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March 9, 2004

PUBLIC SAFETY COMMITTEE  
OAKLAND CITY COUNCIL  
Oakland, California

**Re: AN ORDINANCE AMENDING SECTION 6.04.320 OF THE OAKLAND MUNICIPAL CODE CONCERNING THE KEEPING OF FOWL IN THE CITY AND PROHIBITING THE KEEPING OF ROOSTERS IN THE CITY; ADDING SECTION 6.04.390 TO THE OAKLAND MUNICIPAL CODE TO PROHIBIT THE KEEPING OF CERTAIN FARM ANIMALS ON PROPERTIES SMALLER THAN ONE ACRE; ADDING SECTION 6.04.400 TO LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO FOUR; AND ADDING SECTION 6.04.410 TO ADD EXEMPTIONS TO THE PROVISIONS OF THIS ORDINANCE**

Members of the Public Safety Committee:

Oakland's Municipal Code does not restrict the number of animals permitted in a household or single premise. Neighboring cities and many cities similar in population to Oakland have established codes limiting the number of and keeping of certain animals. Consequently, we are exposed to more opportunities for problems and complaints related to animal nuisances. These nuisances can be difficult and time consuming to abate. In order to protect the quality of life in Oakland neighborhoods, the ordinance proposes the following:

- 1) limit the number of chickens, ducks, geese and other fowl to a combination of no more than two (2) and require that they be kept in an enclosure;
- 2) prohibit roosters on any property;
- 3) prohibit the keeping of certain farm animals, i.e. sheep, goats, pigs, on any property smaller than one acre;
- 4) limit the number of dogs on any premise to four (4) (an exemption is allowed for dogs under 4 months and individuals who currently own more than four licensed dogs for the dogs they currently own);

- 5) the ordinance shall not apply to any property where such activity is permitted by any other provision of the Oakland Municipal Code or Oakland Planning Code and for which all necessary land use permits have been issued or the activity qualifies as a legal non-conforming use;
- 6) the effective date of the ordinance shall be August 1, 2004.

## **BACKGROUND**

Current city codes do not place a limit on the number of animals that may be kept on any one premise within the city limits. Consequently, the potential for problems requiring animal control and code compliance intervention can be expected to be quite high. Typical complaints about animals are related to noise, offensive odors, fly infestation and general unsanitary conditions as the result of a pet owner's failure to care for animals in a responsible manner. Further, there is nothing in the code currently that prevents a property owner from keeping smaller farm animals like goats, sheep, or pigs, regardless of the density of their neighborhood. According to Animal Control and Code Compliance, these problems are exacerbated when too many dogs or certain farm animals are kept on small parcels of property.

## **FISCAL IMPACT**

The proposed ordinance would have no fiscal impact. However, it could potentially reduce the number of nuisance complaints and staff resources required to abate complaints in the future.

## **KEY ISSUES AND IMPACTS**

The purpose of the ordinance is to establish regulations related to pet ownership that will protect the quality of life in all Oakland neighborhoods. Similar quality of life policies have been adopted in the neighboring cities of Berkeley, Alameda and San Leandro. In many instances the limitations adopted by those cities are more stringent than the proposed ordinance. The cities of Sacramento, Fresno and Santa Anna are similar to Oakland in population size and also have legislation limiting the number of animals on premises.

### Roosters and Fowl

Contrary to popular myth, roosters do not limit their crowing to sunrise hours, but crow at any time of the day or night. Over the last year, there have been approximately 44 complaints related to rooster crowing and/or odors related to animal waste and unsanitary conditions. Of the 44 complaints investigated, officers found evidence of cock fighting at 18 locations. As with all animal abuse situations, these roosters were confiscated immediately. Cases requiring immediate confiscation place a burden on the animal shelter because it is ill equipped to house fowl.

Complaints received regarding chickens and ducks have largely been associated with odors and fly infestation caused by animal waste.

### Dogs

The most common complaints related to dogs are excessive barking and a dog owners failure to maintain sanitary conditions on a property with large numbers of dogs. Excessive barking can be caused by a single dog that has been tied up in a yard and is lonely or bored. Barking becomes a bigger and out of control problem when five or six dogs are on the same property and one unhappy dog in the pack triggers all the dogs to bark both on the offending property and on neighboring properties as well. The barking can occur any time of the day and night and can last for hours at a time. Unfortunately, households keeping more than four dogs are more likely to keep dogs outside their house than inside, particularly if the dogs are big. Another typical complaint related to large numbers of dogs in backyards comes from seniors and parents of young children fearful that the dogs will break down or jump over a fence and attack them or their child. Finally, if a pet owner has problems promptly removing animal waste, such waste creates offensive odors and fly infestations that are unsanitary and disturbing to residents in close proximity. This problem grows exponentially when the number of dogs increases.

