



AGENDA BILL

Agenda Item No. 7(A)

Date: November 7, 2011
To: El Cerrito City Council
From: Sean Moss, Senior Planner
Karen Pinkos, Assistant City Manager
Subject: Animals Ordinance

ACTION REQUESTED

Introduce by title, waive any further first reading and approve an ordinance amending Title 7, "Animals," of the El Cerrito Municipal Code.

BACKGROUND

With the recent growth of the sustainability movement, the local food movement, increased awareness regarding other environmental issues, and the general downturn in the economy, there has been a renewed interest in keeping chickens, bees, goats and other animals that can be raised for sustainable purposes and food production. In May 2009, the Environmental Quality Committee (EQC) received requests from El Cerrito residents for the City to foster this interest, which staff determined would necessitate changes to El Cerrito Municipal Code (ECMC) Title 7, "Animals."

The code currently states that "No person shall keep any animal weighing more than three pounds, except a cat or dog, any fowl or bird weighing more than one-half pound, any venomous or poisonous reptile, or any bees within the city without first having obtained a use permit from the city Planning Commission pursuant to Chapter 19.40." Community feedback to the EQC suggested that the keeping of such animals be allowed by right and/or a process developed that would make the ability to keep such animals easier and cost effective for residents.

After a series of meetings, the EQC produced a memo with recommendations for changes to the ordinance, which was forwarded to the Planning Commission. The Planning Commission conducted a study session on the Animals Ordinance in December 2009. The Planning Commission was generally interested in allowing most common animals to be kept by right at a "hobby level," meaning a relatively small-scale, non-commercial operation.

City staff developed a draft ordinance based on both the recommendations of the EQC and the Planning Commission. The draft ordinance was brought back to the EQC at their meeting in May 2010. A community meeting was then held in August 2010 to discuss the draft ordinance and the proposed revisions. After much public comment and feedback, the City Council conducted a study session on the Animals Ordinance in

March 2011. The Council provided comments on the proposed revisions and directed staff to return with a revised ordinance which addressed the Council's comments.

ANALYSIS

The following revisions have been made to the draft ordinance in response to the City Council's comments from the March study session:

1. Adding a process for approval of some exceptions with the unanimous consent of adjacent property owners.

By obtaining written consent of all directly adjacent property owners, certain exceptions would be allowed. This would most likely be done through submittal of notarized authorization of each property owner. The following exceptions would be allowed through this process:

- a. Five or six chickens on single family properties at least 4,000 square feet.
- b. Up to four chickens on single family properties less than 4,000 square feet.
- c. Chicken coops closer than 20 feet to dwelling units on adjacent properties.
- d. Two or three beehives on single family properties at least 5,000 square feet.
- e. One beehive on single family properties at less than 5,000 square feet.
- f. Beehives closer than 20 feet to dwelling units on adjacent properties or closer than 5 feet to property lines.

By requiring unanimous neighbor consent for these exceptions, the property owners most impacted by the increased number of animals or closer location of coop/hive would have a mandatory role in the approval process. The unanimous neighbor consent process would reduce the permit processing time and submittal requirements for the listed exceptions. Residents who are not able to produce written consent of each adjacent property owner would need either to follow the standards allowed by right or apply for an exception through the Conditional Use Permit process.

2. Removing the requirement for a Conditional Use Permit to keep some animals on single family properties which are adjacent to multi-family properties.

The previous draft would have required residents who wished to keep chickens, bees and pigs on properties adjacent to multi-family dwelling units to receive approval of a Conditional Use Permit before doing so. This requirement was based on the logic that the increased number of adjacent units represented a

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potential impact to a greater number of residents. At the study session, several Council Members felt that this distinction was unnecessary. The requirement has been removed.

3. Adding an allowance for goats to be kept on a temporary basis for weed abatement.

Up to one goat would be allowed per 7,500 square feet of property area for a period of up to 60 days for weed abatement purposes. Weed abatement with goats would be allowed once every 12 months.

4. Adding detail to the general provision regarding sanitation and adding a general provision that refers directly to the Chapter 8.34: Nuisances.

