

CITY OF OAKLAND

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**Jean Quan, President Pro Tem
City Council Member, District 4**

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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 the
Laurel and Dimond 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 \$25 for the first offense within a year, \$50 for the second offense within a year, and \$100 for the third or subsequent offense 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 the Laurel and Dimond 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 the Laurel and Dimond commercial zones.

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 the Laurel and Dimond commercial areas. 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. The fine schedule is included in the ordinance and is set forth as follows: first offense, twenty-five dollars (\$25); second offense, fifty dollars (\$50); and third or subsequent offense (\$100). 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

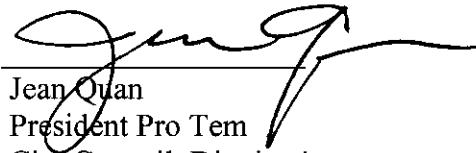
Various other pigeon control methods include birth control, structural exclusion, pesticides, entanglements, sprays, electric shock, trapping, and audio repellents. These options have been

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 the Laurel and Dimond commercial zones.

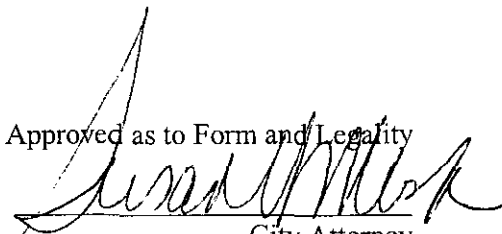
Respectfully submitted,



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

07 JUN 2007 11:03 AM
Introduced by Councilmember JEAN QUAN

Approved as to Form and Legality

City Attorney

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

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

This ordinance implements a ban on feeding feral pigeons in the Laurel and Dimond 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

“Commercial Zone”, for the purposes of this section, means: The Laurel shopping area is defined as that area of Oakland generally bounded by Midvale at MacArthur to the north, east on Midvale to Kansas, south on Kansas to 38th Avenue, west on 38th Avenue to Masterson, south on Masterson to the south side of High, west on High to MacArthur, south on MacArthur to Greenacre, returning on MacArthur to High, west on High to Virginia including the shopping center, across High to the north side of High, east on High to the 580 Freeway, north on a straight line to the south end of Redding, north on Redding to MacArthur, west on MacArthur to Quigley, north on Quigley to Midvale, east on Midvale returning to MacArthur.

The Dimond shopping area is defined as that area of Oakland generally bounded by Excelsior Avenue at MacArthur on the northwest, southeast on both sides of MacArthur to Dimond, northeast on Dimond to Dimond Park, continuing southeast on both sides of MacArthur to Fruitvale, northeast on both sides of Fruitvale to Coloma, continuing southeast on both sides of MacArthur and including May Court to Coolidge, returning on both sides of MacArthur to Lincoln, west on Lincoln to Champion, southwest on Champion to Montana, northwest on Montana to MacArthur, southeast on MacArthur returning to Excelsior Avenue.

This area prohibiting the feeding of feral pigeons will also include both sides of MacArthur from Midvale to Coolidge

“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 Section 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 Section 1.28.020A.2.d. The above section is enforceable by the Oakland Police Department or other authorized City of Oakland employees. See Section 1.24.020A. Offenders are subject to fines.

D. Fine Schedule

A first offense shall be punishable by a fine of ten dollars (\$25), and a second offense within a period of one year, shall be punishable by a fine of fifty dollars (\$50), and a third or subsequent offense within a one year period, shall be punishable by a fine of one hundred dollars (\$100).

1.28.020 Violations as infraction.

B. 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. Exceptions: See Section 6.04.345, Feeding of Feral Pigeons.

Section 2: 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 3: Effective Date: This ordinance shall become effective September 1, 2007.

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: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California