



City of San Leandro

Meeting Date: September 16, 2013

Ordinance

File Number: 13-427 **Agenda Section:** CONSENT CALENDAR

Agenda Number: 8.B.

TO: City Council

FROM: Chris Zapata
City Manager

BY: Sandra Spagnoli
Chief of Police

FINANCE REVIEW: Not Applicable

TITLE: ADOPT: Ordinance No. 2013-007, an Ordinance Repealing Title 3, Chapter 3-5 of the San Leandro Municipal Code Relating to Animals; Amending Title 4, Section 4-11-1000; and Enacting Title 4, Chapter 4-11, Articles 11-15 (clarifies housing and care requirements for animals, establishes regulations to maintain chickens and bees, and establishes an animal permit that allows for the maintenance of animals beyond what City regulations would otherwise allow)

The City Council of the City of San Leandro does **ORDAIN** as follows:

SECTION 1. PURPOSE. The purpose of these amendments is to clarify housing and care requirements for animals, establish regulations to maintain chickens and bees, and to establish an animal permit that allows for the maintenance of animals beyond what City regulations would otherwise allow.

SECTION 2. AMENDMENT OF CODE. Title 3, Chapter 3-5 of the San Leandro Municipal Code is hereby repealed.

SECTION 3. AMENDMENT OF CODE. Title 4, Section 4-11-1000 is hereby amended to read as follows, with additions in underline and deletions in strikethrough text and:

Any violation of the provisions of this Chapter ~~shall~~ may be abated in the manner provided in Chapter 1-12. For the purposes of enforcement pursuant to Section 1-12-200 of this Code, any violation of this Chapter except Article 6 shall constitute an infraction.

SECTION 4. AMENDMENT OF CODE. Chapter 4-11, Articles 11-15 are hereby enacted as follows:

ARTICLE 11 GENERAL

**4-11-1100
CERTAIN USES PROHIBITED**

(a) Except for household pets, the maintenance, feeding, or keeping of exotic animals, horses, cows, sheep, goats, or other animals of any kind is prohibited. Household pets include cats, caged birds, not over two spayed or neutered pot-bellied pigs licensed in accordance with this Chapter, fish, mice, rats, hamsters, guinea pigs, not more than two dogs, and similar domesticated pet animals, all of the aforesaid kept as household pets. Special regulations shall apply to the keeping of chickens, as described in Article [12](#).

(b) Notwithstanding the foregoing, the provisions of this Chapter are not applicable to the following:

- (1) Owners who use animals for diagnostic purposes or research, and who have a valid permit issued by a governmental agency, and whose animals are kept on the premises specified in the permit.
- (2) Owners who use animals for teaching purposes in recognized educational institutions and whose animals are kept on the premises of the institution or other authorized place.
- (3) Owners of establishments that treat or board animals on the premises, and that are owned or operated by a veterinarian licensed by the state.
- (4) Owners who are engaged in animal husbandry as a permitted use pursuant to the zoning ordinance as described in section 4-11-1105.
- (5) Owners of horse-riding academies and public and private horse stables and premises on which they are operated, as a conditional use pursuant to the zoning ordinance.
- (6) Owners of licensed pet shops.
- (7) Other circumstances when specifically authorized by the Animal Control Director after a determination that such authorization would be consistent with the intent of this Chapter.

**4-11-1105
EXISTING USES**

Any person raising or keeping chickens, or other animals in the RO (Residential Outer) Zoning District at the time this Chapter takes effect or afterwards may continue to do so if they are in compliance with the Zoning Code related to the RO District and Animal Husbandry and any other applicable regulations ~~except that roosters may not be kept~~. However, such persons must demonstrate compliance with the housing and care requirements listed in section 4-11-1110 below.

4-11-1110
HOUSING AND CARE REQUIREMENTS FOR ALL ANIMALS

Animal owners must be able to demonstrate compliance with the following:

(1) Feeding and watering. Feeding and watering shall be done daily in sufficient quantity and nutritional value to meet the normal daily requirements for the conditions and size of the animal(s) except in such cases where hibernation, the nature of the animal, or its feeding habits dictate otherwise.

(2) Treatment and Sanitation.

(i) All animals shall be handled in a humane manner and kept free from parasites, sickness and disease. When they are afflicted and/or become unsightly, they shall be given immediate medical attention and treatment by a licensed veterinarian at the owner or keeper's expense.

(ii) If any animals are in need of medical treatment, and the owner has failed to provide such treatment, the animals will be treated by a veterinarian upon order of the Animal Control Officer in accordance with Section 597f of the California Penal Code.

