensed Dog”: Means any dog for which the city dog license for the current year has not been paid.

“Vaccination” or “Vaccination Against Rabies” means the inoculation of a dog with a vaccine approved by the city or the United States Public Health Service for use in the prevention of rabies in dogs.

“Veterinary Hospital”: Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

“Vicious Dog”: means any of the following:

1. Any dog seized under Section 599aa of the Penal Code and upon the sustaining of a conviction of the owner or keeper under subdivision (a) of Section 597.5 of the Penal Code.

Any dog which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.

3. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after its owner or keeper has been notified of this determination, continues such behavior.

#### **6.04.020 - Licenses Generally.**

A. All dogs over four (4) months of age, kept, harbored or maintained by their owners in the city shall be licensed and registered. Within thirty (30) days after acquiring a dog, the owner of the dog must file: (i) an application for licensing and registration with the city clerk together with a vaccination certificate, as required by Section 6.04.040 of this chapter; (ii) proof the dog has been micro-chipped as required by Section 6.04.125 of this chapter; and payment of a license fee as set by city council resolution. Licenses shall be valid for the fiscal year July 1

to June 30, and shall be purchased annually. The provisions of this section are not intended to apply to dogs whose owners are nonresidents temporarily within the city or to dogs brought into the city for the purpose of participating in any dog show.

B. Every person owning or keeping a dog that has been specifically trained and certified as an aid to a person with a physical or mental disability, including, without limitation, seeing eye dogs, must be licensed and registered, obtain a vaccination certificate and must be micro-chipped but shall be exempt from payment of license fees.

C. All dog licenses shall be issued for a period terminating on the thirtieth (30th) day of June of each year. For a license issued prior to January 1 of any year, a full year license fee shall be paid. For a license issued after the first day of January of any year, only one-half of the annual license fee shall be paid. Any penalty payments associated with dog licenses shall be paid in the same fashion as the dog license fee.

D. No dog license shall be issued for any dog unless the owner of the dog shall present to the city clerk a certificate by a licensed veterinarian (vaccination certificate) that the dog has been vaccinated in accordance with Section 6.04.040.

E. Any dog which is unlicensed or which the license fee is unpaid, or upon which the owner refuses to obtain a license or pay the license fee, or refuses to have the dog vaccinated and micro-chipped as required by this chapter, may be lawfully taken up and impounded by an animal control officer and it shall be lawful for an animal control officer to enter upon the property of any person for the purpose of taking up and impounding the dog. Any dog taken up and impounded as provided herein shall be held at the pound for ten (10) days. If the requirements of this Section are not met within said ten (10) days, the animal control officer shall cause the dog to be disposed of in accordance with the provisions of subsections F and G of Section 6.04.050. In addition to payment of license fees, the owner shall also pay redemption and impoundment fees.

#### **6.04.030 - License Tags.**

Upon payment of the license fee set by resolution of the city council, the city clerk shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The shape of the tag shall be changed every year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn by the dog. In case a dog tag is lost or destroyed, a duplicate will be issued by the city clerk upon presentation of a receipt showing the payment of the license fee for the current year, and the payment of a fee, as set by city council resolution, for such duplicate dog tag. Dog tags shall not be transferable from one dog to another, and no refunds shall be made of any dog license fee because of death of the dog or the owner's leaving the city before expiration of the license period.

#### **6.04.040 - Rabies Vaccination.**

A. Every person who keeps or harbors any dog or other animal requiring rabies vaccination shall have same vaccinated with a vaccine approved by the California Department of Health by a duly licensed veterinarian. Said vaccination against rabies shall commence with dogs over four (4) months of age ("**Initial Vaccination**") and all other animals as required by

standards of veterinary medicine practices. Dogs and cats shall be re-vaccinated one (1) year after the Initial Vaccination and at least every three (3) years thereafter.

B. Upon demand of any animal control officer, every person keeping or harboring any animal that requires vaccination against rabies shall produce a current certificate of vaccination for said animal.

