

MONTEREY COUNTY PLANNING COMMISSION

Meeting: April 9, 2008 Time: 10:30 A.M	Agenda Item No.: 7
Project Description: AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA AMENDING CHAPTERS 21.12, 21.14, 21.16, AND 21.48 OF TITLE 21 (ZONING) OF THE MONTEREY COUNTY CODE TO REGULATE THE KEEPING OF ROOSTERS IN RESIDENTIAL DISTRICTS AND THE LIMITED AGRICULTURAL DISTRICT.	
Project Location: Unincorporated Areas of Monterey County.	APN: Multiple
Planning File Number: PD070731	Name: County of Monterey
Plan Area: Unincorporated Areas of Monterey County.	Flagged and staked: /No
Zoning Designation: MDR, LDR, and RDR and A. Medium Density, Low Density, Rural Density Residential and Limited Agricultural Districts.	
CEQA Action: Proposed Negative Declaration	
Department: RMA - Planning Department	

RECOMMENDATION:

Staff recommends that the Planning Commission:

- a) Hold a Public Hearing
- b) Consider the Negative Declaration and proposed ordinance; and
- c) Continue the hearing to a future date and give direction to staff following consideration of public testimony and Commission deliberation.

PROJECT SUMMARY:

This draft ordinance stems from a referral from the Board of Supervisors requesting that the Planning Department recommend revisions to the Monterey County Zoning Ordinance Title 21 as necessary to protect the public health and welfare from undue noise and nuisance from crowing roosters in residential areas. The proposed new revisions to County Ordinances (See **Exhibit A**) are not intended to infringe upon legal farming, permitted commercial operations, or 4-H type projects. The County's present definition of Small Livestock Farming allows "the raising or keeping of small animals which may include up to 499 of the following: chickens, pigeons, hogs, rabbits, ducks, geese, guinea fowl, peafowl, goats, sheep, or similar fowl or animals," in the MDR, LDR, RDR and A districts. The proposed adjustments to the County Ordinance include modification to the allowed uses within Chapters 21.12, 21.14, 21.16, and 21.48 to allow for no more than two roosters. Modifications to the Chapters include provisions to allow that requests may be made to the Director of Planning to allow for more than two roosters, subject to issuance of an Administrative Permit (Chapter 21.70). Please see the Discussion in **Exhibit B**. Staff has also begun to receive public comments on the proposed changes. Please refer to the attached letters in **Exhibit E**. This ordinance does not apply to the Coastal Zone

OTHER AGENCY INVOLVEMENT:

- | | |
|------------------------------------|----------------------------------|
| ✓ Public Works Department | ✓ Building Inspection Department |
| ✓ Parks Department | ✓ Code Enforcement Department |
| ✓ Environmental Health Division | ✓ Agricultural Commissioner |
| ✓ Water Resources Agency | ✓ AMBAG |
| ✓ Monterey County Sheriff's Office | ✓ MBUAPCD |
| ✓ Department of Fish & Game | |

On March 14, 2008, the above checked agencies and departments were sent copies of the Notice Of Intent to Adopt a Negative Declaration of which the draft ordinance was attached. No Agencies have commented on the proposal.

The project was not referred to a Land Use Advisory Committee (LUAC) for review as the proposal is county-wide. Copies of the Notice of Intent to Adopt a Negative Declaration and the draft ordinance were sent to all incorporated cities in Monterey County, and the City of Watsonville in Santa Cruz County. Additionally, all Monterey County Libraries, the Association of Monterey Bay Area Governments, the Monterey Bay Unified Air Pollution Control District, the newspaper *El Sol* and the television station *Univision* were sent copies of the Notice of Intent to Adopt a Negative Declaration and the draft ordinance. The Notice of Intent was prepared in English and Spanish. No comments from these entities have been received.

Note: The decision on this project will be made by the Board of Supervisors.

Taven M. Kinison Brown, Senior Planner
kinisonbrowntm@co.monterey.ca.us
(831) 755-5173
April 1, 2008

cc: Front Counter Copy; Planning Commission Members (10); County Counsel; Public Works Department; Parks Department; Environmental Health Division; Water Resources Agency; Building Inspection Department, Code Enforcement Department, Agricultural Commissioner; Jeff Main, Planning Services Manager; Taven M. Kinison Brown, Senior Planner; Carol Allen; El Sol Newspaper; Univision Television; File PD070731

Attachments: Exhibit A Resolution with attached draft Ordinance
Exhibit B Discussion
Exhibit C Initial Study/Negative Declaration
Exhibit D Map of Applicable Zoning Designations for MDR, LDR, RDR and Limited Agricultural Districts
Exhibit E Citizen Comment Letters received.

