



TOWN OF FAIRFAX

STAFF REPORT

November 6, 2013

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Jim Moore, Director of Planning and Building Services
Corwin Bell, Planning Intern

SUBJECT: Discussion/consideration of regulations regarding roosters within the Town limits.

RECOMMENDATION

Discuss/consider regulations regarding roosters within the Town limits and direct staff as to how to proceed with regard to the following options:

1. Modify Town code to ban roosters within the Town of Fairfax.
2. Continue with the current enforcement practice, but direct staff to prepare Town Code revisions which: a) allows staff to issue a citation to the owner of any rooster when two (2) complaints are received in writing from different residences within a two week period and b) defines intermittently in the Noise ordinance to mean more than 4 crows in a 15 minute period for roosters.
3. Maintain the status quo.

DISCUSSION

In response to numerous noise complaints regarding roosters (see Exhibits A & B), Planning Staff was directed by Council to look into the matter and come up with recommendations for future action. Currently, Chapter 6, Animals, of the Town of Fairfax Municipal Code, has no specific mention of roosters. Noise complaints are regulated by section 8.04.179 of the Marin County Code, titled *Prohibition of habitual animal noise which unreasonably disturbs the peace*, which provides guidance on the citation and impoundment process for nuisance animals, but has an ambiguous 30 minutes of continuous noise requirement for corrective action. Animal noise is also regulated by the Health and Safety section of the Fairfax Municipal Code, 8.20.060 (B) (1) *Prohibited Acts*, which states, "Owning, possessing or harboring any animal which makes noise which is detectable on the complainant's property, and which is repeated intermittently for a duration of 15 minutes or more, is prohibited". This section was recently enforced for a nuisance rooster on Ridge Road, but required the building inspector to observe the violation in person at 6 AM.

A survey of municipalities in Marin County show that all the other communities ban roosters with the exception of the County, which only allows roosters in agricultural zones (see Exhibit C). The Town Attorney provided staff information regarding the City of Calimesa in Riverside County that used to try to regulate nuisance animal noise by allowing written affirmation of a violation from two separate residences to count as evidence of a violation (Exhibit D). Calimesa staff has indicated that since 2009 the city has modified its ordinance to ban roosters.

From strictly an enforcement perspective, a ban is the easiest to enforce for staff and the least time consuming of the options. Should the Council want to continue to allow roosters in Town, staff would

recommend making Town Code revisions to clarify when a rooster is in violation of the Noise ordinance and simplify the evidence of a violation which, hopefully, would reduce the amount of staff time required to address/enforce complaints. As a matter of practice, staff first issues the owner a written warning which gives the owner 30-60 days to comply. Subsequent complaints could result in citations.

Staff would also suggest a six month trial period after the ordinance takes effect to assess its effectiveness. We would report back to Council with our findings at that time.

Depending on the Council's direction, staff would bring any ordinance amendments to the Council for consideration at a future meeting.

FISCAL IMPACT

None at this time.

ATTACHMENTS

Exhibit A – Police log

Exhibit B – Resident complaints

Exhibit C – Survey of other Marin communities

Exhibit D – City of Calemesa, Code Section 8.15.120

Exhibit E – Support letter

Inc #	Type	Date	Time	Location	Detail	Dispatcher	City
120815012	NOISE	8/15/2012	07:33:41	MOUNTAIN VIEW	ROOSTER	050	FAIRFAX
120913010	NOISE	9/13/2012	07:08:52	75 TAYLOR DR	ROOSTER		FAIRFAX
120927011	NOISE	9/27/2012	07:43:56	355 TAMALPAIS RD	ROOSTER	095	FAIRFAX
130124012	NOISE	1/24/2013	07:41:27	492 SCENIC RD	ROOSTER	095	FAIRFAX
130304028	NOISE	3/4/2013	11:38:04	135 MANOR RD	ROOSTER	095	FAIRFAX

EXHIBIT # A

Linda Neal

From: Mark Lockaby
Sent: Tuesday, January 08, 2013 9:27 AM
To: Jennifer Seid
Cc: Linda Neal
Subject: RE: Rats
Attachments: SCAN4348_000.pdf; SCAN4349_000.pdf

Hi Jennifer,

We did meet with the property owners and then sent them a letter(attached) stating the options that were available to them. They responded in writing(attached) that they would reduce the size of the chicken coop to be in compliance. Once they have reduced the size of the coop we will consider the case closed, because our town code allows for them to have the coop and chickens.

