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Councilmember District #7

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July 12, 2005

PUBLIC SAFETY COMMITTEE
OAKLAND CITY COUNCIL
Oakland, California

Re: **AN ORDINANCE AMENDING THE CITY'S ANIMAL CONTROL REGULATIONS - CHAPTER 9.60 OF THE OAKLAND MUNICIPAL CODE – TO (1) PROHIBIT THE KEEPING OF ROOSTERS IN THE CITY; (2) LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO THREE; (3) REQUIRE “CHIPPING” AS A CONDITION TO OBTAIN A DOG LICENSE; AND (4) AMENDING THE LIST OF DEFINITIONS AND EXEMPTIONS**

Members of the Public Safety Committee:

In June of 2004, I introduced an ordinance that would limit the number of animals allowed per household. The ordinance was heard several times in the Public Safety Committee and a public meeting was held by Councilmember Jean Quan on the proposal. Based on the input we received at those meetings and through correspondence, I have modified the ordinance to limit only the number of dogs per household and also prohibit roosters.

Oakland's Municipal Code does not restrict the number of animals permitted in a household or single premise. However, neighboring cities and many cities similar in population to Oakland have established codes limiting the number of and/or prohibiting certain animals. Consequently, we are exposed to more opportunities for problems and complaints related to animal nuisances. Nuisances related to animals can be difficult and time consuming to abate. In Oakland, the most prevalent complaints are related to barking dogs and rooster crowing. To further protect the quality of life in Oakland neighborhoods, this ordinance proposes the following:

- 1) prohibit roosters on any property;

barking dogs and rooster crowing. To further protect the quality of life in Oakland neighborhoods, this ordinance proposes the following:

- 1) prohibit roosters on any property;
- 2) limit the number of dogs on any premises to three (3) (an exemption is allowed for dogs under 4 months and individuals who already own more than three licensed dogs on or before the effective date of this ordinance);
- 3) require dogs to receive micro-chipping before a dog license is issued;
- 4) exempts “foster” homes approved by Oakland Animal Services; licensed dog kennels, licensed board facilities, and licensed animal breeders,
- 4) 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 shall be upon passage of the ordinance.

BACKGROUND

Current city codes do not place a limit on the number of animals that may be kept on any single property within the city limits. Consequently, the potential for problems requiring animal control, police officer and code compliance intervention can be expected to be high. Typical complaints about animals are related to a pet owner’s failure to care for animals in a responsible manner resulting in noise, offensive odors, fly infestation and general unsanitary conditions. According to Animal Control and Code Compliance, these problems are exacerbated when too many dogs are kept on any one 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 such complaints in the future.

KEY ISSUES AND IMPACTS

The purpose of the ordinance is to establish regulations related to dog ownership that will protect the quality of life in all Oakland neighborhoods by preventing the spread of disease and potential problems associated with housing an excessive number of dogs in urban residential neighborhoods.

The ordinance will also prohibit the keeping of roosters thereby facilitating the abatement of rooster disturbances and discourage breeding for illegal cock fighting purposes.

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 have established animal limits as well.

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. In 2004, there were 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.

Dogs

The most common complaint related to dogs is excessive barking and the failure of dog owners to maintain sanitary conditions on properties that house multiple dogs. Barking can be easily provoked and get out of control any time multiple dogs are in close proximity and there is an unhappy dog in the pack. Barking occurs at all hours of the day or night and can last for hours. Unfortunately, households keeping more than three dogs are more likely to keep dogs outside their house than inside. This is especially true if the dogs are large.

Other complaints about properties housing multiple dogs come from senior citizens and parents of young children fearful that dogs will get out of yards and attack them or a child. Finally, properties where pet owners fail to promptly remove animal waste quickly develop 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.

Chipping

Chipping is a permanent form of identification using a micro chip that is implanted under the animal's skin. The process for implanting is similar to a routine vaccination. The Oakland Animal Shelter owns the equipment to implement this technology.

Micro chipping facilitates identification of an animal if the dog has lost its tag. Micro-chipping does not replace the use of dog tags.