This report was reviewed by _____, Mike Novo, Planning Department Director

EXHIBIT A

**Before the Planning Commissioners in and for the
County of Monterey, State of California**

Resolution No. _____)
Resolution of the Monterey County Planning)
Commission recommending to the Monterey)
County Board of Supervisors, approval of)
amendments to Chapters 21.12, 21.14, 21.16,)
and 21.48 of Title 21 (Inland Zoning)
Ordinance) to regulate the keeping of)
roosters in residential districts and the)
Limited Agricultural District. (PD070731))

Proposed amendments to Title 21 (Inland Zoning Ordinance) came for hearing on April 9, 2008 before the Monterey County Planning Commission. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Planning Commission forwards the following recommendation to the Board of Supervisors with reference to the following facts:

I. RECITALS:

1. On July 31, 2007 Planning Department Staff received a referral from the Monterey County Board of Supervisors requesting that staff make recommended amendments to the non-coastal Zoning Ordinance to limit the number of roosters in a manner that protects adjacent neighbors from offsite noise from crowing roosters.
2. At a duly noticed public hearing on April 9, 2008, the Planning Commission, among other actions considered recommending, to the Board of Supervisors, adoption of a Negative Declaration prepared for amendments to the Inland Zoning Ordinance pertaining to regulating the keeping of roosters in residential districts and the Limited Agricultural District.
3. The Planning Commission held a public hearing on the ordinance prior to a recommendation to the Board of Supervisors.
4. The proposed ordinance is attached to this Resolution as **Attachment A** and is incorporated herein by reference.
5. In connection with its consideration of the Ordinance Amendments, the Planning Commission reviewed the Initial Study and proposed amendments to Title 21 (Zoning) of the Monterey County Code to amend Chapters 21.12, 21.14, 21.16, and 21.48 of Title 21 21.60 to regulate the keeping of roosters in residential districts and the Limited Agricultural District.

II. DECISION:

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission hereby recommends that the Board of Supervisors adopt a Negative Declaration and approve the attached Ordinance amending Title 21 (Attachment A).

PASSED AND ADOPTED on this 9th day of April, 2008 by the following vote:

AYES:

NOES:

ABSENT:

By _____
MIKE NOVO, SECRETARY

ATTACHMENT A

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA AMENDING CHAPTER 21.12, 21.14, 21.16, AND 21.48 OF TITLE 21 (ZONING) OF THE MONTEREY COUNTY CODE TO REGULATE THE KEEPING OF ROOSTERS IN RESIDENTIAL DISTRICTS AND THE LIMITED AGRICULTURAL DISTRICT.

County Counsel Summary

This ordinance amends Chapters 21.12, 21.14, 21.16 and 21.48 of Title 21 (Zoning) of the Monterey County Code to regulate the keeping of roosters in the Medium Residential District (MDR), Low Density Residential District (LDR), Rural Density Residential District (RDR), and the Limited Agricultural Zoning District (A). Presently, County Ordinance allows “Small Livestock Farming” and “Animal Husbandry” without permits in these districts. The County’s present definition of Small Livestock Farming allows the raising or keeping of small animals which may include up to 499 of the following: chickens, pigeons, hogs, rabbits, ducks, geese, guinea fowl, peafowl, goats, sheep, or similar fowl or animals. This Ordinance modifies Sections within each of these Chapters to allow no more than two roosters in these residential districts and the Limited Agricultural District for the purpose of protecting the public health and welfare from undue noise and nuisance from crowing roosters in residential areas. The amendments to this title are not intended to infringe upon legal farming and permitted commercial operations.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Within Chapters 21.12, 21.14, 21.16 and 21.48, Sections 21.12.030, 21.12.040, 21.14.030, 21.14.040, 21.16.030, 21.16.040, 21.48.030 and 21.48.035 of the Monterey County Code are amended to read as follows:

Chapter 21.12

REGULATIONS FOR MEDIUM DENSITY RESIDENTIAL

ZONING DISTRICTS OR “MDR” DISTRICTS

Section 21.12.030 USES ALLOWED.