I believe that since they have been keeping the area cleaner, and limiting the feeding times, that the rats may be looking for a new home.

You should contact the county vector control(Nick Picinich 707-285-2200) for information on how you can protect your own property.

Sincerely

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Jennifer Seid [<mailto:j.seid@yahoo.com>]
Sent: Monday, January 07, 2013 3:54 PM
To: Mark Lockaby
Subject: Rats

Mark-

I now have her rat infestation underneath my house and up in my walls. My tenants are unhappy, and I'm unhappy, because it's going to cost me a lot of money to try to keep under control or to hopefully eliminate. This is the first time I've ever had rats access my actual dwelling. The previous owner never had any rat infestation. The rat problem is out of control-still.

What is the city doing about this problem? I've waited patiently and I've heard nothing. Please get back to me as soon as possible. The neighbors continue to keep their filthy chicken coop.

Jennifer Seid

Sent from my iPhone

Linda Neal

From: Mark Lockaby
Sent: Tuesday, January 08, 2013 8:13 AM
To: Linda Neal
Subject: FW: Rats

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Jennifer Seid [<mailto:j.seid@yahoo.com>]
Sent: Monday, January 07, 2013 3:54 PM
To: Mark Lockaby
Subject: Rats

Mark-

I now have her rat infestation underneath my house and up in my walls. My tenants are unhappy, and I'm unhappy, because it's going to cost me a lot of money to try to keep under control or to hopefully eliminate. This is the first time I've ever had rats access my actual dwelling. The previous owner never had any rat infestation. The rat problem is out of control-still.

What is the city doing about this problem? I've waited patiently and I've heard nothing. Please get back to me as soon as possible. The neighbors continue to keep their filthy chicken coop.
Jennifer Seid

Sent from my iPhone



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142 BOLINAS ROAD, FA

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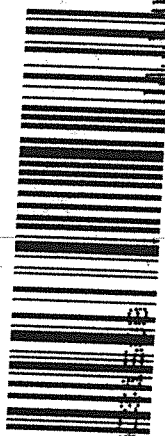
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TOWN OF FAIRFAX

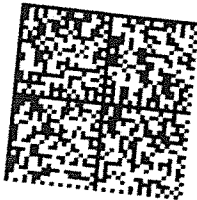
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Rachel Griffith
135 Manor Road
Fairfax, CA. 94930

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FAIRFAX, CA 94930

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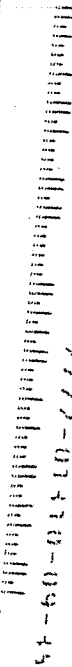
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DEC 13

01/09/13



143

From: Linda Neal [mailto:lneal@townoffairfax.org]
Sent: Monday, August 26, 2013 11:05 AM
To: Queenelle Minet
Subject: RE: Reason for Requesting Meeting

Hi Queenelle,

I can only address what I spoke with the neighbors about and that was the trellis extension to the fence which was brought to the Town's attention on June 20, 2013.

I can meet with you either Tuesday morning between 9 am and 11 am, Wednesday morning between 9 am and 12 noon or Thursday afternoon between 1:15 pm and 4:00 pm.

Let me know what will be best for you.

Linda

From: Queenelle Minet [mailto:qminet@comcast.net]
Sent: Monday, August 26, 2013 10:24 AM
To: Linda Neal
Subject: Reason for Requesting Meeting

Dear Linda,

While you were away from the office, I wrote asking for an appt. to meet with you when you got back. It now occurs to me that it would probably be best to explain what I want to talk with you about, so that in case you need to find out any information from the rest of your staff, you can do so before we talk.

