



Ordinance Fact Sheet

TO: CITY COUNCIL

DATE: February 3, 2014

FROM: CITY ATTORNEY

SUBJECT: AMENDMENT TO CHAPTER 6.20 OF THE PASADENA MUNICIPAL CODE REDUCING THE DISTANCE SEPARATION REQUIREMENTS AND IMPLEMENTING REGULATIONS FOR THE KEEPING OF CHICKENS

TITLE OF PROPOSED ORDINANCE:

AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE CHAPTER 6.20, FOWL AND LIVESTOCK RESTRICTIONS

PURPOSES OF THE ORDINANCE:

In May 2013, the City Council received public comment requesting modification of the distance requirements to allow more residents to enjoy "backyard hens." Backyard hen advocates presented compelling public health benefits supporting backyard coops; including greater access to less expensive, healthy foods; fresh eggs; and environmental health effects like nitrogen-rich guano for fertilizer use. Additionally, chickens can serve as composters for household food scraps. The Public Health Department has assessed the benefits and the risks associated with the keeping of chickens and believes that through appropriate regulation, any risks can be mitigated. The Municipal Code currently has distance requirements of 50 feet from property line and 100 feet from any inhabited structure. This ordinance will lower the perimeter requirement for chickens to 35 feet. Such a reduction will allow backyard hens to contribute to sustainability and more equitable access to healthy foods.

The ordinance also provides that the poundmaster, rather than the health officer, may grant exemptions.

MEETING OF 02/03/2014

AGENDA ITEM NO. 8

REASONS WHY LEGISLATION IS NEEDED:

An ordinance is required to modify the distance requirements set forth in the Municipal Code. At the City Council meeting on November 25, 2013, the City Council directed the City Attorney to return with an amendment to Chapter 6.20 of the Pasadena Municipal Code.

PROGRAMS, DEPARTMENTS OR GROUPS AFFECTED:

The Public Health Department, in conjunction with the Pasadena Humane Society in its capacity as the City's poundmaster, will be responsible for the administrative implementation of the amended ordinance.

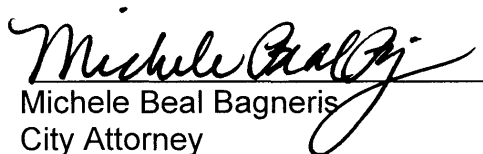
FISCAL IMPACT:

It is anticipated that the cost of this program will be negligible for staff time, resulting in no significant fiscal impact.

POLICY CHANGES:

This ordinance does not result in any policy changes with regard to number of chickens allowed, but does allow "backyard hens" in closer proximity to certain structures, subject to registration and required enclosures.

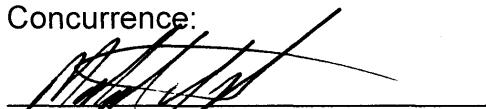
Respectfully submitted,


Michele Beal Bagneris
City Attorney

Prepared by:


Lisa Hosey
Deputy City Attorney

Concurrence:


Michael J. Beck
City Manager

Introduced by _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PASADENA AMENDING PASADENA MUNICIPAL CODE CHAPTER 6.20, FOWL AND LIVESTOCK RESTRICTIONS

The People of the City of Pasadena ordain as follows:

SECTION 1. This ordinance, due to its length and the corresponding costs of publication, will be published by title and summary as permitted by Section 508 of the Charter.

The approved summary of this ordinance reads as follows:

“SUMMARY

The purpose of Ordinance No. _____ is to amend Title 6, Chapter 6.20 of the Pasadena Municipal Code to modify the requirements for the keeping of chickens in residentially zoned areas of the City such that: 1) The distance requirement for chicken enclosures be set at a distance of 35 feet from a dwelling house or structure and not within a required setback as prescribed in the zoning code; 2) An adequate enclosure or fence be required to contain chickens; and 3) Owners are required to register with the poundmaster and submit a completed self-certification checklist that verifies that the owner complies with the ordinance requirements.

This ordinance shall take effect upon its publication.”

SECTION 2. Title 6, Chapter 6.20, Section 6.20.030 of the Pasadena Municipal Code is hereby amended to read:

“6.20.030 Fowls and rabbits—Keeping.

