



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 2/20/2013

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Planning, Building and Environmental Services
REPORT BY: John McDowell, Deputy Planning Director - 299-1354
SUBJECT: Rooster Keeping Ordinance

RECOMMENDATION

ROOSTER KEEPING ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P13-00025-ORD

CEQA Status: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

Request: County-sponsored ordinance to revise requirements for the keeping of roosters on properties allowed for agricultural land use. The proposed ordinance would limit rooster keeping to a maximum of four mature birds per parcel except for commercial poultry ranches, public or private schools, Future Farmers of America (FFA) or 4-H sponsored projects, or to legitimate poultry hobbyist as approved by the Agricultural Commissioner.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, ADDING A NEW CHAPTER 6.18 (KEEPING OF ROOSTERS) AND AMENDING SECTIONS 18.08.040 (AGRICULTURE), 18.126.030 (ISSUANCE), 18.126.060 (PERMIT - ISSUANCE PREREQUISITES), AND 18.132.070 (AMORTIZATION OF CERTAIN NONCONFORMITIES) OF THE NAPA COUNTY CODE REGULATING THE KEEPING OF ROOSTERS

Staff Recommendation: That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors.

Staff Contact: John McDowell, Deputy Director 299-1354, john.mcdowell@countyofnapa.org

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Recommend to the Board of Supervisors that they find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3)) that CEQA does not apply where it can be seen with certainty that there is no possibility of a significant environmental impact.
2. Recommend to the Board of Supervisors that they find the proposed ordinance consistent with the Napa County General Plan for the reasons articulated in this staff report and adopt the proposed ordinance.

Discussion:

In the fall of 2010, the Board of Supervisors adopted a rooster keeping ordinance that permitted property owners to keep up to 25 mature roosters per acre, or up to 100 mature roosters per parcel, and established an administrative permit for property owners wishing to raise more than the permitted number of roosters. This original rooster keeping ordinance was recommended due to ongoing nuisance issues off of American Canyon Road where hundreds, and sometimes greater than 1,000 roosters were being housed on individual properties. Since adoption of this ordinance, there have been three code enforcement cases where greater than 100 roosters per parcel have been abated, and two requests for administrative permits to raise greater than 100 roosters per parcel. Both administrative permits were denied for failure to meet the administrative permitting requirements, although one is presently before the Board of Supervisors on appeal with the Board having taken a tentative motion to deny the appeal and uphold Staff's denial of the administrative permit.

The currently proposed ordinance is intended to simplify the current regulations by eliminating the administrative permitting process which has been a drain on County resources. In the two cases where administrative permits were requested, both applications could not be approved and Staff spent considerable time working with applicants attempting to resolve issues and deficiencies in submittal materials. The proposed ordinance will modify current regulations by limiting per parcel rooster keeping to 4 birds, and replacing the administrative permit process with an exemption for commercial poultry ranches, public or private schools, FFA or 4-H sponsored projects, or to legitimate poultry hobbyist as approved by the Agricultural Commissioner.

A Commission recommendation is request on the ordinance. No formal action is required on the attached drafts of the Agricultural Commissioner Exemption Guidelines or the Rooster Keeping Best Management Practices. However, Commission and public comments on those documents is encouraged and will be forwarded to the Board of Supervisors for their considerations.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

The ordinance does not require in depth CEQA analysis because it is inherently restrictive and would limit or reduce the impacts of existing operations rather than allow the existing operations to expand or increase. As a

result, it can be seen with certainty that there is no possibility that the ordinance will have a significant impact, and no further review is required.

BACKGROUND AND DISCUSSION

The Napa County General Plan and Napa County Code encourage agricultural uses and designate the vast majority of unincorporated Napa County for agriculture. In these areas, the General Plan and County Code also promulgate the "right to farm," which means that the County is unsympathetic to complaints or conflicts arising from legitimate, legal farming operations. For this reason, the County maintains an interest in explicitly defining and restricting those unusual agricultural uses which may become a public nuisance.

The definition of "agriculture" contained in Napa County Code Section 18.08.040 includes the breeding and raising of poultry, which prior to 2010 and the adoption of the first rooster keeping ordinance, included keeping of any number of roosters on a single parcel. Rooster keeping has been an ongoing issue just outside the City of American Canyon, where several properties have been used to raise substantial numbers of roosters. The operations have been cited for building and safety-related code violations and County property maintenance violations, consuming considerable staff time and resources, and have raised concerns because of the potential that roosters could be raised for cock fighting, in violation of State law.

For these reasons, Staff recommended the adoption of the first rooster keeping ordinance in 2010 which was enacted by the Board of Supervisors in October of that year. The 2010 ordinance limited the number of roosters kept on a single parcel to 25 per acre or 100 per parcel, and established an administrative permitting process to keep greater numbers of birds. Since adoption of the ordinance, Code Enforcement Staff has successfully abated three nuisance rooster keeping operations and has one open case in process. In addition, administrative permit requests were submitted on two other properties containing rooster keeping operations, but both were denied for failure to meet requirements. Although the ordinance has aided in efforts to abate rooster keeping nuisance issues off of American Canyon Road, the administrative permitting process has resulted in substantial costs to the County. In the two cases where administrative permits were requested, which included a processing fee of approximately \$160 each, literally dozens of hours of staff time and resources were involved in each case in working with the applicant attempting to guide them to approvable projects. In both cases, the operations were already in existence, and both applicants were slow to respond, or unresponsive to staff requests on application completeness.

The administrative permit process has not shown itself to be effective in encouraging non-nuisance rooster keeping operations. Therefore, Staff is recommending modifying the ordinance in a manner similar to what has been adopted and successfully employed in Solano County. The Solano County ordinance simply allows four roosters per parcel, and provides that commercial poultry operations, schools, FFA and 4-H club practices, and hobbyist recognized by the Agricultural Commissioner are exempt from this limitation. This eliminates the burdensome administrative permit process.

In addition to the ordinance, attached to this staff report are draft Agricultural Commissioner Guidelines regarding qualifications for exempt rooster raising operations, as well as, Rooster Keeping Best Management Practices intended as guidance to applicants for the period of time that administrative permits remain enabled in the code. The Best Management Practices will be phased out with the elimination of administrative permits. No formal Commission action is required on either of these documents, but comments are encouraged for incorporation into the final draft for consideration by the Board of Supervisors.

SUPPORTING DOCUMENTS

-
- A . Ordinance (tracked version)
 - B . Rooster Keeping Exemption Guidelines
 - C . Rooster Keeping Best Management Practices

Napa County Planning Commission: Approve

Reviewed By: John McDowell