I have two concerns:

1. My first concern is the situation that seems to have developed between my next door neighbors and ourselves which is beginning to feel like some sort of Hatfield vs the McCoy's feud. To have such a situation, possibly for years in the future would certainly would be a bad thing. As you know, my neighbors have filed a complaint about a trellis we built on our property, which I feel fairly certain they don't actually care about one way or the other. Here are my reasons for thinking this; 1. They were aware of the trellis when it was being built and said nothing negative about it, with the exception that one time the husband asked the workers to as quiet as possible because his wife was sleeping. 2. It is totally on our property and is located behind their garage where it cannot be seen by them except when they enter a 10 foot space behind their garage—a space where they store miscellaneous unsightly. I believe they go there almost never, as I have actually never seen them in that space.
3. The trellis (the sole purpose of which is to support flowering vines) has been there for maybe 3 months, and they never complained about it before. For these reasons, I believe that this complaint has little to do with the trellis, but is instead connected with

the rooster issue. Very possibly my neighbors wrongly perceive that we filed a formal complaint with the town about their rooster, or alternatively they may believe that I purposefully lied them when I told them months ago that "roosters were illegal within the town limits of Fairfax." I didn't. When my partner and I first looked at this house the real estate agent with whom the house was listed informed us that roosters were illegal in Fairfax, and then when I called city hall check out the truth of this statement, I was told by a member of your staff (I thought Jim Moore) that roosters were definitely illegal. When I told them that roosters were illegal in Fairfax, I absolutely believed this was true.

I am attaching the entire email communication I had with Jim Moore regarding the rooster issue. Please note that I purposefully never mentioned the name or address of the neighbor about whom I was speaking. I was looking for information and not at that time wishing to lodge any formal complaint. I certainly hoped to find out that roosters were illegal, as I'd previously been led to believe, and I suppose eventually if my neighbors were completely unwilling to do anything about this situation, like relocate their rooster to another part of their property, which was not against the property line and not right under both our patio and bedroom, I might have actually filed a formal complaint. I would have done this, however, only as a last resort after all negotiations about the issue were exhausted.

I was certainly happy to find out that when you all realized that the issue regarding roosters was very ambiguous that you all decided to make it more explicit by putting it clearly in the animal section. After all, if roosters are not made illegal people such as myself have absolutely no recourse or bargaining power if these noisy birds are placed right under their bedroom windows. Nonetheless, all I actually did was bring up the issue by asking questions. It was you all who decided to put it on the town meeting agenda, I assume because you all thought it was the right thing to do. I did not make that happen.

I need to talk with my neighbors, but before I do, I would like to know whether there has been any communication between the Town of Fairfax and my neighbors and what that communication said. Also, if they falsely believe I purposefully lied to them about the illegality of roosters, I would appreciate help straightening that misperception out. Both my neighbors and ourselves are likely to be living side by side for a long time. It would be very unpleasant to not be at least on reasonably good terms with them, and while I'm pretty unhappy about their attitude of "too bad if our rooster bothers you because it isn't illegal," I would still like to avoid the extremely unpleasant situation of being enemies with them for years in the future, if that is at all possible.

2. Second, of course, I am concerned about the complaint they have lodged and would like to find out more about the situation there. What are the chances of getting a variance, and so forth? I can show you pictures and explain the situation on this trellis further when I come down to talk with you.

Please do let me know when we can meet. This whole thing has caused considerable worry and unhappiness, and I would like to find out more about this whole situation, and then go talk with my neighbors asap.

Sincerely,

Queenelle Minet

Linda Neal

From: Queenelle Minet [qminet@comcast.net]
Sent: Monday, October 07, 2013 11:17 AM
To: Jim Moore; Linda Neal; mlocaby@townoffairfax.org
Subject: Is the Rooster Ban Vote In Trouble?

Hello Jim,

First of all, let me thank you for taking action on behalf of those of us who are unfortunate enough to live next to a rooster. I am, however, worried about what is going to happen when the rooster ban proposition comes up for a vote before the city council.