C. The animal control officer shall impound any animal which has not been vaccinated as required by this section.

D. Every person practicing veterinarian medicine in the city who vaccinates dogs or other animals with rabies vaccine shall issue to the owner thereof a certificate signed by such veterinarian which states:

1. The name and address of the owner of the vaccinated animal;
2. The kind of vaccine used, the name of the manufacturer, the manufacturer's serial or lot number and the date of vaccine;
3. The breed, age, color and sex of the vaccinated dog;
4. Year and number of the license tag of the vaccinated dog.

E. The animal control officer shall take up and place in isolation any dog, cat or other animal which in the opinion of the owner of the animal, a licensed veterinarian or the animal control officer displays symptoms suggestive of rabies. Such isolation shall be at the pound unless the owner of the dog or cat, with the approval of the animal control officer, arranges with a licensed veterinarian for such isolation in a private animal hospital or clinic. Any dog or cat placed in such isolation shall be kept strictly confined and under such observation as may be required by the animal control officer. Isolation shall continue for at least ten (10) days from the date the symptoms suggestive of rabies were first observed. The isolation may be continued for a period longer than ten (10) days if, in the opinion of any licensed veterinarian or the animal control officer, a longer period is necessary. At the expiration of the isolation period, any dog or cat confined at the pound shall be released upon payment of the fees set by resolution of the city council.

F. It shall be the duty of every licensed veterinarian in the city to report immediately to the animal control officer any animal observed by him/her as having rabies or is suspected of having rabies.

G. It shall be the duty of every physician, or other person, to report to the animal control officer the name and address of any person treated for a bite inflicted by an animal of a species subject to rabies infections, and any other information as required by the animal control officer.

H. The animal control officer shall take up, impound, and isolate for at least ten (10) days following the date of the alleged bite, any animal of a type subject to rabies that is reported to have bitten any person, whether or not such animal displays any symptoms suggestive of rabies. The animal shall be impounded and isolated in the manner provided in Subsection E above.

I. Any person who is 18 years of age or older may, however, make written request to the animal control officer for the isolation of such biting animal either in facilities provided by a licensed veterinarian or in a licensed boarding kennel or upon the private premises of the person making such request. If such request is approved by the animal control officer, such biting animal shall not be taken up and impounded but shall instead be kept strictly confined and isolated in such veterinarian's facilities or on such private premises for the isolation period.

J. Every person who, after requesting and obtaining approval for the keeping of a biting animal confined and isolated upon his/her private premises, fails for any reason whatsoever to keep such animal continuously confined and isolated upon his/her premises, either indoors or inside an enclosure, for a period of ten (10) days after the day such written approval of such confinement and isolation by the animal control officer, is guilty of an infraction. Any such animal, whether licensed or unlicensed, not continuously confined and isolated as required shall be taken up forthwith by the animal control officer and isolated as provided in Subsection E of this Section 6.04.040.

K. No person shall bring an animal or permit an animal to enter the city in which rabies exists, or has existed within the previous six (6) months unless the animal has been vaccinated with anti-rabies vaccine, and the owner of the animal has an official tag or other receipt showing that the animal has been vaccinated by a duly licensed veterinarian.

#### **6.04.050 - Redeeming Impounded Animals.**

A. The animal control officer upon the impounding of any animal, shall notify the owner, if known, in accordance with the provisions of Subsection F. of this Section 6.04.050, or if unknown by posting a notice of impound containing a description of the animal and the time and place of apprehension for five (5) days on the city website. After the expiration of this period, any unredeemed animal may be disposed of as provided for in subsection G of this Section 6.04.050.

B. Except as otherwise provided in Section 6.04.040, 6.04.117, 6.04.118, the owner of any animal impounded in accordance with the provisions of this chapter may at any time before the disposition of the animal redeem the animal. Upon proof satisfactory to the animal control officer that such person is the owner and is entitled to redeem such animal and upon payment of the redemption and maintenance charges as established by city council resolution and upon obtaining a city dog license, if the dog is unlicensed and required to have such license, such animal may be redeemed by such person. The animal control officer shall issue a redemption receipt to the person redeeming the animal. The redemption receipt shall identify the amount of fees paid by the person redeeming the animal and contain a description of the animal redeemed, the date of redemption and the name and address of the person redeeming the animal.

