COUNCIL AGENDA: 06-19-07
ITEM: 5.2

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CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Councilmember Pete Constant

SUBJECT: **Supplemental Memo— Proposed Amendments to Title VII (Animal Ordinance) of the San José Municipal Code**

DATE: June 18, 2007

Approved

Date

COUNCIL DISTRICT: City-Wide
SNI AREA: N/A

REASON FOR SUPPLEMENTAL OR REPLACEMENT

This supplemental memo is a response to staff analysis and the result of further discussions with staff and community input regarding the proposed amendments to Title VII that were approved by the City Council on May 1, 2007.

RECOMMENDATION

Approval of an ordinance amending Title VII, the Animal Ordinance, of the San José Municipal Code to update existing animal related codes to reflect current municipal animal care and control practices as presented by staff in the Draft Ordinance presented by Staff on April 18, 2007 and amended by City Council on May 1, 2007, along with the following changes:

1. §7.10.200 — Do not include the term "service dog in training" in the definition of "service dog" or other references to "service dog" in the Title.
2. §7.20.570 — Amend the language to allow any person who harbors or has control, custody, or possession of a dog that is participating in or preparing for an animal exhibition to carry metal license tags for the purpose of identification while in public. The dog must have a microchip implant. This section would not exempt the dog from the leash law.
3. §7.40.020 (D) — Modify language to allow only one (1) litter per household per year, with no limit on the number of unspayed females within the maximum number of cats or dogs allowed any dwelling unit.
4. §7.60.030 — Delete this section and amend Sections 7.10.080 and 7.10.185.

5. §7.10.080 — Amend the definition of "Commercial Kennel" to provide that allowing the parturition or rearing of more than two (2) litters of animals per year per premises would require a commercial kennel permit and delete any references to the sale of litters for compensation as a basis for being included as a Commercial Kennel.
6. §7.10.185 — Amend the definition of "Private Kennels" to provide that allowing the parturition or rearing of two (2) litters per year per premises would require a private kennel permit.
7. §7.60.080 — Eliminate the requirement for a two hundred fifty (250) foot distance between Private Kennel and any dwelling unit, apartment, motel, hotel, or other building used for human habitation.
8. §7.40.040 (B) — Add language that would clarify that a dog may be maintained on a leash of more than six (6) feet but less than twenty (20) feet when in a public park or public open space provided that the dog makes no physical contact with another person or animal without the consent of that person or the consent of the owner.. Clarify that the six (6) feet leash requirement applies to when a dog is at an event on public property, or on public sidewalk or public street.
9. §7.40.100 — Continue to require that animal events held in a City building or facility require approval by the City Manager. Animal Services will maintain a list of City facilities that are appropriate for Animal Events.
10. Add a cross-reference to Section 1.16.010 specifying the time to appeal final administrative hearing decisions where appropriate in Title 7.

BACKGROUND

The proposed amendments above are the result of a cooperative effort to fuse staff recommendations, put forward in the supplemental memo dated May 30, 2007, with the City Council direction given on May 1, 2007 to create a Proposed Animal Ordinance to update existing animal related codes to reflect current municipal animal care and control practices.

ANALYSIS

1. §7.10.200 — Do not include the term "service dog in training" in the definition of "service dog" or other references to "service dog" in the Title.

   Because there is no definition of or standard for identifying a service dog in training, there is no means for enforcing this exemption at this time.

2. §7.20.570 — Amend the language to allow any person who harbors or has control, custody, or possession of a dog that is participating in or preparing for an animal exhibition to carry metal license tags for the purpose of identification while in public. The dog must have a microchip implant. This section would not exempt the dog from the leash law.

   San José is home to a number of dog fanciers who raise dogs for the purpose of competing at local, regional, and national dog shows. Collars have a tendency to damage

the coat of certain breeds and in turn their ability to compete. There should be an exemption that allows owners, while in public, to carry registration tags for show dogs that have a microchip, rather than placing the registration tags on the animal. Owners are still required to obey leash laws.

3. §7.40.020 (D) — Modify language to allow only one (1) litter per household per year, with no limit on the number of unspayed females within the maximum number of cats or dogs allowed any dwelling unit.

   This change will help to control pet population numbers, while also respecting the casual breeder. In the direction given by Council on May 1, 2007, there is no limitation on the number of unsprayed females in one household. Limiting the number of litters by household, rather than animal, will help to address the concerns of overpopulation in local animal shelters and create a clearer definition of commercial breeding activity.

4. §7.60.030 — Delete this section and amend Sections 7.10.080 and 7.10.185.

   This section contradicts the definition of a Commercial Kennel (§7.10.080) and is not necessary.

5. §7.10.080 — Amend the definition of "Commercial Kennel" to provide that allowing the parturition or rearing of more than two (2) litters of animals per year per premises would require a commercial kennel permit and delete any references to the sale of litters for compensation as a basis for being included as a Commercial Kennel.

   This additional language will clarify the definition of a Commercial Kennel.

6. §7.10.185 — Amend the definition of "Private Kennels" to provide that allowing the parturition or rearing of two (2) litters per year per premises would require a private kennel permit.

   This clarification helps to distinguish Private Kennels from Commercial Kennels or the occasional breeder.

7. §7.60.080 — Eliminate the requirement for a two hundred fifty (250) foot distance between Private Kennel and any dwelling unit, apartment, motel, hotel, or other building used for human habitation.

   Removing the two hundred fifty foot setback from any building used for human habitation will allow residents, such as pet fanciers, to legally breed up to two litters per year in their home and have more than dogs or cats allowed by pet limits. The two hundred fifty set back currently in our ordinance is too restrictive and prevents the City from regulating pet owners living in the average neighborhood who are operating as a Private Kennel and cannot meet the two hundred fifty setback. Under current standards there are no Private Kennels registered within the City of San José. However, there are undoubtedly a large number of pet owners and breeders who fall into the category of

Private Kennel and unwilling to apply for a Private Kennel permit due to the setback of two hundred fifty feet.

8. §7.40.040 (B) — Add language that would clarify that a dog may be maintained on a leash of more than six (6) feet but less than twenty (20) feet when in a public park or public open space provided that the dog makes no physical contact with another person or animal without the consent of that person or the consent of the owner. Clarify that the six (6) feet leash requirement applies to when a dog is at an event on public property, or on public sidewalk or public street.

   Limiting the length of a leash to six feet while in on a public sidewalk, public street, or at a public event will help regulate the proper control of an animal.

9. §7.40.100 — Continue to require that animal events held in a City building or facility require approval by the City Manager. Animal Services will maintain a list of City facilities that are appropriate for Animal Events.

   Each City building has a different character and amenities that may or may not make it an appropriate location for an Animal Event. Requiring City Manager approval will help to ensure that Animal Events held in City facilities are safe for both human and animal participants.

10. Add a cross-reference to Section 1.16.010 specifying the time to appeal final administrative hearing decisions where appropriate in Title VII.

    This reference serves as a reminder that the public has the right to appeal all enforcement actions taken by the City, even in cases involving animals.

COORDINATION

This supplemental memo has been drafted with the support and cooperation of the Department of Parks, Recreation, and Neighborhood Services and the Office of the City Attorney.