I am pretty sure that the “rooster people” of Fairfax know each other and I think it is likely that they are going to fight this tooth and nail. Here is one reason I think so: I have a friend who happens to be friends with one of the Fairfax council members—she did not say which one. My friend knows the whole story about our problems with the rooster next door, so my friend, mentioned our situation to the council member in question, and asked her how she felt about the rooster ban proposal. This council member told my friend that she had already heard from quite a few “rooster people” asking her to oppose this measure and that she was inclined to think that instead of roosters being banned that some change should be made in the animal part of the noise ordinance that would make it easier for people who are actually being bothered to have their problem addressed by the town.

Further, when my partner spoke about our situation at the council meeting, the mayor made comments about how people ought to “just talk to their neighbors and work it out” and he also commented that when chicks are born, it isn’t possible to know what sex they are. To me, the mayor seemed unhappy about the prospect of banning roosters. If Mark Lockaby had not spoken up at that point about how people hate to be awakened by roosters, I wonder if the council might not even have voted to have you write up such an ordinance.

When it comes time for a vote, I think it is possible that the rooster owners, in addition to writing letters and calling the council members, will be at the meeting, lining up to speak against this ban, probably with all their friends in tow. Meanwhile, we “rooster victims don’t know one another, so we can’t very well organize to fight for the rooster ban. In addition, many people who have complained in the past have already managed to get the roosters re-located, and so may not be motivated to attend the meeting to express their side of it. For these reasons, I am worried. It seems to me that if the rooster ban is voted down it is likely to make things even worse, because then the rooster people will feel that they have a right to have these birds no matter how much the bother other people.

Here are a few ideas I have that I think might help.

1. At the Sept town meeting, I don't think anyone from the planning department made much of a statement about what the problems that the planning department and the police have been experiencing regarding roosters and exactly why the staff has recommended that roosters be banned. I realize that it was very late before this issue came up at the last meeting and by that time no one wanted to do anything to slow things down. However, I hope you will provide the city council members, preferably now before they make up their minds, with complete explanations of the problems which led the planning department to recommend that roosters be banned.
2. Would it be possible for the police chief to speak about how police time has been taken up responding to rooster noise complaints? Would it be helpful if we started calling the police every morning between 4am and 6am when the rooster wakes us up to ask them to do something about the noise problem we are experiencing? Out of consideration for the police, we have not done that, but we could do so if that will help make the point.
3. I know you can't give out people's contact information without their permission, but I hereby give you permission to give out my contact information, (qminet@comcast.net/ 415-461-4440). Could you please pass my contact information on to all those who have complained about roosters and say that I would appreciate them calling me to discuss the upcoming vote on the rooster ban. That way we "rooster victims" would be able to organize response and encourage even those who already solved their rooster problem to come to the meeting and express what they went through?
4. There is overwhelming scientific research which proves that not getting a good night's sleep harms health and results in shorter lives. Having one's sleep disturbed night after night is not just an inconvenience, it is a health problem akin to breathing second hand smoke. If you like, I would be happy to research this and provide you with some studies that prove this.
5. Most important, could you please have a Plan B, if it turns out the council is not going to vote in favor of a total ban? Could you please also work up a way to modify the animal noise ordinance so that it clearly gives you the right to pursue rooster noise complaints? I realize it would be better for you all in the planning department and the police department just to ban roosters, so that the problem wouldn't arise in the first place. If you can pass a ban on roosters, great! However, if you can't at this point succeed in passing a rooster ban, I ask you to please handle this in a way that will result in rooster noise complaints being able to be successfully pursued.

As for the mayor's comment that neighbors should talk to one another and work things out, we have tried that several times, including again just a few days ago. In response, my neighbor simply replied, "Well roosters are legal!"-- the clear implication being

that, therefore, she was not going to do anything about hers, not even move her rooster to the far side of their four acre property, an alternative I suggested to getting rid of it entirely. Then a moment later, she said that she would get rid of her rooster if we would pay her \$500. While if paying our neighbor \$500 is the only alternative we have to being deprived of both our sleep and of the peaceful enjoyment of our property, probably we'd be best off paying the \$500, but it feels like extortion, plain and simple. I am 69 years old. I need sleep to remain healthy and it just doesn't seem right that I am awakened between 4 and 6am, as well as often in the afternoon when I generally try to take a nap, without having any legal recourse.