C. Redemption fees and maintenance charges shall be set by city council resolution and based upon the number of times an animal is impounded, as follows:

1. First time within six months: Basic redemption fee.  
Second time within six months: Double the basic redemption fee.
3. Third time within six months: Triple the basic redemption fee.

4. Each time after the third time within six (6) months: One Thousand Dollars (\$1,000.00).

D. The city is authorized at its discretion to hold for a period of ten (10) days any impounded dog in heat prior to redemption or disposal.

E. If any unlicensed animal or any dog bearing no license tag, is impounded under the provisions of this chapter and is not redeemed within ten (10) days after the date the animal is impounded, the animal control officer may at any time thereafter dispose of the animal as provided in subsection G of this Section 6.04.050.

F. If a dog licensed in accordance with the provisions of this chapter is impounded under the provisions of this chapter, the dog shall not be disposed of until after written notice has been given by the animal control officer to the owner of said dog at the address set forth in the city licensing records. The notice shall contain a description of the dog impounded, the breed, sex, the date the dog was impounded and identifying the amount necessary to redeem the dog. The notice shall be served by mailing by United States mail to the owner of the dog at the last address of the owner as shown on the city's licensing records. If no person appears and redeems the dog within ten (10) days after the date of mailing of the notice or within ten (10) days after the dog was impounded, whichever is later, the animal control officer shall cause the dog to be disposed of as provided in subsection G of this Section 6.04.050.

G. If the animal impounded is not redeemed within the redemption period or if the owner fails or refuses to comply with any of the requirements of redemption, the animal control officer shall dispose of the animal according to the provisions of this Subsection G. In disposing of an impounded animal, the animal control officer may, in his/her discretion: 1) release the animal to an animal adoption organization; 2) release the animal to an animal rescue organization; or 3) euthanize the animal in a humane manner and as provided by applicable law.

H. All animals impounded by the animal control officer shall be kept at the risk of the owner, and neither the city nor its officials, officers, agents or employees shall be liable to the owner for the delivery in good faith of any such animal to a person claiming to be, but not in fact being, entitled to reclaim the animal. Neither the city nor its officials, officers, agents or employees shall be liable for injury or disease to any animal incurred while the animal is being captured, transported, impounded, or liable for the disposition of any animal.

#### **6.04.060 - Duties of Animal Control Officer.**

A. The duties of the Animal Control Officer shall be as follows:

1. To take up and impound any dog or other animal as required by this chapter, including, without limitation, dogs or other animals found to be running at large, staked or tied or in any public place within the city or upon the premises of any person other than the owner of such animal or as otherwise required by this chapter.

2. To make a complete registry of impounded animals, identifying as to each animal, the date of receipt, the breed, color, and sex of such animal, and if licensed, the number of such license and the name and address of the owners, if any, the date and manner of disposal and such additional records as may be required by the city from time to time.

3. To operate and maintain the pound.

#### **6.04.070 - Authority of Animal Control Officer.**

A. Each animal control officer shall have, and is hereby vested with the authority in the performance of their duties, to enter upon any property pursuant to law, to ascertain if any of the provisions of this chapter or any laws, regulations or ordinances including, without limitation, the provisions of this chapter or any law, regulations or ordinances relating to disease, care, treatment, or cruelty to animals is being violated. Each animal control officer may issue citations for the violation of the provisions of this chapter, any law, regulation or ordinance in the manner prescribed by said law, regulation or ordinance, and remove animals from said premises as the animal control officer deems necessary. The authority to issue citations in the manner prescribed by the city shall be in addition to any other authority provided by law.

B. In the performance of duties for the control of animals, the animal control officer shall have the authority to employ the use of the tranquilizer gun or other animal control devices in common use within the State of California.

C. In addition to other authority provided by law for making arrests, the animal control officer is authorized to make arrests according to California Penal Code Section 836.5 for the purpose of enforcing and carrying out provisions of this chapter.

D. Every person who willfully resists, delays, or obstructs the animal control officer in the discharge of or attempt to discharge, any duty of his/her office is guilty of a misdemeanor.

E. For the purpose of enforcing or discharging the duties of the animal control officer, imposed by this chapter, Health and Safety Code Section 121625, Government Code Section 53074, or other applicable laws, the animal control officer or any police officer may enter upon private property, except dwellings, as follows:

(a) When in pursuit of any animal which the officer has reasonable or probable cause to believe is subject to impoundment.