- M. Intermittent livestock farming or animal husbandry uses such as "4-H" projects on a minimum of 20,000 square feet. No more than two roosters may be allowed in intermittent livestock farming or animal husbandry operations in the Medium Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.

Section 21.12.040 USES ALLOWED, ADMINISTRATIVE PERMIT REQUIRED

- I: More than two roosters may be permitted if it can be demonstrated that the public health and welfare can be protected from undue noise and nuisance from crowing roosters in residential areas.

Chapter 21.14

REGULATIONS FOR LOW DENSITY RESIDENTIAL ZONING

DISTRICTS OR "LDR" DISTRICTS

Section 21.14.030 USES ALLOWED.

- D. Animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand square feet of land area. No more than two roosters may be allowed in small livestock farming operations in the Low Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.
- P. Intermittent livestock farming or animal husbandry uses such as "4-H" projects. No more than two roosters may be allowed in intermittent livestock farming or animal husbandry operations in the Low Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.

Section 21.14.040 USES ALLOWED, ADMINISTRATIVE PERMIT REQUIRED

- J: More than two roosters may be permitted if it can be demonstrated that the public health and welfare can be protected from undue noise and nuisance from crowing roosters in residential areas.

Chapter 21.16

REGULATIONS FOR RURAL DENSITY RESIDENTIAL ZONING

DISTRICTS OR "RDR" DISTRICTS

Section 21.16.030 USES ALLOWED.

- K. Animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand square feet of land area. No more than two roosters may be allowed in animal husbandry and small livestock farming operations in the Rural Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.
- L. All agricultural uses on a minimum of ten acres including crop and tree farming, livestock farming, animal husbandry, apiaries, aviaries, except for those uses requiring an Administrative or Use Permit. No more than two roosters may be allowed in the livestock farming and animal husbandry operations in the Rural Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.

- R. Intermittent livestock farming or animal husbandry such as "4-H" projects. No more than two roosters may be allowed in intermittent livestock farming or animal husbandry operations in the Rural Density Residential Zone, unless otherwise permitted with an Administrative Permit or Use Permit.

Section 21.16.040 USES ALLOWED, ADMINISTRATIVE PERMIT REQUIRED

- K: More than two roosters may be permitted if it can be demonstrated that the public health and welfare can be protected from undue noise and nuisance from crowing roosters in residential areas.

Chapter 21.48

REGULATIONS FOR LIMITED AGRICULTURAL

ZONING DISTRICTS OR "A" DISTRICTS

Section 21.48.030 USES ALLOWED

- B. Animal husbandry and small livestock farming; provided that not more than one horse, mule, cow, or similar livestock shall be kept for each twenty thousand square feet of land area. No more than two roosters may be allowed in animal husbandry and small livestock farming operations in the "A" District, unless otherwise permitted with an Administrative Permit or Use Permit.

Section 21.48.035 USES ALLOWED, ADMINISTRATIVE PERMIT REQUIRED

- A: More than two roosters may be permitted if it can be demonstrated that the public health and welfare can be protected from undue noise and nuisance from crowing roosters in residential areas.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 3. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day after its adoption.

PASSED AND ADOPTED this ____ day of _____, 2008 by the following vote:

Supervisors:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dave Potter, Chair
Monterey County Board of Supervisors

Attest:
LEW C. BAUMAN, Clerk
to the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
Charles McKee, County Counsel

By: _____
Deputy

EXHIBIT B

Discussion

This item was a Board of Supervisors Referral to the RMA Planning Staff

On July 31, 2007 Planning Department Staff received a referral from the Monterey County Board of Supervisors requesting that staff make recommended amendments to the Title 21 Zoning Ordinance to limit the number of roosters in residential areas.

Project Description

The project is currently described as an effort to revise the Monterey County Zoning Ordinance (Title 21) as necessary to protect the public health and welfare from undue noise and nuisance from crowing roosters in residential areas. The new revisions to County Ordinances are not intended to infringe upon legal farming and permitted commercial operations. This ordinance does not apply to the Coastal Zone.

