ORDINANCE NO. 11-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AVENAL, CALIFORNIA, AMENDING TITLE 6, CHAPTER 1.06 OF THE AVENAL MUNICIPAL CODE RELATING TO IMPOUNDED ANIMALS

WHEREAS, the City Council of the city of Avenal finds and declares that a contributing cause of the serious dog overpopulation problem within the City fo Avenal is the number of unaltered dogs found at large;

WHEREAS, the City Council wished to promote responsible pet ownership as a means for promoting the public health, safety, and welfare of humans and pets in the City of Avenal;

WHEREAS, the City Council finds and declares that mandatory spaying or neutering of dogs is appropriate when dog owners fail to act responsibly to prevent their animals from being at large.

THE CITY COUNCIL OF THE CITY OF AVENAL, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Title 6, Chapter 1.06 of the Avenal Municipal Code, City of Avenal, County of Kings, is hereby amended to read as follows:

6.1.06 Animals to be impounded.

Every animal kept or found in violation of the provisions of this chapter may be taken up and impounded by the Chief of Animal Control. Such animal may be redeemed by the owner or person entitled to its possession within seventy-two hours thereafter on the payment of such fees and charges as provided by resolution, but, if not so redeemed, such animal may be destroyed by the Chief of Animal Control. If no person appears and redeems said dog within seventy-two hours from the giving of the notice as herein provided, the person in charge of the impound facility may cause and direct the dog to be sold or may cause and direct the dog to be placed with a home by such person to be suitable. The receipt for the sale thereof, shall be a valid title to the purchaser, subject, however, to the right of redemption as set forth in this chapter.

In order to reduce the likelihood that dogs allowed to be at large shall breed unwanted animals, any dog impounded for being at large which previously has been redeemed from the Animal Control Shelter after impoundment for being at large shall be spayed or neutered at the redeeming owner's expense prior to a second or subsequent redemption. The Chief of Animal Control may waive this requirement when there are extenuating circumstances that justify waiver.

To ensure the sterilization of a redeemed animal, the owner shall be required to pay a Seventy Five Dollar ($75.00) deposit to the City of Avenal prior to redeeming his/her dog for spaying or neutering. This amount may be increased or decreased as the law changes and/or is modified. If the animal is not sterilized within fourteen (14) business days from the date of redemption/payment of deposit, the deposit shall be forfeited to the City. Once the animal has been sterilized, as evidenced by a written statement signed by a licensed veterinarian, the entire deposit will be refunded to the owner within 30 days of the owner providing such evidence to the City. The forfeited funds may be expended only for programs to spay/neuter dogs and cats.

In the event the Chief of Animal Control determines that a dog shall be spayed or neutered at the redeeming owner's expense prior to redemption, the Chief of Animal Control shall notify the owner of this requirement in writing and inform the owner of the owner's right to appeal as provided in this section.

The owner of the animal may, prior to the date specified by the Chief of Animal Control in the written notice, appeal the determination of the Chief of Animal Control by filing a notice of such appeal with the Chief of Animal Control. The city manager shall appoint a hearing officer, who may be an employee of the city.

The hearing shall be informal. The hearing officer shall determine, based on evidence presented, whether the Chief of Animal Control correctly determined that the requirement to spay or neuter applies, and if so, whether there are any extenuating circumstances which justify waiver of the requirement to spay or neuter, or waiver of the requirement that the owner pay for the procedure, The decision of the hearing officer shall be final.

Section 2. That the City Clerk shall certify to the passage of this Ordinance and will see that it is published and posted in the manner required by law.

Section 3. This Ordinance shall take effect thirty (30) days from the date of the passage hereof.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit A, is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Avenal hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

PASSED, APPROVED and ADOPTED on March 24, 2011, by the following roll cal vote:

AYES:

NOES: None.
ABSENT: Casida.
ABSTAIN: None.

Mayor Pro Tem

ATTEST:

City Clerk