I know you agree with this point of view, Jim, and again I sincerely thank you for trying to do something about it. I am just concerned that all this may not end up having the desired result. Thank you very much for reading and considering these points.

Sincerely,
Queenelle Minet,
51 Ridge Rd., Fairfax, Ca.
cc. Linda Neal, Mark Lockaby

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

From: Queenelle Minet [<mailto:qminet@comcast.net>]

Sent: Tuesday, October 08, 2013 5:20 PM

To: Mark Lockaby

Cc: 'Rob Nye'

Subject: Rooster Complaint

Hi Mark,

I got your message. You are welcome to come to our place to try to hear the rooster. However, you may or may not hear it at 6:30 am, as that is a bit late for this rooster. It generally wakes up in the morning anywhere from 4 to 6am, and whenever it happens to wake up is the time when it is generally crows the most. When it wakes up, it will generally let out a series of crows, then it will be quiet for a bit and then let out another series of crows and usually another a bit later. Yesterday for example it first crowed at 4:05 am and then again at 4:20 am, but it could start up anytime between 4 and 6am. After it finishes its wake-up crowing, it will crow again intermittently, but there's no predicting how long the space between the crowing will be. (Of course, we are talking about an animal here, so the minute I say it does one thing, it will probably do something else.) We have made some notes on its early morning crowing, but I gather that the reason for your visit is that you can't just take our word for it. I know 6:30 seems pretty early, but really that isn't prime time for this rooster, though you certainly might hear him. If you do come tomorrow, please walk down and sit in one of the chairs on the patio—that way you will hear more what we hear, since our bedroom is just above the patio. We certainly give you permission to do this. Rob is often up by 6am because he goes to a 7am meeting almost every morning. If he sees you, he will give you a cup of coffee.

We have an electronic recorder with a clock on it that would record the time right when the record button is pushed. Rob thinks this recorder will run for a number of hours on one battery, so it would be possible for us to make recordings of exactly when the rooster crows that would have actual times on it. It is just a little recorder and the crowing would be faint and not at all like it is live, but it would make a record of the number and pattern of the crowing. Would that be of help? Also, Rob has taken notes on quite a few mornings of when the rooster starts crowing if that has any value. Please let us know how we can help.

We emailed the Elliots to let them know that we planned to turn a complaint about the rooster in tomorrow, just in case they wanted to make that unnecessary by offering at this late date to do something about their rooster, but I think that the chances of that are very slight.

I have a few questions about this process. What happens exactly and how long does it take? I gather from the complaint form that there are letters sent out, and then at some point a citation if nothing is done. Assuming you investigate and determine that the complaint is valid, what ultimately is the means of enforcing the code violation? My expectation is that the Elliots will not do anything that they are not forced to do. Their point of view is that roosters are legal in Fairfax, and therefore we have no to expect them to do anything about the rooster's crowing. They don't seem to care that the rooster wakes us up or about having a good relationship with us. We find this puzzling and disappointing, but we feel we've tried over quite a bit of time now to resolve this without resorting to a complaint and that it hasn't been possible.

Thank you for your help with this matter. We really appreciate it. We plan to turn in the complaint form tomorrow. Perhaps Rob will hand it to you if he sees you in the morning.

Regards,

Queenelle

Linda Neal

From: Mark Lockaby
Sent: Tuesday, October 08, 2013 10:07 AM
To: Linda Neal
Subject: FW: of Collars & Wake Up Calls

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

From: Rob Nye [<mailto:robnyestudios@sbcglobal.net>]
Sent: Monday, October 07, 2013 9:11 AM
To: Patti & Steve Elliott
Subject: of Collars & Wake Up Calls

Dear Patti & Steve — Thanks for the return of Lela's wayward cat collar! Now we have a spare for next time she decides to "*slip & go naked*" 😊.

Hey, this morning the Rooster began crowing at 4:05 AM. Geez guys, it was pitch dark! I lay awake; fell back asleep; and ended up missing a Monday morning meeting that I think 'ya know is important to my health; but also where I have a regular commitment.