(b) To impound or place in isolation or quarantine any animal which the officer has any cause whatsoever to believe or suspect has rabies, is a biting animal, is a potentially dangerous or vicious dog.

(c) To inspect or examine animals isolated on the property.

F. Except when time does not permit, such as in an emergency or when in fresh pursuit, before entering upon private property reasonable effort shall be made to locate the property owner or possessor to request permission to enter upon the property and to explain the purpose for entry.

#### **6.04.080 - Animal Care.**

It shall be unlawful for the owners or persons having custody of any animal to permit, either willfully or through failure to exercise due care or control, any cruel acts upon any animal. "Cruel acts" are defined as follows:

A. To place, leave or expose, making accessible to animals, any poisonous substance.

B. To have, keep, or harbor any animal which is infected with any dangerous or incurable or painfully crippling condition. This Section shall not apply to animals within veterinary hospitals or under the care of a veterinarian, or having been diagnosed with any common, incurable disease where impoundment or quarantine is not recommended by a doctor of veterinary medicine.

C. To fail, refuse, or neglect to provide any animal in their charge or custody as owner or otherwise, with food, drink, shade or weatherproof housing facilities, or to carry any animal in or upon any vehicle in a cruel or inhumane manner.

D. To willfully, or maliciously kill, maim, disfigure, tease, torture, beat with a stick, chain, club, or other object, mutilate, burn, scald with any substance, overdrive or other cruelty set upon any animal, except that a reasonable force may be employed to drive off vicious or trespassing animals.

E. To promote, stage, hold, manage, conduct, carry on, or attend any game, exhibition, contest, or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal or person.

F. No person shall keep upon any premises, any animals in a foul, offensive, obnoxious, filthy or unsanitary condition.

#### **6.04.090 - Limits on the Number of Animals.**

No person shall keep, harbor or maintain upon the person's premises within the city more than a total of four (4) dogs over the age of four (4) months of age, and no more than a total of six (6) animals including dogs.

#### **6.04.110 - Excessive Noise, Nuisance.**

It shall be unlawful for any dog to be kept in the city, which, in a loud manner, excessively barks, howls, whines or makes any other noises which disturb the comfort or quiet enjoyment of any neighborhood or any person; provided the owner of the dog has been made aware of the disturbance created by the dog by the animal control officer. A dog cited for loud and excessive noises three (3) or more times within a twelve (12) month period shall be deemed a public nuisance and the owner shall remove the dog from the city's incorporated limits. The failure of the owner to remove the dog in violation of this section is a misdemeanor as provided in section 6.04.122 B. of this chapter.

#### **6.04.111 - At Large, Prohibited.**

It shall be unlawful for any person having the ownership, care or possession of a dog or any other animal to allow or permit the dog or other animal (except a cat which has been spayed or neutered) to run at large within the city. A dog or other animal (except a cat which has been spayed and neutered) that is at large three (3) or more times within a twelve (12) month period shall be deemed a public nuisance and the owner shall remove the dog or other animal from the city's incorporated limits. The failure of the owner to remove the dog in violation of this section is a misdemeanor as provided in section 6.04.122 B. of this chapter. Except that,

subject to the rules and regulations issued by the city regarding the use of the city dog park, an owner of a dog or any person having custody or control of a dog, may allow the dog to go upon and run at large within that portion of the city identified as the Laurel Street Ponding Basin which is specifically designated by the city as a dog park area.

#### **6.04.112 - Animal Bites.**

Whenever it is shown that any animal has bitten any person, the owner of the animal shall, upon the order of the animal control officer, quarantine the animal and keep it tied up and confined for a period of ten (10) days, and shall allow the animal control or other authorized official to make an examination of the animal at any time during the period of quarantine.