At the March study session, several City Council Members asked staff to analyze a ban on animal slaughter. The City Attorney examined the issue and made a series of recommendations. The options for addressing animal slaughter that the City Attorney examined were: 1) Do nothing; 2) Ban animal slaughter; 3) Limit animal slaughter to industrial areas of the City; and 4) Allow animal slaughter but adopt regulations regarding health, sanitation, and nuisances.

Since the Council expressed interest in banning animal slaughter, the first option did not address the Council's comments and was disregarded. Because the City does not currently have any industrial zoning districts, the third option would be a de facto ban on animal slaughter. Alternately, the Council could limit animal slaughter to commercial areas or certain commercial zoning districts, but since staff is unaware of any businesses that currently slaughter animals in the City and the likelihood of any such future businesses seems low, this option seems unnecessary.

The City Attorney expressed legal concerns regarding option two. The City Attorney recommended that if the Council adopted a ban on animal slaughter that the ban be carefully crafted in order to avoid constitutional issues and unintended restrictions. The City may not directly interfere with religious expression by adopting a regulation that bans religious conduct, such as animal sacrifice. The City may enact a general ban on certain types of slaughter without reference to religious activities. However, the City Attorney did not recommend this approach because the City would need to carefully implement this regulation to avoid constitutional issues. In addition, staff had some concerns regarding unintended restrictions of a ban on animal slaughter. For example, grocery stores and fishmongers sell live lobsters which patrons can

cook at home. Also, some types of pets, such as certain reptiles, eat other live animals. A ban on animal slaughter would have to be delicately crafted so as not to prohibit these and other unforeseen commonplace activities.

The City Attorney instead recommended that the Council adopt health, sanitation and nuisance regulations for animal slaughter that occurs on residentially zoned parcels within the City. This would address the potential impacts of animal slaughter without creating potential constitutional issues or inadvertently banning commonplace activities. In revising the ordinance, staff followed the recommendations of the City Attorney and revised the sanitation and nuisance requirements of the ordinance accordingly to address potential impacts of animal slaughter. The sanitation requirement would require areas where animals are kept to be kept clean. All waste would be required to be removed daily or more often as necessary to maintain a sanitary environment. In addition, an explicit reference to the City's Municipal Code governing nuisances has been added to the Animals Ordinance. The City would have enforcement authority over any nuisance conditions which resulted from animal slaughter. Additionally, the ordinance has a standard for animal noise in addition to the standards in the County Animal Control Code. It is staff's determination that these provisions will effectively mitigate any impacts resulting from animal slaughter on residentially zoned properties.

5. Section 7.12: Dogs.

The Animals Ordinance has a section which governs dogs. The existing section requires that dogs be leashed when on a property other than that of its owner. The existing section also contains provisions which the City Attorney felt conflicted with the County Animal Control Code and State law. Staff wanted to retain the leash law as well as add a provision that would require dog owners to clean up after their dogs. The proposed new language in this section contains both of these provisions and brings the section into conformance with the County Animal Control Code and State law.

Staff recommends that the revisions to the Animals ordinance not take effect until April 1, 2012. This would allow staff time to develop the forms and procedures necessary to implement this ordinance. This timeframe would also provide staff the opportunity to develop public information and provide outreach to residents regarding the new programs.

FINANCIAL CONSIDERATIONS

Should the City Council enact this ordinance, staff will return at a future meeting with proposed fees for the new permits to amend the Master Fee Schedule accordingly. Staff will calculate these fees based on the cost of the service, but it is anticipated that the new permits will be comparable in cost to other over-the-counter permits.

LEGAL CONSIDERATIONS

As previously noted, City staff worked with the City Attorney to create and review the new language for this ordinance.

Reviewed by:



**Scott Hanin
City Manager**

Attachments:

1. Ordinance 2011-XX

ORDINANCE NO. 2011-XX

AN ORDINANCE OF THE CITY OF EL CERRITO AMENDING TITLE 7 ("ANIMALS") OF THE EL CERRITO MUNICIPAL CODE BY AMENDING CHAPTER 7.04 ("COUNTY REGULATIONS"), ADDING A NEW CHAPTER 7.06 ("DEFINITIONS") AND REPEALING AND RE-ENACTING CHAPTERS 7.08 ("KEEPING OF ANIMALS") AND CHAPTER 7.12 ("DOGS")

THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION I.

