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AGENDA REPORT

TO: Life Enrichment Committee, Oakland City Council
FROM: Councilmember Jean Quan
DATE: May 21, 2007

RE: **An ORDINANCE to Prohibit the Feeding of Feral Pigeons in Commercial Zones**

SUMMARY

Following a series of complaints to my Council Office about the negative impact to commercial districts caused by feral pigeons, research on feral pigeons and the best ways to control their population was undertaken and completed. This research indicated that banning pigeon feeding in commercial zones was the easiest and most humane method to reduce pigeon impact in these areas. The Pigeon Feeding Ordinance addresses concerns regarding feral pigeons as they relate to business vitality, public safety, and public health. Costs are expected to be minor with *No Pigeon Feeding in Commercial Zones* signs being the primary expense. It is recommended that the City Council pass the Pigeon Ordinance to stop the feeding of feral pigeons in commercial zones, and thus reduce the number of feral pigeons in these areas.

FISCAL IMPACT

In addition to the cost of signage, the adoption of the Pigeon Ordinance would incur some minimal annual costs in the enforcement of the ordinance. On the other hand, some revenue can be expected from violations of the ordinance. The ordinance fines are \$100 for the first conviction within a year, \$200 for the second conviction within a year, and \$500 for the third conviction within a year.

BACKGROUND

This ordinance results from merchant complaints in the Dimond Shopping District of District 4, where pigeon problems have been so severe as to require tree trimmings and the replacement of awnings ruined by pigeon droppings. In response to this situation, the area has also been visited by an Inspector from Building Services, City of Oakland, as well as Alameda County Vector control. Subsequent meetings with Vector Control, as well as informal conversations with leaders in other shopping areas, indicate that pigeon feeding in many Oakland commercial areas constitutes a cause of blight as well as a potential public health issue. With this in mind, Councilmember Quan proposes that pigeon feeding in commercial areas be banned, much like it has been done in other Northern California localities such as San Francisco. Enforcement of the ordinance would be complaint driven, and the ban on pigeon feeding would only pertain to commercial zones as defined by the Oakland Planning Code.

KEY ISSUES AND IMPACTS

The ordinance addresses the key issues of public health, safety, economic vitality, and animal treatment as related to the feeding of feral pigeons. Feral pigeons are a public health risk because they and their fecal matter can transmit diseases to humans. Where feral pigeons are fed, they are likely to return, and in the case of commercial zones, feral pigeons can come in contact with a large number of humans. Commercial zones also have food vendors that have products that can become contaminated by diseases from pigeon and pigeon fecal matter. Fecal matter from feral pigeons is also a safety risk because it can cause public and private walkways to become slippery and unsafe, as well as rot cloth awnings. Pigeons' fecal matter, aggressive pigeon behavior, and the sounds of pigeons all have the potential to detract from an area and cause customers to stop frequenting businesses in commercial areas with high numbers of pigeons. The large numbers of feral pigeons that reside in commercial zones due to people feeding them, therefore, can jeopardize the economic vitality of these commercial zones. Finally, as feral pigeons can survive without developing a dependency upon human feeding, it is more humane to allow such wildlife to survive on its own without developing a dependency upon humans.

POLICY DESCRIPTION

The ordinance simply bans the feeding of pigeons in public streets or public spaces in commercial areas, as defined by the City of Oakland Planning Code. The policy is meant both to have educative effects and to provide a law with which the City and agencies such as Alameda County Vector Control can address private complaints in commercial zones. It will have no effect on feeding pigeons in other public or private spaces, such as parks and homes. Business owners will benefit from the ordinance as well as users of these public spaces, and Alameda County Vector Control has already informally expressed its approval of such an ordinance. The

Ordinance is enforceable by the Oakland Police Department and/or other authorized City of Oakland employee. It will become effective upon approval by City Council.

SUSTAINABLE OPPORTUNITIES

Economic: The ordinance will allow for businesses to attract and retain customers due to the removal of a nuisance.

Environmental: Issues of safety, public health, as well as animal dependency on humans are addressed. The ordinance will condition the feral pigeon population to sustain themselves without a dependence on humans.

DISABILITY AND SENIOR CITIZEN ACCESS

The ordinance will provide for cleaner streets and commercial zones upon which senior citizens *and those with physical disabilities can more safely travel.*

RECOMMENDATION AND RATIONALE

In order to address complaints about what most perceive as the pigeon “nuisance” in commercial areas, the ordinance has been crafted to most effectively and humanely reduce the characteristics of feral pigeons that are found most annoying. By banning the feeding of feral pigeons in commercial zones, the public, businesses, as well as the feral pigeons will be protected. The ordinance will be useful in educating the public about the harm that pigeons can cause to others and to themselves. Though pigeon fanciers may be concerned with a reduction in the physical areas for possible pigeon feeding, the banning of pigeon feeding in commercial zones is viewed to be a humane way to reduce the number of pigeons in an area. For example, it is recommended by PETA (People for the Ethical Treatment of Animals).