#### **6.04.113 - Prohibited Animals.**

No animal, whether domesticated, undomesticated or exotic, other than common household pets such as a dog, cat, bird (domestic or exotic), rodent (including a rabbit), fish (domestic or exotic), turtle or small reptile traditionally kept at a personal residence for pleasure rather than for commercial purposes, shall be kept within the city limits of the city unless specifically allowed to be kept in the city limits of the city by the applicable provisions of the Kingsburg Municipal Code. As used herein, domesticated animal means livestock, poultry and similar animals. Exotic animal means any animal that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. The provisions of this Section 6.04.118 A. shall not include animals that are used to assist persons with disabilities as the term disability is defined in the Americans With Disabilities Act.

#### **6.04.114 - Breeder Permit.**

A. It shall be unlawful for any person to breed two (2) or more litters of dogs or cats in one calendar year without first obtaining a breeder permit. A person seeking a Breeder Permit must complete a Breeder Permit application in the form established by the city. The fees for a breeder permit shall be set by resolution of the city council and must be submitted to the city clerk along with the Breeder Permit application.

B. Breeding permit requirements are as follows:

1. No offspring can be sold/adopted until the offspring is eight (8) weeks of age;

No offspring can be sold/adopted until vaccinated against common diseases;

3. The breeder permit holder must display the Breeder Permit number when advertising the animals for sale or adoption.

C. It shall be unlawful for any breeder to advertise for the sale or adoption of a litter of dogs or cats in the city without including in the advertisement a city Breeder Permit number.

#### **6.04.115 - Prohibition of Potentially Dangerous or Vicious Dog.**

It shall be unlawful for a person to own, keep or harbor a potentially dangerous or vicious dog. Any dog which has been found to be potentially dangerous or vicious pursuant to

the chapter, any county or ordinance or any state statute, shall be conclusively presumed to be potentially dangerous or vicious.

#### **6.04.116 - Procedure to Determine if a Dog is Dangerous or Vicious.**

A. The animal control officer shall determine whether a dog is potentially dangerous or vicious whenever it has attacked, bitten or caused injury to any human or other animal. Within five (5) days after a dog which is wearing a license tag is impounded pursuant to this chapter, an animal control officer shall mail a written notice, to the person identified as the owner of the dog as identified in the city licensing documents for the dog, of the animal control officer's determination that the dog is potentially dangerous or vicious and of the owner's right to a hearing on the issue of whether the dog is potentially dangerous or vicious. If the dog is not wearing a license tag the animal control officer shall make a reasonable effort to locate the owner of the unlicensed dog. If the animal control officer does not locate the owner of the unlicensed dog, the animal control officer shall dispose of the dog in accordance with the provisions of Section 6.04.119 C of this chapter.

B. The owner of a dog impounded pursuant to this Section may, within ten (10) days after the date of the written notice from the animal control officer request a hearing on whether the dog is potentially dangerous or vicious by providing the animal control officer with a written request for a hearing within said ten (10) day period. Failure of the owner to request, in writing, a hearing within said ten (10) day period, shall constitute the owner's waiver of the hearing and the determination by the animal control officer that the dog is potentially dangerous or vicious shall be binding on the owner of the dog.

C. If an owner properly requests a hearing, the animal control officer shall retain the services of a veterinarian or other person licensed to perform a behavioral study of the dog to determine whether the dog can be rehabilitated or retrained to eliminate the dangerous and vicious character of the dog. If the Hearing Officer finds the dog to be potentially dangerous or vicious, the owner of the dog shall reimburse the city the cost of the behavioral study.

D. When a hearing is requested pursuant to subsection B of this Section, the animal control officer shall set a date and time for such a hearing and send a notice thereof by regular mail at least ten (10) days before the hearing date to the owner at the address set forth on his or her request and shall also notify the victim and the Hearing Officer.

#### **6.04.117 - Conduct of Hearing.**

A. A hearing requested in accordance with subsection 6.04.116 B of this chapter shall be conducted before the Hearing Officer. The Hearing Officer shall be the Chief of Police or his designee.

B. The hearing shall be open to the public. The owner may be represented by legal counsel. The Hearing Officer shall hear all pertinent evidence offered by all interested persons. The technical rules of evidence shall not be applicable to the hearing, except that the Hearing Officer's decision may not be based wholly on hearsay evidence. Each side shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues at the hearing even though the matter was not covered in the direct examination; and to rebut the evidence against him or her.