Title 7 ("Animals") of the El Cerrito Municipal Code is hereby amended with the following additions and deletions to read as follows (additions in underline, deletions in ~~strikethrough~~):

**TITLE 7
ANIMALS**

Chapter 7.04 County Regulations

Chapter 7.06 Definitions

Chapter 7.08 Keeping of Animals

Chapter 7.12 Dogs

Chapter 7.04 County Regulations

Section 7.04.010 Adoption by reference of county's animal control code. ~~The board of supervisors of the county, County Board of Supervisors, an agency of the state within the meaning of Government Code Section 50022.1, has adopted County Ordinances Nos. 80-97 and 83-10 being a codification of provisions for animal control services (and constituting Division 416 of the County Ordinance Code.), and it is a code within the meaning of Government Code Section 50022.2; and e-Certified copies of it~~ Division 416 of the County Code are and have been on file with the eCity eClerk where they are open to public inspections, all as required by Government Code Section 50022.3. ~~This~~ The County animal control code and any amendments thereto are referred to and adopted by this reference as part of the this city ordinance, as provided for in Government Code Section 50022.2 to the extent not inconsistent with the provisions of this ~~chapter~~ Title.

~~Section 7.04.015 Penalties.~~

~~A. Notwithstanding Section 1.08.030 of the El Cerrito Municipal Code, and pursuant to Food and Agricultural Code Section 31401, violations of Division 416 of the County Code, incorporated by reference by El Cerrito Municipal Code Section 7.04.010, excepting Chapter 416-10 and Article 416-12.2, are punishable by a fine of not more than fifty dollars for the first offense, and not more than one hundred dollars for the second or subsequent offense.~~

~~B. Notwithstanding subsection (A) above, violation of section 416-4.404, Abandonment, excluding abandonments under Section 416-8.014, is a misdemeanor and punishable as such.~~

Section 7.04.015 Penalties. Penalties for violations of this title shall be imposed pursuant to Title 1 of the El Cerrito Municipal Code.

Section 7.04.020 Request enforcement in city. The county ordinance referred to and adopted contains the provisions of those sections of the California Food and Agricultural Code referred to in Section 30501, and therefore the city ordinance constitutes the city's request that the provisions of the county ordinance be applicable within the city, and they shall hereafter so apply, pursuant to Food and Agricultural Code Section 30501.

Chapter 7.06 Definitions

Section 7.06.010 Definitions. The following words and phrases, when used in this title, are defined as follows:

- A. "Amphibian" shall mean member of the class *Amphibia*, including, but not limited to, frogs, toads and salamanders.
- B. "Animal" shall mean a member of the kingdom *Animalia*.
- C. "Arthropod" shall mean member of the phylum *Arthropoda*.
- D. "Beehive" shall mean a box, receptacle or container, typically a Langstroth hive, designed to house one Honeybee colony for the purpose of beekeeping.
- E. "Bird" shall mean a member of the class *Aves*.
- F. "Cat" shall mean a member of the species *Felis catus*.
- G. "Chicken" shall mean a member of the subspecies *Gallus gallus domesticus*.
- H. "Coop" shall mean a roofed structure where chickens typically roost.
- I. "Domestic" shall mean animals bred to be accustomed to human provision and control that are typically kept as pets.
- J. "Dog" shall mean a member of the subspecies *Canis lupus familiaris*.
- K. "Fish" shall mean an aquatic vertebrate that is covered with scales, as well as other commonly kept aquatic animals, including, but not limited to, shrimp, snails, and live coral.
- L. "Fowl" shall mean a member of the superorder *Galloanserae*, including, but not limited to, ducks, geese, and turkeys.
- M. "Goat" shall mean a member of the subspecies *Capra aegagrus hircus*.
- N. "Goat Weed Abatement Permit" shall mean an over-the-counter, administrative check to ensure that Goats are kept in compliance with Section 7.08.020 (M)(2).
- O. "Hen" shall mean a female Chicken.
- P. "Honeybee" shall mean a member of the genus *Apis*.
- Q. "Honeybee Keeping Clearance" shall mean an over-the-counter, administrative check to ensure that Honeybees are kept in compliance with this title.
- R. "Insect" shall mean a member of the class *Insecta*.