(iii) All cages or other enclosures shall be cleaned regularly and their surroundings shall be kept in a sanitary condition and free from offensive odor .

(iv) The storage of animal feces shall be in a fly-proof container to be properly disposed of a minimum of once weekly.

(v) If animal manure is composted on-site, it shall not create odor issues or attract vermin or insects.

(vi) Adequate and effective vector control shall be maintained at all times .

(vii) Where the natural climate of the species of the animal differs from the climate of San Leandro, provisions must be made to adjust housing and treatment of the animal to the natural habitat.

(3) Cages and Enclosures.

(i) Household pets are not required to be maintained in cages or enclosures.

(ii) When cages, enclosures, or housing facilities for animals are used, the cages shall be of such strength and type of construction that the animal cannot escape, ample space for exercise is provided, the animal is adequately protected from predators, and overcrowding is avoided.

(iii) In the case of animals kept outdoors, sufficient shade shall be provided to prevent overheating or discomfort from sun exposure. Animals kept outdoors shall also be provided with access to shelter to allow them to remain dry during inclement weather.

(iv) Animals with a propensity to fight, or that are otherwise incompatible, shall be kept separated.

(v) Cages shall have tops to prevent escape by climbing or jumping.

(vi) Shelter, cages and enclosures shall be kept in good repair with no protrusions or devices on which the animal could injure itself.

(vii) No cage or structure shall be permitted in any front yard area of the property.

ARTICLE 12 CHICKENS

4-11-1200 LIMITATION ON NUMBER

Up to four chickens may be kept on parcels with an area of 4,500 square feet or larger. Chickens may be kept on parcels of less than 4,500 square feet with an Animal Permit. Up to 10 chickens may be kept on a parcel with an Animal Permit, but in no case may more than 10 chickens be kept on any single parcel. No roosters are to be kept on the property.

4-11-1205 KEEPING OF CHICKENS

Chickens shall be kept outside in the rear yard, in a fenced area, and must be provided with a coop. They may not roam in any area outside the fenced rear yard. The total area of all chicken coops on a lot may not exceed 60 square feet. No single coop, or combination of coops, shall exceed 7 feet in height. No coop shall be located less than 5 feet from any side or rear lot line on which the primary use is residential and 20 feet from an adjacent dwelling. Cages shall remain stationary in the back yard. Chicken coops must comply with all other applicable cage and enclosure requirements of Section 4-11-1110.

ARTICLE 13 ANIMAL PERMIT

4-11-1305 PERMIT REQUIRED

(a) Permit required. An Animal Permit is required for the keeping of chickens on parcels smaller than 4,500 square feet, and for the keeping of any animals in a manner that would otherwise exceed the limits or regulations set forth in the Municipal Code. Applicants for an Animal Permit shall provide a complete application form and a fee as set forth in the City's fee schedule for the required review and inspection. The permit will specify animals covered and number of animals permitted. Permit holders will be entitled to keep up to the number of animals permitted.

(b) Inspection. Prior to issuance of an Animal Permit, Animal Control Services shall conduct an inspection of the premises at any reasonable hour for inspection in order to make

the following determinations, to the extent they are applicable to the particular animal:

(1) All applicable housing and care requirements set forth in Section 4-11-1110 are met.

(2) Adequate fencing exists. Depending on the animals and the specific features of the lot, additional fencing can be mandated as a prerequisite to Animal Permit approval in order to ensure the safety of both the animals and the public.

(c) Required Findings. In order to grant the Animal Permit, the following additional findings must be made:

(1) The keeping of the animals at the location specified in the application will not violate any ordinance or other City or State regulations.

(2) The keeping and maintenance of the animal will not endanger the peace, health or safety of persons in the immediate vicinity or in the City as a whole and will not constitute a nuisance.

(3) The premises and housing where the animal(s) will be kept are in clean and sanitary condition, and the animal(s) will not be subject to suffering, neglect, cruelty or abuse.

(d) Mediation. Upon receipt of a nuisance complaint regarding the holder of an Animal Permit, Animal Control Services may require the complainant(s) to mediate with the Animal Permit holder as a precondition of investigation, citation and abatement of the nuisance. Such cases may be referred to the Alameda County Mediation Program. If the Animal Control Director determines mediation is appropriate and the complainants agree to mediate but the alleged violator refuses, the Animal Control Director may proceed with investigation and any appropriate enforcement.