Can we talk about this some more? I mean, Saturday it began crowing at 5:36am. Sunday it was about 6:00am (*Sunday!?*). Even if roosters are allowed, don't you think it is time that we work out some kind — *any* kind — of "relocation" or "sound abatement" Plan?

Sincerely,

Rob

Rob Nye Studios™
51 Ridge Road
Fairfax, CA 94930
Phone: 415/806-3482
Website: robnyepaintings.com

Linda Neal

From: Mark Lockaby
Sent: Wednesday, October 16, 2013 8:26 AM
To: intern
Cc: Linda Neal
Subject: FW: Rooster Complaint

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

From: Queenelle Minet [mailto:qminet@comcast.net]
Sent: Tuesday, October 15, 2013 6:16 PM
To: Mark Lockaby
Subject: RE: Rooster Complaint

Hi Mark,

I have heard nothing from the neighbors about the rooster or the complaint. However, Rob received an email from Patti today apologizing for their dogs barking in the middle of the night last night and saying that a bobcat had been sighted and that this is why the dogs were barking. (Rob is the favored person. I am the bad guy.) It seemed pretty friendly, but on the other hand maybe she is worried because as part of our discussion about the complaint they filed about our trellis, I informed them that they were in violation of the Marin animal code because they have 4 dogs when the maximum allowed per household is 3 dogs. I also informed them that their greenhouse violated the setback limit. Since the dogs barking in the middle of the night is not a regular thing, we aren't planning to file a complaint about that, but she may be worried that we will.

It would seem to me with the schedule of fines that your letter outlined that they would be pretty foolhardy not to do anything about the rooster. I assume that in the case of non-compliance that you carry through with the fines and that if they are not paid that the fines would become a lien against their house. Is that correct? Since the fines escalate to \$500 a day, I don't think any sane person would allow that to happen. So far the rooster is still there, but it's only been a few days. Thanks again for taking swift and decisive action.

Regards,
Queenelle

From: Mark Lockaby [mailto:mlockaby@townoffairfax.org]
Sent: Tuesday, October 15, 2013 1:16 PM
To: Queenelle Minet
Cc: 'Rob Nye'; intern
Subject: RE: Rooster Complaint

Hi Queenelle,

We were wondering if you have heard anything from your neighbors since I sent them the notice to find a home for the rooster.

Thanks

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

From: Queenelle Minet [mailto:qminet@comcast.net]
Sent: Wednesday, October 09, 2013 11:33 AM
To: Mark Lockaby
Cc: 'Rob Nye'
Subject: RE: Rooster Complaint

Hello Mark,

Rob and I thank you so much for your speedy attention to our rooster complaint. I can't tell you how much we appreciate it. We should have done this a long time ago, but we kept trying to work with neighbors, who at the end of it all, we had to conclude had no sympathy regarding the disturbance their animal was causing and no willingness to do anything about it. The copy of the letter you sent answers my question regarding enforcement. Apparently there is a mechanism for that in place.

Sincerely,

Queenelle Minet

From: Mark Lockaby [mailto:mlockaby@townoffairfax.org]
Sent: Wednesday, October 09, 2013 10:36 AM
To: Queenelle Minet
Subject: RE: Rooster Complaint

Hi Queenelle,

I have attached the letter that will be sent today, and I will be posting the property.

Thanks

Linda Neal

From: Mark Lockaby
Sent: Thursday, October 31, 2013 8:20 AM
To: Linda Neal
Subject: FW: Chicken coop continues to be out of compliance

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Jennifer Seid [<mailto:jenniferseid@ymail.com>]
Sent: Wednesday, October 30, 2013 2:06 PM
To: Garrett Toy
Cc: Mark Lockaby
Subject: Chicken coop continues to be out of compliance