- S. “Livestock” shall mean an animal typically domesticated for the purpose of food, fiber or labor production, including, but not limited to, horses, cattle, sheep, mules, llamas, alpacas, ostriches, emus, and peacocks.
- T. “Pen” shall mean an enclosure used to confine animals to a specific area
- U. “Pig” shall mean a member of the subspecies *Sus scrofa domesticus*.
- V. “Rabbit” shall mean a member of the family *Leporidae*.
- W. “Reptile” shall mean a member of the class *Reptilia*, including, but not limited to, lizards, snakes, and turtles.
- X. “Residential Chicken Clearance” shall mean an over-the-counter, administrative check to ensure that Chickens are kept in compliance with this title.
- Y. “Rodent” shall mean a member of the order *Rodentia*, including, but not limited to, mice, hamsters, and guinea pigs.
- Z. “Rooster” shall mean a male Chicken.
- AA. “Wild Animals” shall mean those animals as defined in the Contra Costa County Code.

Chapter 7.08 Keeping of Animals

~~Section 7.08.010 – Permitted animals. The following animals are permitted within the city subject to the provisions of this chapter: cats; dogs; fowls and birds weighing less than one half pound; any other animal weighing less than three pounds except as otherwise provided herein.~~

~~Section 7.08.020 – Animals requiring use permits. No person shall keep any animal weighing more than three pounds, except a cat or dog, any fowl or bird weighing more than one half pound, any venomous or poisonous reptile, or any bees within the city without first having obtained a use permit from the city planning commission pursuant to Chapter 19.40 of this code.~~

~~Section 7.08.030 – Separation from neighbors. No fowl, bird, rabbit, hare or rodent shall be kept outside of a home or within twenty feet of a property line.~~

~~Section 7.08.040 – Animal noise. No fowl, bird or animal of any sort, kept within the city shall be allowed to disturb neighbors with its noise between sunset and one half hour after sunrise.~~

~~Section 7.08.050 – Staking animals. No person shall keep an animal weighing more than fifty pounds on any premises not surrounded by a fence sufficient to contain such animal, unless the same shall be so securely staked, tied or fastened as to prevent it breaking away and running at large.~~

~~Section 7.08.060 – Animals – Sale. It is unlawful for any person, firm, or corporation to display, sell, offer for sale, barter or give away any baby chicks, rabbits, ducklings or other fowl, turtles or lizards, as pets or novelties, whether or not dyed, colored, or otherwise artificially treated. This section shall not be construed to prohibit the display or sale of natural chicks, rabbits, ducklings or other fowl in proper facilities by dealers, hatcheries, or stores engaged in the business of selling the same to be raised for food purposes.~~

~~Section 7.08.070 – Animal hospitals. No person shall establish, conduct or maintain any stable, hospital or other place for the treatment of diseased or injured animals within the~~

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city without first applying for and receiving a use permit from the planning commission so to do.

~~Section 7.08.080—Conditions for keeping certain animals. Whenever in this chapter a use permit from the planning commission is required, such permit shall be in writing and shall state therein the conditions upon which it is granted. It shall state the name and address of the responsible owner or applicant. Any permit shall be revocable at any time should the permittee fail to comply with all of its said conditions. A copy of the permit shall be presented to the county animal control director or to the city manager upon request.~~

~~7.08.090—Violations—Penalties. Any animal, fowl, bird, or reptile in violation of this ordinance and any applicable use permit must be removed from the city, permanently, by its owner. Any violation of the conditions of this chapter is a nuisance per se.~~

Section 7.08.010 General Provisions. The following provisions shall apply to the keeping of any Animal in the City of Cerrito:

- A. Public Health and Safety. It shall be unlawful and shall constitute a nuisance to keep any Animal that poses a threat to public health or public safety.
- B. Animal Noise. In addition to those provisions in Section 416-12.202 of the Contra Costa County Ordinance (as amended), no Animal shall be permitted to disturb neighbors with its noise between sunset and one-half hour after sunrise.
- C. Sanitation. It shall be unlawful and shall constitute a nuisance for any person to keep animals and all premises, enclosures or structures wherein animals are kept in an unsanitary manner. Such Animals and premises shall be kept free of obnoxious odors. All debris, refuse, manure, urine, food waste, or other Animal byproduct shall be removed from all premises, enclosures or structures wherein Animals are kept every day or more often as necessary.
- D. Nuisances. All Animals and premises, enclosures or structures wherein animals are kept shall conform to the standards and procedures established in Chapter 8.34: Nuisances.
- E. Animal-related Businesses. No business resulting from the keeping of animals, including, but not limited to, breeding animals, boarding animals, and sale of animal derived products shall be permitted as a home occupation without approval of a conditional use permit.

Section 7.08.020 Animals Permitted by Right and with Use Permits. The following Domestic Animals are permitted subject to the provisions of this Title:

- A. Dogs.
- B. Cats.
- C. Rodents.
- D. Rabbits.
- E. Fish.
- F. Reptiles and Amphibians.
- G. Chickens.

1. Prohibitions on Roosters. Only Hens are permitted pursuant to this Chapter. Roosters are prohibited.
 2. Limitation on Number. A maximum of four Chickens are permitted on properties of at least 4,000 square feet that contain single-family residential dwelling units, as long as the property owner holds a valid Residential Chicken Clearance.
 3. Enclosure Requirement. Chickens shall be kept in a Pen which is sufficient to contain Chickens.
 4. Location of Coops. Chicken Coops shall not be located closer than 20 feet to dwelling units on adjacent properties. Coops of 120 square feet and smaller shall not be subject to Section 19.06.030(T).
 5. Exceptions.
 - a. Unanimous Consent of Adjacent Property Owners. Exceptions to Subsection 2, above, allowing up to six Chickens on properties of at least 4,000 square feet that contain single-family residential dwelling units or allowing up to four Chickens on properties less than 4,000 square feet containing single family dwelling units and exceptions to Subsection 4, above, shall be permitted with written consent of the owner of every property which directly abuts the property on which chickens would be kept.
 - b. Conditional Use Permit. Any exceptions to Subsections 2 and 4, above, which have not secured unanimous consent of all adjacent property owners, shall be permitted with a conditional use permit.
- H. Other Fowl. Fowl, other than Chickens, shall not be permitted without a conditional use permit.
- I. Other Birds.
1. Use Permit Required. Birds that are kept from flying at-large and kept indoors shall be permitted. Birds that are permitted to fly at-large or birds that are kept outdoors shall not be permitted without a conditional use permit.
- J. Honeybees.
1. Number of Hives. A maximum of one Beehive shall be permitted by right on properties of at least 5,000 square feet that contain a single-family dwelling unit, as long as the property owner holds a Honeybee Keeping Clearance. The following situations require a conditional use permit: any number of Honeybees kept on properties containing multi-family dwelling units; any number of Honeybees kept on properties smaller than 5,000 square feet that contain a single-family dwelling unit; and three or more hives on properties of at least 5,000 square feet that contain single-family residential dwelling units.
 2. Location of Beehives. Beehives shall be located behind the principal structure on the property. Beehives shall not be located closer than 20 feet to dwellings on adjacent properties or 5 feet from a property line. Beehives shall not be subject to Section 19.06.030(T).

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3. Notice. Upon determining that a Honeybee Keeping Clearance application is complete, the Zoning Administrator shall mail notice to the owners of all properties which directly abut the property for which a Honeybee Keeping Clearance application has been submitted. The notice shall contain the date on which the Honeybee Keeping Clearance will take effect. The Honeybee Keeping Clearance shall become effective no fewer than 14 days after the date of the notice.