A. It is declared to be a nuisance, and no person shall keep ~~chickens~~, geese, ducks,

turkeys, pheasants, doves, pigeons, squabs or similar fowls or rabbits, owned or controlled by him or it within 50 feet of any street line or within 50 feet of any property line, or within 100 feet of any dwelling house or structure used as a dwelling, church, school, hospital or place where food products are kept, stored, manufactured or served to the public, unless such house or structure is occupied by him or it, ~~or to keep any rooster over 4 months old inside the city limits of Pasadena.~~

B. It is declared to be a nuisance, and no person shall keep chickens owned or controlled by him or it within 35 feet of any dwelling house or structure used as a dwelling, church, school, hospital or place where food products are kept, stored, manufactured or served to the public, unless such house or structure is occupied by him or it, and not within a required setback as prescribed in the zoning code, or to keep any rooster inside the city limits of Pasadena.”

SECTION 3. Title 6, Chapter 6.20, Section 6.20.031 of the Pasadena Municipal Code is hereby added to read:

“6.20.031 Chickens—Enclosure and Shelter.

Adequate enclosure or fencing shall be required sufficient to contain live chickens on the property to prevent escape. The enclosure shall be a minimum size of ten (10) square feet of permeable land per chicken. Adequate shelter shall be required sufficient to protect chickens from the elements, and to prevent wildlife or other predators from gaining entry.”

SECTION 4. Title 6, Chapter 6.20, Section 6.20.032 of the Pasadena Municipal Code is hereby added to read:

“6.20.032 Chickens—Registration Required.

No person shall have, keep, maintain, or have custody or control of live chickens on

residential property within the city without first registering with the poundmaster, and submitting a completed self-certification which verifies that the owner complies with the requirements of this ordinance.”

SECTION 5. Title 6, Chapter 6.20, Section 6.20.130 of the Pasadena Municipal Code is hereby amended to read:

“6.20.130 Keeping closer than 100 feet to inhabited structures, schools or hospitals.

Except as provided in Section 6.20.030 B, No person shall keep any animal, fowl or bird, wild or domestic, other than dogs, cats, canaries, or birds of the psittacinae family, within 50 feet of any property line and within 100 feet of any inhabited structure, school or hospital; provided, however, that when any person keeps more than 4 birds of the psittacinae family, he shall keep such birds at least 35 feet from any of said structures.”

SECTION 6. Title 6, Chapter 6.20, Section 6.20.200 of the Pasadena Municipal Code is hereby amended to read:

“6.20.200 Exemption authority.

Subject to the provisions of this chapter, the ~~health officer~~ poundmaster may grant an exemption from the distance requirements set forth in Sections 6.20.030, 6.20.080, 6.20.090, 6.20.100 and 6.20.130 and as a requirement thereof may impose such conditions or restrictions as the ~~health officer~~ poundmaster deems appropriate in any specific case. No exemption shall be granted unless the poundmaster ~~health officer~~ has conducted an exemption hearing as required herein.”

SECTION 7. Title 6, Chapter 6.20, Section 6.20.210 of the Pasadena Municipal Code is hereby amended to read:

“6.20.210 Petition for exemption.

Any person affected by the distance requirements set forth in Sections 6.20.030, 6.20.080, 6.20.090, 6.20.100, and 6.20.130 may petition the poundmaster ~~health officer~~ for an exemption from any of the said requirements. The petition must be in writing on a form prescribed by the poundmaster ~~health officer~~, and must contain a complete description of the property involved and a statement of facts relied upon by the petitioner to support the exemption. The petition may be filed only by either the record owner of the land or a tenant lawfully in possession who has the written consent of the record owner of the land to make such petition.”

SECTION 8. Title 6, Chapter 6.20, Section 6.20.230 of the Pasadena Municipal Code is hereby amended to read:

“6.20.230 Time limits.

An exemption authorized by the ~~health officer~~ poundmaster shall not take effect until the 30th calendar day after the mailing of the notice of the decision granting said exemption; provided, however, that the exemption shall be stayed if any person appeals the decision of the poundmaster ~~health officer~~ pursuant to Section 6.20.270 of this chapter, and the stay shall remain in effect unless the exemption is sustained by the city manager or designee.”

SECTION 9. Title 6, Chapter 6.20, Section 6.20.250 of the Pasadena Municipal Code is hereby amended to read:

“6.20.250 Exemption—Hearing—Time.

Upon the filing with the poundmaster ~~health officer~~ of a petition for exemption, the matter shall be set for a public exemption hearing before the poundmaster ~~health officer~~ within 60 days of the filing of the petition.”

SECTION 10. Title 6, Chapter 6.20, Section 6.20.260 of the Pasadena Municipal Code is hereby amended to read:

“6.20.260 Exemption—Granting.