(e) Renewal of Permit. Every two years a renewal permit shall be obtained by a holder of an Animal Permit. The fee for the issuance of a permit and each renewal permit shall be established by City Council resolution, and the renewal permit fee is due and payable each year on the anniversary of the date of the issuance of the initial permit. The renewal fee shall become delinquent 30 days after it becomes due and payable, and upon delinquency, an additional delinquent fee established by resolution of the City Council may be added to the succeeding year's renewal fee.

(f) Inspection of Permit. Animal Permits issued pursuant to the provisions of this Chapter shall be surrendered for inspection by the permit holder upon the request of the Animal Control Director or an Animal Control Officer.

(g) Additional Inspections. The premises on which an animal is maintained pursuant to an Animal Permit shall be open at any reasonable hour for inspection by the Animal Control Director or his or her designee.

ARTICLE 14 BEEKEEPING

4-11-1400

BEEKEEPING PERMIT

A beekeeping permit is required for the keeping of any number of hives on any lot or parcel of land within the City.

4-11-1405

INSPECTION AND CONDITIONS OF BEEKEEPING PERMIT

- (a) Inspection. Prior to issuance of a beekeeping permit, Animal Control Services shall conduct an inspection of the premises.
- (b) Conditions. The beekeeping permit applicant must be able to demonstrate compliance with the following conditions:
- (1) No hive shall be kept or maintained on any parcel of less than 6,000 square feet.
 - (2) No more than three hives shall be maintained on any property or parcel of land.
 - (3) The owner's name, address, and location of all such hives shall be registered with Animal Control Services.
 - (4) Hives shall be located in the rear of the property of the applicant and no less than 5 feet from any side or rear lot lines. No hives shall be located in any front yard area of the property.
 - (5) Hives must be situated more than fifty feet from any existing dwelling or any proposed dwelling for which a building permit has been issued.
 - (6) All hives shall be oriented so that their entrances face a house or building on the premises and shall be surrounded by a solid fence, located no farther than thirty feet from such hives, that is not less than six feet in height and no more than the height specifically approved with the beekeeping permit application to comply with zoning regulations. Said fence may be open on the side facing a house or building on the premises.
 - (7) A ~~constant and~~ reliable water supply adequate to serve the needs of the hives located on the premises shall be maintained at all times on such premises. Running water is ideal, however a pond or fountain, or similar meet the requirements of the code.
- (c) Required Finding. The Animal Control Officer reviewing the permit application shall find that the hives will not cause unreasonable disturbance to the health or safety of residents occupying properties adjoining the property or parcel before permit issuance.
- (d) Personal Permit. Beekeeping permits shall be personal to the applicant and shall not run with the land.
- (e) Renewal Permit. Every two years, a renewal permit shall be obtained by a holder of a beekeeping permit. The fee for the issuance of a permit and a renewal permit shall be established by City Council resolution, and the renewal permit fee is due and payable each

year on the second anniversary of the date of the issuance of the initial permit. The renewal fee shall become delinquent 30 days after it becomes due and payable, and upon delinquency, an additional delinquent fee established by resolution of the City Council may be added to the succeeding year's renewal fee.

(f) Inspection of Permit. Beekeeping permits issued pursuant to the provisions of this Chapter shall be surrendered for inspection by the permit holder upon the request of the Animal Control Director or an Animal Control Officer.

(g) Additional Inspections. The premises on which bees are maintained pursuant to a beekeeping permit shall be open at any reasonable hour for inspection by the Animal Control Director or his or her designee.

ARTICLE 15 MISCELLANEOUS

4-11-1500 APPEALS

Persons aggrieved by determinations of Animal Control Officers or the Animal Control Director made pursuant to this Chapter may appeal such determination to the City Manager within fifteen (15) days from the date of such determination. Decisions of the City Manager, or his or her designee for these purposes, shall be final.

4-11-1505 RULES AND REGULATIONS

The Animal Control Director may formulate rules and regulations in conformity with , and for the purpose of carrying out the intent of this Chapter. Compliance with such rules and regulations shall be a prerequisite to the issuance and continued validity of any permit provided for in this Chapter.

4-11-1510 INSPECTIONS

Upon reasonable suspicion of a violation of this Chapter, the Animal Control Director shall be permitted to obtain an inspection warrant and enter onto the property.

SECTION 5. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 6. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

Introduced by Councilmember Prola on this 3rd day of September, 2013, and passed to print by the following called vote:

Members of the Council:

AYES: Councilmembers Cutter, Gregory, Lee, Prola, Reed, Souza; Mayor Cassidy (7)

NOES: None (0)

ABSENT: None (0)

2056735.5