4. Exceptions.

a. Unanimous Consent of Adjacent Property Owners. Exceptions to Subsections 1 and 2, above, allowing up to three Beehives on properties of at least 5,000 square feet that contain single-family residential dwelling units or allowing up to one Beehive on properties less than 5,000 square feet containing single family dwelling units shall be permitted with written consent of the owner of every property which directly abuts the property on which Honeybees would be kept.

b. Conditional Use Permit. Any exceptions to Subsections 1 and 2, above, which have not secured unanimous consent of all adjacent property owners, shall be permitted with a conditional use permit.

K. Insects. Insects, other than Honeybees, and other commonly kept Arthropods, including but not limited to, ants, spiders, millipedes, and hermit crabs.

L. Pigs.

1. Limitation on Size. Pigs over 150 pounds shall not be permitted without a conditional use permit.

2. Maximum Number. A maximum of two Pigs shall be permitted on properties of at least 5,000 square feet that contain single-family residential dwelling units, subject to approval of an administrative use permit. The following situations will require a conditional use permit: more than two Pigs on lots containing single family residences; any number of Pigs on properties containing multi-family dwelling units; or any number of Pigs on properties smaller than 5,000 square feet.

3. Enclosure Requirement. All Pigs shall be kept in a Pen sufficient to hold Pigs.

4. Enclosure Setbacks. Enclosures for Pigs shall not be located closer than 20 feet to dwellings on adjacent properties or 5 feet from a property line.

M. Goats.

1. Use Permit Required. Goats shall be permitted on properties at least 10,000 square feet in size, subject to approval of an administrative use permit. Goats shall be permitted on properties less than 10,000 square feet in size subject to approval of a conditional use permit.

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2. Temporary Weed Abatement. Goats shall be allowed on lots of at least 7,500 square feet for the purpose of weed abatement for a period not to exceed 60 days as long as the property owner holds a valid Goat Weed Abatement Permit. One Goat shall be permitted per 7,500 square foot of property. No more than one weed abatement period shall be permitted every 12 months. Goats shall be confined to the area undergoing weed abatement.

N. Other Livestock.

1. Use Permit Required. Livestock, other than Goats, Pigs and Chickens, shall not be permitted without approval of a conditional use permit.

O. Wild Animals. Wild or exotic animals shall be defined and regulated as provided in the Contra Costa County Code. Wild animals shall not be permitted without approval of a conditional use permit.

Section 7.08.030 Prohibited Animals. It shall be unlawful to keep any animal in the City of El Cerrito unless the animal is permitted by right or has a valid use permit pursuant to Section 7.08.020, or satisfies an exemption pursuant to Section 7.08.020.

Section 7.08.040 Exceptions.

- A. Temporary Uses. The Zoning Administrator or the Planning Commission may permit exceptions to the standards of this Title on a temporary basis subject to Chapter 19.35 (Temporary Uses).
- B. Museums and Scientific Institutions. Any museum, educational institution or scientific institution with a valid permit from the state or federal government for ownership, harboring or maintenance of Animals is exempt from the provisions of this title.
- C. Law Enforcement. Animals used by law enforcement agencies shall not be subject to the provisions of this title.

Chapter 7.12 Dogs

~~Section 7.12.010 – Vicious dog. When the county animal control director finds or is informed that any dog in the city is vicious or otherwise a public menace, he shall cause an investigation to be made to determine same. The animal services department of Contra Costa County is authorized to undertake any activity in conformity with the county animal control ordinance, which ordinance has been adopted by reference by the city pursuant to Chapter 7.04.~~

~~Section 7.12.020 – Dangerous behavior. It is unlawful for any person having possession of any dog to permit the same to attack, chase, destroy, or offend any person or property, or to disturb the public peace and welfare of this city. Examples of dangerous and unlawful acts as above defined include, but are not limited to, the following:~~

- ~~A. A dog biting or attacking another dog, or a person, or other animal;~~
- ~~B. A dog jumping on, knocking down, scratching, chasing or otherwise molesting people;~~
- ~~C. A dog chasing a bicycle, an automobile, or any other conveyance;~~