A. The ~~health officer~~ poundmaster upon application for an exemption shall investigate all matters relating to the petition.

B. The ~~health officer~~ poundmaster in considering the petition shall take into consideration the character of the activity proposed by the petitioner, the land proposed to be occupied, the general effect upon the neighborhood of such exemption, and the effect upon all residential properties located within 300 feet of the exterior boundaries of petitioner's property. If the poundmaster ~~health officer~~ finds that the enforcement of the distance requirements of this chapter in the specific case would result in unnecessary hardship to the petitioner and that the proposed exemption will not be detrimental to the public welfare or convenience nor injurious to the neighborhood, the poundmaster ~~health officer~~ may grant the exemption.”

SECTION 11. Title 6, Chapter 6.20, Section 6.20.270 of the Pasadena Municipal Code is hereby amended to read:

“6.20.270 Appeal from poundmaster’s ~~health officer's~~ decision.

Any person aggrieved by a decision of the poundmaster ~~health officer~~ to approve or deny an exemption shall have the right of appeal, provided that the appeal is perfected within 15 days after notice of the decision. The appeal shall be perfected by filing a letter of appeal with the city manager or designee with the basis for the appeal stated therein, and paying a filing fee in an amount established by resolution adopted by the ~~board of directors~~ City Council.”

SECTION 12. Title 6, Chapter 6.20, Section 6.20.280 of the Pasadena Municipal Code

is hereby amended to read:

“6.20.280 Waiver of hearing right.

Failure to file a letter of appeal within the 15 days shall constitute a waiver of appellant's right to an appeal hearing, but the city manager or designee in his discretion may nevertheless grant such appeal hearing.”

SECTION 13. Title 6, Chapter 6.20, Section 6.20.290 of the Pasadena Municipal Code is hereby amended to read:

“6.20.290 Appeal—Hearing notice.

The city manager or designee shall fix the time and place of the appeal hearing at a date within 30 days after his receipt of the letter of appeal. The city manager or designee shall appoint an appeal hearing officer, and shall give the appealing party and any other person requesting same at least 10 days' notice of the time and place of such hearing. The notice shall be substantially in the following form, but may include other information:

You are hereby notified that a hearing will be held at _____, on _____ at the hour of _____, at which time you may show cause why the appeal which you have filed should be sustained. You may be represented by counsel at the hearing.”

SECTION 14. Title 6, Chapter 6.20, Section 6.20.300 of the Pasadena Municipal Code is hereby amended to read:

“6.20.300 Appeal—Decision.

A. At the time and place set for the appeal hearing, the appeal hearing officer shall give the appealing party and any other interested party a reasonable opportunity to be heard in order

to show cause why the determination of the ~~health officer~~ poundmaster should not be upheld. In all such cases, the burden of proof shall be upon the appellant, who may be represented by counsel, to show that the decision of the ~~health officer~~ poundmaster is not appropriate as measured by the standards specified in Section 6.20.260 .

B. The appeal hearing officer shall submit a written report to the city manager or designee. The report shall contain a brief summary of the evidence considered, findings of fact and the recommendations of the appeal hearing officer. In addition, the report shall contain a proposed decision, in such form that it may be adopted by the city manager or designee as his decision in the appeal. If the city manager or designee approves the decision of the appeal hearing officer, it shall be final and conclusive. The city manager or designee shall transmit the decision to the ~~health officer~~ poundmaster who shall comply with the decision. If the city manager or designee does not approve the decision, he shall independently review the evidence taken at the hearing for the purpose of determining if the decision of the ~~health officer~~ poundmaster should be upheld. The decision of the city manager or designee shall contain findings of fact, a determination of the issues presented, and shall be final and conclusive. The city manager or designee shall transmit the decision to the poundmaster ~~health officer~~ who shall comply with the decision. The poundmaster ~~health officer~~ shall, within 30 days of receipt of the city manager's or designee's decision, mail a copy of the decision to the appellant. It should be conclusively presumed that the appellant received the decision within 5 days after same was mailed.”

SECTION 15. This ordinance shall take effect upon its publication.

Signed and approved this _____ day of _____, 2014.

Bill Bogaard

Mayor

I HEREBY CERTIFY that the foregoing Ordinance was adopted by the City Council at its meeting held _____, 2011, by the following votes:

AYES:


NOES:

ABSENT:

ABSTAIN:

Mark Jomsky, CMC
City Clerk

APPROVED AS TO FORM:



Lisa Hosey
Deputy City Attorney