



Memorandum

TO: BUILDING STRONG
NEIGHBORHOODS COMMITTEE

FROM: Albert Balagso

SUBJECT: PROPOSED AMENDMENTS TO
TITLE 7 (ANIMAL ORDINANCE)
OF THE SAN JOSÉ MUNICIPAL CODE

DATE: 06-09-06

Approved

Date

PURPOSE AND BACKGROUND

The Animal Care Services Division (ACS) of the Department of Parks, Recreation, and Neighborhood Services (PRNS) will be recommending amendments to Title 7 of the San José Municipal Code to reflect contemporary municipal animal care and control practices, to define new terms, reorganize the Title, and to make clarifying changes. This memorandum highlights the most significant proposed amendments to Title 7.

During the last two decades, the City has adopted ordinances and amended specific sections in response to issues and concerns of the moment. In 2004, the City Council amended specific portions of Title 7 that were then more pressing to ACS’s operation. Specifically, in 2004, the City Council adopted ordinances that changed the dangerous dog regulations to better distinguish and define varying levels of aggressive dog behavior, changed the limits on the number of pets per dwelling unit, regulated the use of off-leash parks, and required animal rescuers to register for a permit. Title 7, however, has not received a comprehensive review. The proposed amendments to Title 7 were developed after reviewing other jurisdictions for best practices, seeking feedback from ACS staffs’ experiences, and collaborating with the Animal Advisory Commission. The Animal Advisory Commission is a group of interested people appointed by the Director and comprised of animal advocates, rescue groups, veterinarians, wildlife representatives and animal focused individuals. This Commission developed these recommendations over the course of several months of study sessions and research guided by the Deputy Director of Animal Care Services.

PROPOSED AMENDMENTS

Administrative Changes

The proposed ordinance will reorganize Title 7 and make clarifying changes. Some of these amendments include replacing references to positions such as the County Animal Control, or the Director of Neighborhood Preservation that are no longer responsible for animal care services. The amendments will also reflect that an independent administrative hearing officer will conduct certain hearings instead of the Director or Administrator of ACS where appropriate. The term “owner” has been modified to include “owner or guardian” throughout the Title. A “guardian” will be equally responsible for the safety and care of the animal and the public. The proposed ordinance will also reorganize the Title to reflect a more logical grouping of topics without affecting the meaning, purpose, or intent of the sections contained within.

Owner or Guardian Duty of Care

The San José Municipal Code does not currently contain a comprehensive law that establishes a minimum standard of care for domestic animals. This new section imposes on the owner or guardian, animal facilities, and animal rescuers, an obligation to provide for the animal’s basic needs such as food, water, shelter, and veterinary care. This amendment will specifically describe the basic care requirements such as adequate care, food, water, shelter, space, and veterinary treatment. The State of California has anti-cruelty laws that make it a crime to abuse or neglect a domestic animal. A violation of these State laws can be prosecuted as a misdemeanor or felony. ACS will continue to seek criminal enforcement based on anti-cruelty laws for the most egregious abuse and neglect cases. The proposed ordinance provides the City an administrative alternative to address an owner or guardian’s failure to provide for an animal’s basic needs by establishing in more detail a minimum standard of care.

Livestock and Small Animals

The City’s population has grown since the regulations relating to the keeping of livestock and small animals were first enacted. Livestock include horses, pigs, cattle, goats and similar animals. Small animals are rabbits, chickens, turkey, geese, and like animals. Residential communities are now more likely to be impacted by the keeping of livestock and small animals than 20 years ago as a result of smaller lot sizes. The proposed ordinance will reduce the number of small animals that can be housed in residential areas and increase the set back requirements for keeping livestock or small animals.

Mandatory Spay and Neuter Program

Under the current Municipal Code, an owner may have one unspayed animal per dwelling unit and this unspayed animal may breed once each calendar year. The proposed ordinance will require the owner or guardian of a dog or cat that produces a litter be treated as a commercial breeder. Commercial breeders must meet specific permit requirements for their activities including but not limited to an inspection by ACS. These permits can also be revoked if the commercial breeding activity results in a public nuisance. This ordinance is modeled after recent mandatory spay and neuter laws that were passed in Los Angeles County and one that is proposed for Sacramento County.