### Small Farm Animals

The keeping of horses, donkeys and mules are addressed in our municipal code and require a conditional use permit. However, keeping small farm animals like goats, pigs and sheep as pets is not addressed and therefore currently allowed. The ordinance proposes to prohibit the keeping of small farm animals as pets if the property is smaller than one acre.

### Effective Date

The ordinance proposes an effective date of August 1, 2004 to allow pet owners sufficient time to license animals and establish ownership dates.

### Exemptions

The proposed ordinance offers exemptions to the four dog limit for those households which currently own more than four licensed dogs. If the dogs are not currently licensed, owners are encouraged to do so immediately, in order to establish a date of ownership prior to the effect of the proposed ordinance. While these households are exempt from the four limit rule, they may not add dogs to the household in the future or replace pets that no longer reside on the premises if replacement of the dog will exceed the four dog limit.

While the ordinance will not eliminate the problem of barking dogs, it does promise to improve the quality of life for residents by preventing the spread of disease and potential

problems associated with housing an excessive number of dogs or certain other farm animals on small urban residential parcels.

**SUSTAINABLE OPPORTUNITIES**

**Economic:**

No economic opportunities

**Environmental:**

Controlling the number of animals allowed in residential neighborhoods promotes quiet and peace and discourages the development of unsanitary conditions and spread of disease.

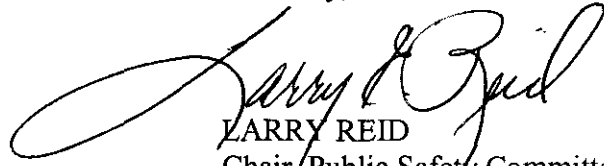
**Social Equity:**

The ordinance prevents animal abuse by discouraging illegal cock fighting, and discourages environments that are unsafe and unsanitary for the health and well being of animals.

**RECOMMENDATION**

Approve the ordinance for forwarding to the City Council.

Sincerely,



LARRY REID  
Chair, Public Safety Committee

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PUBLIC SAFETY CMTE.  
MAR 9 2004

OFFICE OF THE CITY CLERK  
CITY OF OAKLAND

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INTRODUCED BY COUNCILMEMBER LARRY REID

APPROVED AS TO FORM AND  
LEGALITY

CITY ATTORNEY

Ordinance No. \_\_\_\_\_ C.M.S.

**DRAFT**

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**AN ORDINANCE AMENDING SECTION 6.04.320 OF THE OAKLAND MUNICIPAL CODE CONCERNING THE KEEPING OF FOWL IN THE CITY AND PROHIBITING THE KEEPING OF ROOSTERS IN THE CITY; ADDING SECTION 6.04.390 TO THE OAKLAND MUNICIPAL CODE TO PROHIBIT THE KEEPING OF CERTAIN FARM ANIMALS ON PROPERTIES SMALLER THAN ONE ACRE; ADDING SECTION 6.04.400 TO LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO FOUR; AND ADDING SECTION 6.04.410 TO ADD EXEMPTIONS TO THE PROVISIONS OF THIS ORDINANCE**

**WHEREAS**, the City Council is concerned with protecting the quality of life, peace and quiet of all its residents; and

**WHEREAS**, it is the City Council's desire to address nuisances related to animal noise, smell, unhealthy and unsanitary conditions as swiftly as possible; and

**WHEREAS**, numerous complaints are received by the city related to the keeping of large numbers of dogs on (primarily) residential properties; and

**WHEREAS**, it is the City Council's desire to limit the number of dogs to 4 per household in densely populated neighborhoods in order to promote sanitation and the peace and quiet of all residents; and

**WHEREAS**, an overwhelming number of complaints about noise and smell are also related to roosters and chickens in residential neighborhoods; and

**WHEREAS**, disturbances related to rooster crowing can occur at all hours of the day and night and are difficult to abate because an officer of the city must personally hear the disturbance in order to issue a citation; and

**WHEREAS**, animal control officials have encountered a prevalence of illegal cock fighting when following up on rooster complaints; and

**WHEREAS**, it is the City Council's desire to prohibit the keeping of roosters within the city limits; and

**WHEREAS**, the City Council wishes to limit the number of chickens, ducks, geese or any other fowl in dense neighborhoods to no more than (2) two in order to prevent fly infestation and the spread of disease; and

**WHEREAS**, existing codes do not explicitly prohibit the keeping of certain farm animals in densely populated neighborhoods; and

**WHEREAS**, the Council desires to limit the keeping of certain farm animals on properties that are smaller than one acre;

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

### **Section 1**

Section 6.04.320 of the Oakland Municipal Code is hereby amended to read as follows (underlined text in this section indicates new text).