If the ordinance is not passed, businesses and food vendors will continue to bear the impacts and additional maintenance tasks in their daily operations of their businesses. Public health and safety hazards will remain, and feral birds will develop a dependence upon humans.

ALTERNATIVE RECOMMENDATIONS

Various other pigeon control methods include birth control, structural exclusion, pesticides, entanglements, sprays, electric shock, trapping, and audio repellents. These options have been researched but many are considered inhumane and would be met with much opposition. They are also more costly to maintain, enforce, and install for private entities, and some are not

necessarily effective. Of all the methods researched, controlling the food source of pigeons is the recommended method.

ACTION REQUESTED OF THE CITY COUNCIL

I request that the Council approve and adopt the ordinance establishing the prohibition of feeding feral pigeons in commercial zones.

Respectfully submitted,

Jean Quan
President Pro Tem
City Council, District 4

Prepared by: Junette Sheen,
City Council Intern, and Richard
Cowan, Chief of Staff to
Councilmember Jean Quan,
City Council, District 4

Introduced by Councilmember 533 JEAN QUAN

DRAFT City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

AN ORDINANCE TO PROHIBIT THE FEEDING OF FERAL PIGEONS IN COMMERCIAL ZONES.

This ordinance implements a ban on feeding feral pigeons in commercial zones in order to protect public health and prevent the dependency of a feral animal on human involvement.

WHEREAS, the feeding of feral pigeons results in the conditioning of pigeons to return to the area where fed and thereby increases the number of these birds in such areas; and

WHEREAS, the increased numbers of feral pigeons results in an unwanted depositing of fecal matter on public and private property; and

WHEREAS, fecal matter damages property, makes public and private walkways unsafe to walk on, and reduces the ability to conduct regular business in commercial zones; and

WHEREAS, feral pigeons present health risks because they and their feces carry diseases, such as ornithosis, cryptococcosis, and dermatitis, that can be transmitted to humans; and

WHEREAS, commercial zones have a high density of people and food vendors and are more susceptible to public health risks that are linked to feral pigeons; and

WHEREAS, feral pigeons are hardy intelligent birds that can survive without being fed by humans; and

WHEREAS, effective and humane methods to discourage feral pigeons from commercial zones and public spaces include: closing up open areas like vents and eaves; installing bird barriers, angled ledges, or sonic repellers; visual deterrents, and eliminating human feeding; and

WHEREAS, for the safety of humans, the City Council desires this ordinance to establish a procedure and means for the prohibition of feeding feral pigeons in commercial zones and other public spaces.

**THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES
ORDAIN AS FOLLOWS:**

Section 1: The Oakland Municipal Code is hereby amended to add, delete or modify sections as set forth below; additions are indicated by underscoring and deletions are indicated by ~~strike through~~ type.

6.04.345 Feeding Of Feral Pigeons

A. Definitions

For the purposes of this section: "Commercial zone" means any area zoned with an Oakland Planning Code Zone the name of which begins with the letter "C," including but not limited to the following: C-20 Shopping Center Commercial Zone, C-25 Office Commercial Zone, C-27 Village Commercial Zone, C-28 Commercial Shopping District Zone, C-30 District Thoroughfare Commercial Zone, C-31 Special Retail Commercial Zone, C-35 District Shopping Commercial Zone, C-36 Gateway Boulevard Service Commercial Zone, C-40 Community Thoroughfare Commercial Zone, C-45 Community Shopping Commercial Zone, C-51 Central Business Service Commercial Zone, C-52 Old Oakland Commercial Zone, C-55 Central Core Commercial Zone, and C-60 City Service Commercial Zone.

"Feed" means purposely providing food, including but not limited to grain, seeds, greens, bread crumbs, and other miscellaneous food scraps intended for pigeon ingestion.

"Feral pigeon" means the common pigeon, *Columba livia*, also known as the Rock Dove, in its wild state. Privately raised pigeons used for recreational purposes are not feral pigeons and are exempt from this section.

"Public Property" means any real property owned by any State, County or local governmental entity within the City.

"Street" See OMC 1.04.010 for definition of "Street" as well as other related definitions.

B. Pigeon Feeding Prohibited

No person shall feed any feral pigeons on any public street, or on public or private property in any portion of the City zoned as a Commercial Zone.

C. Enforcement

A violation of the above is an infraction as defined at OMC 1.28.020A.2.d. The above section is enforceable by the Oakland Police Department or other

authorized City of Oakland employees. See OMC 1.24.020A. Offenders are subject to fines. The fine schedule, is set forth at OMC 1.28.020B.

Section 2: Fine Schedule: OMC 1.28.020B sets forth the fine schedule: Any person convicted of an infraction under the provision of the code shall be punishable upon a first conviction by a fine of not more than one hundred dollars (\$100.00) and, for a second conviction within a period of one year, by a fine of not more than two hundred dollars (\$200.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five hundred dollars (\$500.00). Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period of not more than six months or by both.

Section 3: Severability: If any article, section subsection, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions that shall remain in full force and effect.

Section 4: Effective Date: This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective on the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID and
PRESIDENT DE LA FUENTE

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

DRAFT
LATONIA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California