Mark,

This situation has reached a point that I can no longer tolerate. I brought this issue to you well over a year ago, and after your inspection you found my neighbors to be out of compliance with their oversized, overcrowded, and dirty rat infested chicken coop. I, along with my tenants, have had to live with odor, flies, rats, and eventually a rooster crowing at all hours. The neighbors were told by the City to tear down their chicken coop last December, or pay a fine. After they failed to do so and I notified you, I was told that I had no recourse but to go before the town Council. What happened to the city enforcing their own notice and levying a fine? Now Mr. Lake is on the front cover of the newspaper with his rooster and you tell me the town Council is considering legalizing roosters. Why on earth with the town Council consider this when the city is incapable, or unwilling, to enforce its existing rules concerning the keeping of livestock and fowl? The town Council and the City in general, need to revisit this issue and enforce the proper maintenance of chicken enclosures. As for my issue with my neighbor, your statement that Mr. Lake claims to be in conversation with my tenants at 47 Sequoia concerning their chicken coop, does not make any difference to me- as I am the property owner and the ONLY person with whom any discussion should be taking place. I have not designated my tenants to speak on my behalf. MY ability to rent the property in the future or to even sell it could very possibly be affected by this filthy chicken enclosure, not to mention my property values. I have had to pay for a costly rat abatement after the rats in the backyard infiltrated my property, upsetting my tenants greatly. You yourself were there to see the rats eating chicken feed alongside the neighbor's chickens at 8:30 in the morning. What more do I have to do?! I have had more than enough then I can take of this situation, and I want the City to do it's job and enforce their own notice regarding this chicken coop. Certainly it is not my responsibility, as you implied, to check and see whether or not another citizen has complied with your notices.

Perhaps I gave the impression that I didn't care about this issue, after giving up in utter frustration last December. This is certainly not the case, and I assure you that I will not let this go until it has been made right.

Jennifer Seid

Sent from my iPhone

Linda Neal

From: Mark Lockaby
Sent: Thursday, October 31, 2013 8:19 AM
To: Linda Neal
Subject: FW: Chickens-

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Mark Lockaby
Sent: Wednesday, October 30, 2013 12:01 PM
To: 'Jennifer Seid'
Subject: RE: Chickens-

Hi Jennifer,

I'm sorry I did not follow up on the chicken coop. When I received the letter from your neighbor stating that they would move the coop I'm assumed they had since I didn't hear any more complaints. I just spoke with Randall and he has confirmed that the coop has not yet been moved. He said that he has been working closely with your tenants about the progress.

Thanks

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Jennifer Seid [<mailto:jenniferseid@ymail.com>]
Sent: Wednesday, October 30, 2013 11:29 AM
To: Mark Lockaby
Subject: Chickens-

Mark,

Sorry, my last email was sent without my finishing it. I'm a little upset obviously. I went to a lot of trouble to try to enforce the laws regarding this chicken coop, as did you, and it was my understanding that it was the city's responsibility to check in December as to whether or not the neighbors had complied, not mine. I definitely recall giving your office a phone call in December when I saw and heard no change, and being told that I had no choice but to go to the town Council. That might have been true, but it was at least the responsibility of the town to come and confirm in person that no change had been made to the chicken coop, no? I'm assuming you should be able to look back and see whether they complied, because there should have been an inspection recorded. And of course if they had not complied there would have been fines levied. Certainly if there's no inspection after people receive a letter instructing them to comply, then there's no point in sending a letter in the first

place. I'm sure you can understand why I walked away from the entire thing feeling very frustrated after paying a great deal of money for rent abatement etc. I didn't think anything was going to be done so I simply stopped thinking about it.

So no, I didn't go there to look and see whether not they had complied... BUT I would appreciate somebody from the city following up on the letter of compliance, as it's now been 10 months since their deadline passed. Perhaps a fine being levied at this point would carry some weight in the town Council meeting next week. Certainly a person who does not comply with town regulations regarding their chicken coop should not be allowed to keep roosters etc. Perhaps they have complied at this point and that should be confirmed as well.

I will compose my letter detailing this issue and send it to you so that you can forward it to the rest of the involved parties- Thanks, Jennifer

Sent from my iPhone

Linda Neal

From: Mark Lockaby
Sent: Thursday, October 31, 2013 12:16 PM
To: Linda Neal
Subject: FW: Tenants at 47 Sequoia Rd etc.