A mandatory spay/neuter law is important in San José for several reasons:

1. Too many animals are euthanized at the Animal Care Center. In calendar year 2005, the City euthanized 9,766 animals and most of those animals were the result of unwanted or uncared for animals that were allowed to breed.
2. Spaying and neutering helps dogs and cats live longer and healthier lives. Spaying and neutering can eliminate or reduce the incidence of a number of health problems that can be very difficult or expensive to treat. Spaying or neutering have been shown to reduce the incidence of uterine or ovarian cancer, breast cancer, testicular cancer, prostate disease and eliminates the animal's heat cycle.
3. Spaying and neutering makes better and more affectionate pets. Neutering cats makes them less likely to spray and mark territory. Animals that are not sterilized often exhibit more behavior and temperament problems than animals that have been spayed or neutered such as biting, running at large, or fighting. Ninety percent of animals received at the shelter are stray animals that were not properly confined by their owner or guardian. During 2005 calendar year, ACS found new homes for 2,696 stray animals through the adoption program and 96% (2,586) of those animals required spay or neuter surgery. The shelter also received 4,806 feral cats and kittens and none of them had been spayed or neutered. Dogs that are not neutered are three times more likely to bite than dogs that are sterilized.
4. 87% of the animals housed by San José are never reclaimed by an owner. The City of San José spends over 5 million dollars each year primarily to control and reduce the unwanted stray animal population and to quarantine animals that bite.
5. San José has an expanding population and development is likely to occur in the East, North, and Southern, portions of the City. The increase in population will likely be accompanied by an increase in the domestic animal population of primarily dogs and cats. A mandatory spay and neuter program will be a proactive strategy to control the negative effects of unplanned breeding.
6. A mandatory spay and neuter program will not prevent those residents who do wish to breed their cat or dog for personal or business purposes if they obtain a commercial breeding permit.
7. There are no current business licenses issued by the City of San José for breeding dogs or cats, and therefore the impact to any individual's lawful business is negligible.

Outdoor Sales of Animals

Title 7 currently prohibits any person from selling an animal at any outdoor location or in any area that is not specifically permitted for the sale of animals. The proposed ordinance will permit animal rescue groups registered with the City to conduct outdoor sales of animals. Registered Animal Rescue groups are 501c3 non-profit groups whose mission is to seek to place

homeless animals in new adoptive homes. As part of obtaining and maintaining a valid registration, these groups will be subject to inspection and revocation of the privilege if violations are found. Currently, registered rescue groups enjoy exemptions from the pet limit laws, have access to homeless animals at the Animal Care Center that would not otherwise be available for adoption, and have access to the City's low cost spay and neuter clinic. The proposed ordinance will also prohibit the sale or giving away of live animals at raffle events, or as a prize.

Rabies Vaccinations

Veterinarians are required by State law and the municipal code to submit all rabies vaccination information to the licensing authority or ACS. The owner of the animal can also provide proof of rabies vaccination. The proposed amendments would clarify that the veterinarians' obligation is mandatory upon request and is not relieved by the possibility that the owner is similarly required to provide proof. It is much more difficult to collect rabies information from each individual pet owner than from a few dozen veterinarians and shot clinics. Weekend shot clinics that operate in pet stores currently submit rabies information to ACS.

Trapping

The proposed ordinance requires persons who use live animal traps to remove, release, or transfer the animal in a timely manner, provide food, water and care to prevent suffering, prevent the trapped animal's exposure to the elements, and euthanize or dispose in accordance with applicable law.

SUMMARY

These changes to Title 7 are scheduled to be presented to the City Council in late Summer/early Fall of this year. These proposals will help improve the living conditions of animals, clarify enforcement standards for City staff, reduce the number of stray animals produced annually, and help to reduce the use of euthanasia as a primary method for controlling unwanted animal populations.

ALBERT BALAGSO
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and Neighborhood Services