~~D. A dog with a distemper, or a dog having a fit.~~

~~Section 7.12.030 Disturbance of public peace and welfare.~~

~~A. It is unlawful and shall constitute a nuisance per se for any person having possession of any dog to permit the same to disturb the public peace and welfare by barking, teasing other pets or animals, jumping fences, spilling garbage cans, excreting on property other than that of its owner, giving birth on the street, lying on the sidewalk so as to block it, burying objects of any sort on property other than that of its owner, or running loose on school property.~~

~~B. It is unlawful and shall constitute a nuisance per se for any person having possession of any dog to allow it outside without having a fence capable of containing same, except when the dog is on a leash.~~

~~C. It is unlawful and shall constitute a nuisance per se for any person having possession of any dog to allow it to take a newspaper or any other item or belonging from property other than that of its owner.~~

~~Section 7.12.040 Impoundment. Any dog reported committing an unlawful act as defined in Section 7.12.020 may be impounded by the county animal services department and dealt with in accordance with Division 414 of the Contra Costa County Code. The owner of such dog must pay the impounding and boarding fees in order to redeem such dog.~~

~~Section 7.12.050 Violations. Any dog found to have committed dangerous acts, as described in Section 7.12.020, on two or more occasions shall be deemed a menace and regulated as described under Section 7.12.010. In addition to enforcement by the county animal services director, violations of this chapter shall be a misdemeanor except that violation of Section 7.12.030 shall be an infraction punishable by a fine of fifty dollars and a nuisance per se.~~

Section 7.12.010 Dogs must be leashed. A person owning, possessing, or controlling a dog shall ensure that such animal be under effective restraint by a leash, as provided in Section 416-4.2 of the Contra Costa County Code.

Section 7.12.020 Nuisance. It shall be unlawful and a nuisance for the owner or person having custody of a dog to permit the dog to excrete on a property other than that of its owner without disposing of the waste.

Section 7.12.030 Impoundment. All dogs found to be in violation of this code, the provisions of Division 14 of the Agricultural Code or any provisions of Division 416 of the Contra Costa County Ordinance may be impounded by the El Cerrito Police Department or the County Animal Services Department and dealt with in accordance with Division 416-8 of the Contra Costa County Code, including all noticing provisions in Section 416-8.006. The owner of such dog must pay the impounding and boarding fees in order to redeem such dog.

Section 7.12.040 Potentially Dangerous or Dangerous Dogs. When any dog in the city may be a "potentially dangerous animal" or "dangerous animal" pursuant to Section 416-12.402 and 416-12.404 of the Contra Costa County Ordinance, the County Animal Services Director shall cause an investigation to be made to determine same. The Animal

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Services Department of Contra Costa County is authorized to undertake any activity in conformity with the county animal control ordinance, which ordinance has been adopted by reference by the city pursuant to Chapter 7.02.

Section 7.12.050 Violations. In addition to enforcement by the County Animal Services Director, violations of this chapter shall be a nuisance per se and/or a misdemeanor and/or an infraction punishable by fines as set forth in Title 1 of the El Cerrito Municipal Code.

DIVISION II. CEQA.

The ordinance is not a project within the meaning of Section 15378 of the California Environmental Quality Act (CEQA) Guidelines because it will have no potential for resulting in a direct or reasonably foreseeable indirect physical change in the environment.

DIVISION III. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

DIVISION IV. EFFECTIVE DATE.

This ordinance shall take effect on April 1, 2012 and shall within fifteen (15) days after passage, be posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Councilmembers voting for and against it.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of El Cerrito, held on November 7, 2011.

Adopted and ordered published at a meeting of the City Council for the City of El Cerrito held on the _____ day of _____, 2011 by the following vote:

APPROVED:

Ann Cheng, Mayor

ATTEST:

Cheryl Morse, City Clerk

ORDINANCE CERTIFICATION

I, Cheryl Morse, City Clerk of the City of El Cerrito, do hereby certify that this Ordinance is true and correct original Ordinance No. 2011-____ of the City of El Cerrito; that said Ordinance was duly enacted and adopted by the City Council of the City of El Cerrito at a meeting of the City Council held on the ____ day of November, 2011; and that said Ordinance has been published and/posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of El Cerrito, California, this _____ day of _____, 2011

Cheryl Morse, City Clerk