#### **“Section 6.04.320 KEEPING OF FOWL**

1. It is unlawful for any person on any parcel smaller than one (1) acre to keep more than a total of two (2) (or any combination that results in the keeping of more than two) live ducks, geese, chickens or other fowls. Any such animals must be kept in an enclosure, and said enclosure shall not be allowed unless the exterior boundaries of said enclosure is more than twenty (20) feet from any dwelling, church or school.
2. It is unlawful for any person to keep, harbor or maintain roosters within the city limit.
3. This section shall not prohibit the activity provided for in section 6.04.290 of this code. This section shall also not apply to and is not intended to regulate any commercial activity that is regulated by the Oakland Planning Code.”

### **Section 2**

Section 6.04.390 is hereby added to the Oakland Municipal Code.

#### **“Section 6.04.390 KEEPING CERTAIN FARM ANIMALS WITHIN CITY LIMITS**

1. It is unlawful for any person on any property smaller than one acre to raise or keep any sheep, goats or pigs within the city limits.
2. This section shall not prohibit the activity provided for in section 6.04.290 of this code.”

### **Section 3**

Section 6.04.400 is hereby added to the Oakland Municipal Code.

#### **“Section 6.04.400 NUMBER OF DOGS**

1. It is unlawful for any person to keep on any one premise more than four (4) dogs if said dogs are more than 4 months old. Licensed dog kennels, licensed boarding facilities, veterinary hospitals, licensed pet shops, the Oakland Animal Control Center and the Oakland Society for the Prevention of Cruelty to Animals (SPCA) are exempt from the provisions of this section.
2. In calculating the permitted number of dogs allowed on any premise, dogs that were licensed in the City of Oakland prior to the effective date of this ordinance (August 1, 2004) shall be exempt. However, no additional dogs shall be permitted on any premise following the effective date of this ordinance when the number of dogs lawfully kept on the premise exceeds four until such time as the number of dogs on the premise drops below four. Nothing in this exemption shall be construed to allow any person who lawfully kept more than four dogs on any premise on the effective date of this ordinance to continue to keep more than four dogs in the event that any of said dogs originally kept on the property on the effective date of this ordinance are no longer kept for any reason.”

### **Section 4**

Section 6.04.410 is hereby added to the Oakland Municipal Code.

#### **“Section 6.04.410 EXEMPTIONS**

The restrictions set forth in sections 6.04.320, 6.04.390, and 6.04.400 also shall not apply to any property where such activity is permitted by any other provision of the Oakland Municipal Code or Oakland Planning Code and for which all necessary land use permits have been issued or where no use permits are required because the activity qualifies as a legal non-conforming use as defined in section 17.114.020 of the Oakland Planning Code.”

### **Section 5**

This ordinance shall become effective on August 1, 2004.

**Section 6**

If any word, sentence, paragraph, clause or phrase is ruled unconstitutional or unenforceable by any court of competent jurisdiction, said ruling shall not affect the validity of the rest of this ordinance. The City Council finds and determines that it would have enacted this ordinance without said word, sentence, paragraph, clause or phrase.

In Council, Oakland, California, \_\_\_\_\_, 2004.

PASSED BY THE FOLLOWING VOTE:

AYES-                      BROOKS, BRUNNER, CHANG, DE LA FUENTE, NADEL, QUAN, REID  
AND WAN.

NOES-  
ABSENT-  
ABSTENTION-

Attest: \_\_\_\_\_

CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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PUBLIC SAFETY CMTE.  
MAR 9 2004



## **NOTICE AND DIGEST**

**AN ORDINANCE AMENDING SECTION 6.04.320 OF THE OAKLAND MUNICIPAL CODE CONCERNING THE KEEPING OF FOWL IN THE CITY AND PROHIBITING THE KEEPING OF ROOSTERS IN THE CITY; ADDING SECTION 6.04.390 TO THE OAKLAND MUNICIPAL CODE TO PROHIBIT THE KEEPING OF FARM ANIMALS ON PROPERTIES SMALLER THAN ONE ACRE; ADDING SECTION 6.04.400 TO LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO FOUR; AND ADDING SECTION 6.04.410 TO ADD EXEMPTIONS TO THE PROVISIONS OF THIS ORDINANCE**

This is an ordinance to limit the number of ducks, geese, chickens and other fowl that may be kept on a property smaller than one acre to no more than two and to specify how said animals shall be housed. The ordinance also prohibits the keeping of roosters in the city. The ordinance also prohibits the raising or keeping of sheep, goats or pigs on properties smaller than one acre. The ordinance also prohibits keeping more than four dogs on any property and provides grandfathering provisions for this restriction. Finally, the ordinance also provides for certain exemptions to the provisions of the ordinance.

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**PUBLIC SAFETY CMTE**

**MAR 9 2004**