Presently, County Ordinance allows “Small Livestock Farming” and “Animal Husbandry” without permits in the Medium Density Residential District (MDR), Low Density Residential District (LDR), Rural Density Residential District (RDR), and the Limited Agricultural Zoning District (A). The County’s present definition of Small Livestock Farming allows “the raising or keeping of small animals which may include up to 499 of the following: chickens, pigeons, hogs, rabbits, ducks, geese, guinea fowl, peafowl, goats, sheep, or similar fowl or animals.” When an operation has over 499 of these small animals, the operation is then redefined as a “Poultry Farm” and is subject to a discretionary Use Permit in the RDR zone. Poultry Farms are not otherwise allowed in the Medium Residential District (MDR), Low Density Residential District (LDR), and the Limited Agricultural Zoning District (A).

The proposed adjustments to the County Ordinances include modification to the allowed uses within each of these four Chapters to allow no more than two roosters in the Medium Residential District (MDR), Low Density Residential District (LDR), Rural Density Residential District (RDR), and the Limited Agricultural Zoning District (A).

Modifications to Chapters include provisions to allow for more than two roosters, subject to application and issuance of an Administrative Permit (Chapter 21.70). Applicants for such permits will be required to demonstrate that the public health and welfare is protected from undue noise and nuisance from crowing roosters in residential areas. Fees will be required of the applicant to process the Administrative Permit according to an adopted fee schedule that may be revised from time to time. The draft Ordinance to Regulate the Keeping of Roosters in Residential Districts and the Limited Agricultural District has been attached to this staff report as **Exhibit A**.

Zoning Districts and Consistency with General Plan

While the proposed project directly changes the allowances provided in the Zoning Code for the Medium Density Residential District, Low Density Residential District, Rural Density Residential District and Limited Agricultural District, no changes are proposed for any other Monterey County Zoning Districts, including but not limited to the AI (Agricultural Industrial) Zone, F (Farmland) Zone, RG (Rural Grazing) Zone, PG (Permanent Grazing), and RC

(Resource Conservation) Zone. In this manner there will be no changes to legal farming and permitted commercial operations.

The Monterey County General Plan recognizes that “Land uses of an inherent noise-generating nature could adversely impact residents.” While the General Plan discussion is in the context of new development, it is still true that uses of an inherent noise-generating nature could adversely impact residents. Additionally, Goal 22 of the 1982 Monterey County General Plan is, “To maintain an overall healthy and quiet environment by trying to achieve living and working conditions free from annoying and harmful sounds.” Objective 22.1 of Goal 22 is (for the County to) “Adopt noise reduction measures and begin implementation by 1984; revise as conditions change.” The proposal to protect the public health and welfare from undue noise and nuisance from crowing roosters in residential areas does not conflict with this Goal and Objective of the General Plan and effectively helps to support and implement the Goal and Objective by regulating and limiting noise generation from roosters and by limiting the number of roosters. In this manner, the Ordinance is consistent with the General Plan.

Enforcement

Enforcement of provisions of the Project and the Monterey County Zoning Ordinance (Title 21) are the responsibility of the Monterey County Resource Management Agency Code Enforcement Department. Other departments with responsibility to protect the public health, welfare, and safety may become involved if circumstances warrant. It is expected that there would likely be an initial surge of complaints and the need for investigation and response should the proposed changes to the County Ordinance (the Project) be adopted. This initial surge is anticipated to be absorbed within the existing staff structure of the Resource Management Agency (which includes both the Code Enforcement and Planning Departments). Referrals to and cooperation with other agencies may be necessary.

Fees for the Administrative Permit to request additional roosters

Presently, the fee for a standard Administrative Permit in the County of Monterey approaches \$4,800. It is the intent of the Planning Department to propose a reduced fee to process a request for additional roosters. Working within the existing County structure of discretionary permits, the Administrative Permit is the least cumbersome. To meet the intent of a nominal fee for such a “rooster permit” will require an amendment to the adopted fee schedule. It is anticipated that such a fee would be based on the staff costs of a site visit, review of property plans and applicant submittals and preparing the findings and conditions for an administrative approval.

Public Comment

As of the writing of this report staff has begun to receive calls and letters from the 4-H community and several residents in the Parkfield community. These letters have been attached as **Exhibit E**.

Concluding Comments

Staff anticipates that there are numerous persons and groups who will have interest in the proposed changes in the County’s zoning code who have not become aware of the matter. Staff is recommending that the Planning Commission hold a public hearing and continue the hearing so that staff can make adjustments to the ordinance based on comments from the hearing.

While it may be the intention of the County to better protect the public health and welfare from undue noise and nuisance from crowing roosters in residential areas, it is not the intent to restrict or abridge programs such as 4-H or the Future Farmers of America (FFA).