C. If the owner does not testify on his or her behalf, he or she may be called and examined as if under cross-examination, except where criminal charges under Sections 6.04.121 and 6.04.122 of this chapter are pending against the owner or if it is possible that such charges may be brought against the owner. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to record the hearing.

D. Any dog which has attacked, bitten or caused injury to a human being or other animal is presumed to be potentially dangerous or vicious and the burden is on the owner to present evidence that the dog is not potentially dangerous or vicious.

E. In making a determination that a dog is or is not potentially dangerous or vicious, evidence of the following shall be considered:

1. Any previous history of the dog attacking, biting or causing injury to a human being or other animal;

The nature and extent of injuries inflicted and the number of victims involved;

3. The place where the bite, attack or injury occurred;

4. The presence or absence of any provocation for the bite, attack or injury;

5. The extent to which property has been damaged or destroyed;

6. Whether the dog exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting;

7. Whether the dog exhibits characteristics or aggressive or unpredictable temperament or behavior in the presence of human beings, other dogs or other animals;

8. Whether the dog can be effectively trained to change its temperament or behavior;

9. The manner in which the dog has been maintained by its owner;

10. The results of the behavioral study of the dog;

11. Any other relevant evidence concerning the characteristics or maintenance of the dog; and

12. Any other relevant evidence regarding the ability of the owner to protect the public safety in the future if the dog is permitted to remain in the city.

#### **6.04.118 - Hearing Decision.**

A. At the conclusion of the hearing, the Hearing Officer may determine:

1. That the dog is not a potentially dangerous or vicious dog and should be returned to its owner;

2. That the dog is not potentially dangerous or vicious, but the attack, bite or injury was the result of improper or negligent training, handling or maintenance and that the dog's license should be revoked and proper training of the owner and the dog be required pursuant to Section 6.04.122 of this chapter.

3. That the dog is a potentially dangerous or vicious dog and shall be disposed of in accordance with Section 6.04.119 C, no sooner than thirty-five (35) days following the date or mailing of written notice of the Hearing Officer's decision, pursuant to this Section.

B. The decision of the Hearing Officer shall be in writing and shall be delivered personally to the owner or mailed to the owner by regular mailing at the address appearing on the request for hearing. A copy of the decision shall be mailed to the animal control officer.

C. If the owner of the dog disagrees with the decision of the Hearing Officer, the owner may, within ten (10) days after the date of mailing of the Hearing Officer's decision to the owner of the dog, file an appeal of the decision of the Hearing Officer with the Fresno County Superior Court as provided in California Food and Agricultural Code Section 31622 (a). The owner's appeal of the Hearing Officer's decision will be conducted pursuant to the provisions of California Food and Agricultural Code Section 31622 (b).

#### **6.04.119 - Disposition of a Potentially Dangerous or Vicious Dog.**

A. It shall be unlawful for any person to own, possess, harbor or keep any dog declared to be potentially dangerous or vicious pursuant to this chapter.

B. Any dog declared to be potentially dangerous or vicious, if not already impounded, shall be immediately surrendered to the animal control officer and it is the duty of the animal control officer to take up and impound any such animal.

C. Any dog declared to be potentially dangerous or vicious shall be humanely destroyed. The animal control officer shall sign an order authorizing the destruction of the animal thirty-five (35) days after the date of the mailing of the Hearing Officer's decision to the owner of the dog.

#### **6.04.120 - Procedure if Dog is Not Found Potentially Dangerous or Vicious.**

A. If it is determined that the dog is not potentially dangerous or vicious, but that the bite, attack or injury was the result of improper or negligent training, handling, maintenance or provocation, then the following conditions will be enforced:

1. Training will be required of the owner and the dog as determined by the Hearing Officer and monitored by the animal control officer.

The current license will be revoked and a "provisional" dog license will be issued during a training period.

3. After successful completion of the training of the dog, as determined by the animal control officer, the dog shall be issued a current city dog license and the owner will pay all license fees and penalties as may be required.

4. Any violation of the training terms set forth by the Hearing Officer will result in immediate impoundment. The dog will be declared to be potentially dangerous or vicious and humanely destroyed no sooner than ten (10) days after mailing a notice of violation of training and impoundment.