Exemptions

The proposed ordinance offers exemptions to the three dog limit for those households that already own more than three licensed dogs on or before the effective date of this ordinance. While these households are exempt from the three-limit rule, they may not receive additional dogs into the household or replace dogs that no longer reside on the premises if replacement of the dog will exceed the three-dog limit. Individuals who currently own more than three unlicensed dogs are encouraged to obtain licenses immediately in order to establish a date of ownership prior to the effect of the proposed ordinance.

In addition, licensed dog kennels, licensed boarding facilities, licensed breeders, veterinary hospitals, licensed pet shops and animal fosters whose applications have been approved by Oakland Animal Services are exempt from the ordinance.

Enforcement

To discourage violations and bring swift action against violators of the new dog and rooster provisions, the amendment treats violations of these provisions as a misdemeanor. Violations of any other provision of the ordinance will continue to be treated as infractions. Enforcement of the proposed ordinance will be on a complaint driven basis

SUSTAINABLE OPPORTUNITIES

Economic:

No economic opportunities

Environmental:

Prohibiting roosters and controlling the number of dogs allowed in households promotes peace and quiet in residential neighborhoods, discourages the development of unsanitary conditions and the spread of disease.

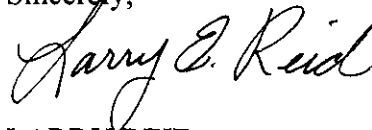
Social Equity:

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

INTRODUCED BY COUNCILMEMBER LARRY REID

APPROVED AS TO FORM AND LEGALITY
05 JUL -7 PM 4:05
CITY ATTORNEY

Ordinance No. _____ C.M.S.

AN ORDINANCE AMENDING THE CITY'S ANIMAL CONTROL REGULATIONS - CHAPTER 9.60 OF THE OAKLAND MUNICIPAL CODE - TO (1) PROHIBIT THE KEEPING OF ROOSTERS IN THE CITY; (2) LIMIT THE NUMBER OF DOGS PER HOUSEHOLD TO THREE; (3) REQUIRE "CHIPPING" AS A CONDITION TO OBTAIN A DOG LICENSE; AND (4) AMENDING THE LIST OF DEFINITIONS AND EXEMPTIONS

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 3 per household in order to promote sanitation and to protect the peace and quiet of all residents; and

WHEREAS, an overwhelming number of complaints about noise and smell are also related to roosters 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 following investigations of rooster complaints; and

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

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

Section 1

Section 6.04.020 of the Oakland Municipal Code is hereby amended to read as follows

Section 6.04.020 DEFINITIONS

For the purpose of this title, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

"Adoption group" means an organized, licensed, insured, non-profit organization whose primary function is the adoption and placement of shelter animals.

"Animal" means any mammal, poultry, bird, reptile, fish, or any other dumb creature, including, but not limited to, horse, cow, goat, sheep, pig, pigeon, chicken, goose, rabbit, dog, cat. Animals are classified by weight: large animal, over fifty (50) pounds; medium animal, between twenty-five (25) and fifty (50) pounds; small animal, under twenty-five (25) pounds.

"Animal quarters" means the premises and all buildings, hutches, pens, coops, yards, and their appurtenances used for the keeping of animals, commercial fur-bearing animals, poultry including pigeons, game and show birds, fowl and birds, or any other kind not specifically mentioned, and dogs, and cats not kept in kennels and pet shops as herein defined; including, but not limited to, stables, poultry farms, pigeon farms, and rabbit farms.

"At large" means a dog off the premises of its owner and not under restraint by leash, or chain, or not otherwise controlled by a competent person.

"Chipping" means the injection of a microchip below the skin of an animal by a veterinarian, registered vet technician or other qualified shelter staff

"Dog" means and includes female as well as male dogs. Dogs are classified by weight: large dog: over fifty (50) pounds, medium dog: between twenty-five (25) and fifty (50) pounds, small dog: under twenty-five (25) pounds.

"Foster" means a person who is willing to temporarily take and care for an animal until the time that animal becomes suitable for adoption as recognized by an adoption group and /or animal shelter management.