#### **6.04.121 - Penalties for Dog Bites and Attacks.**

A. In any case where a dog attacks a human being or another animal, such act shall constitute a separate and distinct violation, and shall be punishable as follows:

1. Any person whose dog attacks a human being without causing bodily injury, or attacks another animal, shall be guilty of an infraction and shall be punished upon a first conviction by a fine of One Hundred Dollars (\$100.00) and for a second conviction within a period of twelve (12) months by a fine of Two Hundred Dollars (\$200.00) and for a third or subsequent conviction within twelve (12) months, by a fine of Five Hundred Dollars (\$500.00).

2. Any person whose dog attacks a human being causing bodily injury shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the County jail for not more than six (6) months, or by both such fine and imprisonment.

3. After each attack or bite, the animal control officer shall determine whether a dog is potentially dangerous or vicious pursuant to Section 6.04.118 of this chapter.

#### **6.04.122- Penalties Generally.**

A. Except as otherwise provided in Section 6.04.121 of this chapter, any person violating any provision of this chapter shall be deemed guilty of an infraction and shall be subject to the following fines:

One Hundred Dollars (\$100.00) upon the first offense.

Two Hundred Dollars (\$200.00) upon the second offense in a twelve (12) month period.

Five Hundred Dollars (\$500.00) upon the third offense in a twelve (12) month period.

B. If any violation is continued, each day's violation shall be deemed a separate violation. Any person found guilty of more than three (3) violations of this chapter within a twelve (12) month period shall be deemed guilty of a misdemeanor and fined up to one thousand dollars (\$1,000.00) or imprisoned in the county jail for not more than six (6) months for each misdemeanor conviction. The person shall also pay any and all expenses, including shelter, food, veterinarian expenses for identification or certification or boarding associated with the seizure of their dog.

#### **6.04.123 - Protection of Police Canine Units.**

A. It shall be unlawful for any person to willfully or maliciously torture, tease, torment, beat, kick, strike, mutilate, injure, disable or kill any dog used by the city of Kingsburg police department, or any other law enforcement agency while engaged in mutual aid assistance to this city, or the designated handlers of such animals, while any such dog is in the performance of the functions or duties of the police department or other law enforcement

agency, or to willfully interfere with or obstruct any such dog while it is being used in the performance of any of the duties or functions of the department or other law enforcement agency.

B. No provision of this section shall be constructed to prohibit any act made unlawful by any general law of the state of California, but said section is intended to be supplemental thereto.

**6.04.124 - Public Events or Assemblies.**

The city council may, by resolution, prohibit dogs whether or not confined by leash, from attendance at any public event as that term is defined in Section 6.04.010 and any assembly as that term is defined in Section 12.16.010 of this code. The prohibition of dogs shall not apply to guide dogs and other service dogs to assist disabled persons attending the public event or assembly.

**6.04.125 - Mandatory Microchipping of Dogs.**

Any dogs in the city shall be implanted with an identifying microchip. The owner is required to provide the microchip number to the city clerk and shall notify the city clerk and the national registry applicable to the implanted chip of any change of ownership of the dog or any change in the owner's contact information. Upon redemption of a dog from the pound, the owner shall comply with this section and have the dog implanted with a microchip and provide microchip number to the city clerk.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Kingsburg, duly called and held on the 21<sup>st</sup> day of September, 2016, by the following vote:

AYES: Council Members: Creighton, Dix, Roman and Mayor Blayney

ABSENT: Council Member: Smith

APPROVED: \_\_\_\_\_  
Mayor Blayney

ATTEST: \_\_\_\_\_  
City Clerk

STATE OF CALIFORNIA    )  
COUNTY OF FRESNO     )ss  
CITY OF KINGSBURG     )

I, **ABIGAIL PALSGAARD**, City Clerk of the City of Kingsburg, do hereby certify the foregoing ordinance was duly introduced at a regular meeting of the City Council of the City of Kingsburg on the 7<sup>st</sup> day of September, 2016, and it was duly passed and adopted at a regular meeting of said City Council held on the 21<sup>st</sup> day of September, 2016.

Dated: September 22, 2016

\_\_\_\_\_  
ABIGAIL PALSGAARD, City Clerk