"Horse" means and includes mule, burro, pony, jack hinny, or jenny.

"Kennel" means any person, firm or corporation engaged in the commercial business of breeding, buying, selling, distributing or boarding dogs and/or cats.

Owner.

1. "Owner" means any person, firm or corporation owning, having an interest in, or having control or custody or possession of, any animal.

2. Any person keeping or harboring a dog for fifteen (15) consecutive days shall be deemed to be the owner thereof, within the meaning of this title.

"Person" means and includes any person, partnership, corporation, trust, and association of persons.

"Pet shop" means any person, firm, or corporation operating an establishment where live animals and/or birds are kept for sale, for hire, or sold.

"Unlicensed dog" as used in this title means a dog for which the license for the current year has not been paid, or to which the tag provided for in this title is not attached.

"Wild animal" means any animal not ordinarily and customarily domesticated, including, but not limited to, skunk, raccoon, opossum, squirrel, fox.

Whenever any reference is made to any portion of this title, such reference applies to all amendments and additions thereto now or hereinafter made.

The present tense includes the past and future tenses and the future, the present. Each gender includes the other two genders.

The singular number includes the plural and the plural, the singular.

Whenever a power is granted to, or a duty is imposed upon the Animal Control Center, the power shall be exercised or the duty shall be performed by the Senior Animal Control Officer and/or the Animal Control Officer, or by any person or organization, its officers, agents, and employees, designated by contract or otherwise to enforce this title. (Prior code § 3-9.01 (part))

Section 2

Section 6.04.050 of the Oakland Municipal Code is hereby amended to read as follows (underlined text in this section indicated new text).

“Section 6.04.050 Anti-rabies vaccination and chipping required for license

As a condition for the issuance of a dog license, all applicants for such license shall procure and deliver a certificate issued by a duly licensed veterinarian, certifying that each dog to be licensed has been administered an anti-rabies vaccination and has had a micro-chip inserted within thirty (30) days prior to the issuance of said license, or has received an anti-rabies vaccination sufficient to immunize said dog against rabies for the current license period.

Currently licensed dogs are exempt from the chipping procedure for up to one year after the adoption of this ordinance.

Section 3

Section 6.04.320 of the Oakland Municipal Code is hereby amended to read as follows

Section 6.04.320 KEEPING OF FOWL

It is unlawful for any person to keep any ducks, geese, chickens or other fowls in any enclosure in the city unless the exterior boundaries of said enclosures are more than twenty (20) feet from any dwelling, church or school. (Prior code § 3-9.28)

It is unlawful for any person to keep, harbor or maintain roosters within the city limit.

This section shall not prohibit the activity authorized under 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 already regulated by the Oakland Planning Code.”

Section 4

Section 6.04.400 is hereby added to the Oakland Municipal Code.

“Section 6.04.400 NUMBER OF DOGS

It is unlawful for any person to keep on any one premise more than three (3) dogs if said dogs are more than 4 months old.

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 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 three until such time as the number of dogs on the premise drops below three. Nothing in this exemption shall be construed to allow any person who lawfully kept more than three dogs on any premise on the effective date of this ordinance to continue to keep more than three 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 5

Section 6.04.410 is hereby added to the Oakland Municipal Code.

“Section 6.04.410 EXEMPTIONS

Licensed dog kennels, licensed boarding facilities, licensed breeders, veterinary hospitals, licensed pet shops, the Oakland Animal Control Services Shelter, the Oakland Society for the Prevention of Cruelty to Animals (SPCA) and Fosters whose applications have been approved by Oakland Animal Services are exempt from the provisions of this section.

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.”

6.04.420. ENFORCEMENT -- PENALTY.

In addition to any other penalties authorized by law, violations of this Chapter may be charged as either an infraction or a misdemeanor.

Section 6

This ordinance shall become effective upon passage.

Section 7

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, _____, 2005.

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTONDA SIMMONS
Interim City Clerk and Clerk of the Council
of the City of Oakland, California