Mark Lockaby
Building Official
Town of Fairfax
142 Bolinas Road
Fairfax, CA 94930
415-458-2370

-----Original Message-----

From: Jennifer Seid [<mailto:jenniferseid@ymail.com>]
Sent: Thursday, October 31, 2013 11:52 AM
To: Mark Lockaby
Cc: Garrett Toy
Subject: Tenants at 47 Sequoia Rd etc.

Mark,

I apologize, I was not wearing my glasses yesterday and so I got my email addresses mixed up. My intention is to copy the town manager on my emails going forward.

It's quite clear that I'm upset. However, I think you can understand that a situation dragging on for as long as it has, has built up a great deal of frustration in me. The cork popped yesterday.

I followed up on your last email by checking with my tenants, to see if there was any truth to the statement they were working closely with Randall Lake on moving or dismantling his chicken coop. They were quite annoyed to say the least, that anyone would suggest that this was the case. My tenant Daniel had a five-minute conversation, mostly listening on his part he said, with Randall Lake four or five months ago. Randall was at that time hammering nails and stated that he was making some changes to the chicken coop.

My understanding of your findings was that Randall did not have the option of altering his chicken coop due to the size of his property, or some such thing. My understanding was that the chicken coop was to be dismantled. Please clarify for me what exactly it was/is that he was supposed to comply with last December. Mr. Lake should have no choice in the matter, as I assume he is held to the same standards as the rest of us citizens of the town, who expect to have to follow the laws and regulations. Mr. Lake is at the center of quite a few scenarios that have resulted in people having their right to enjoyment of their own homes upended. How can one person get away with being the source of so much trouble for so many people?

I own two homes in town as you know, and I pay a large amount of money each year in property taxes, like many people do. It drives me crazy frankly, to have to deal with something like this on my own or to essentially be asked to put up with the situation. Likewise, my tenants who pay the high rent that is the norm in Marin County should not have to put up with unsanitary, noisy chickens or roosters. Please, please do what is necessary to follow through with this matter, and to keep me informed, as was promised last year. Mr. Lake built a chicken coop without following town ordinances, failed to keep a sanitary enclosure and created a very real sanitation hazard for his neighbors, contributed to a massive rat infiltration that caused damage to my property and prevented use of my own backyard, then ignored a letter of compliance from your office, and now has essentially lied to you about working with his neighbors to resolve this issue. Hasn't he done enough to cause the town to take action?

Jennifer

Sent from my iPhone

Town	Explicit Defacto	Code	sub -- description					
San Anselmo	Yes	5.01	No person shall at any time keep or maintain any animal, crowing rooster or fowl which by any sound or cry annoys or disturbs persons owning, using or occupying property in the neighborhood.		defer to Marin County code, Title 8			
Ross	Yes	9.20.050	Unclear, reference to chapter 8, but no explicit ban, IJ says yes, Town planner says we refer to Marin County code		defer to Marin County code, Title 8			
Belvedere	No							In addition to being subject to the penalties of this chapter, animal noise disturbance cases will also be referred to the Humane Society.
Fairfax	No	6.16.050	It is unlawful for any person to keep or cause or permit to be kept or fed, within 25 feet of any window or door of any residence or dwelling within the town, a chicken. It is unlawful for any person to keep, harbor, or maintain any poultry, chickens, turkeys, ducks, geese, rabbits, hares, cows, goats, sheep or other domesticated animals except cats and dogs, or to cause, permit or allow the same to be kept or maintained in any premises within the city without first having obtained a permit therefor from the health officer of the city.		8.20.060 (B) (1) (2)			Owning, possessing or harboring any animal which makes noise which is detectable on the complainant's property, and which is repeated intermittently for a duration of 15 minutes or more, is prohibited.
San Rafael	No	6.04.010	No person shall keep or maintain, or permit the keeping of upon any premises owned, occupied, or controlled by such person, any animal or fowl otherwise permitted to be kept which, by any sound, cry, or behavior, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness					
Sausalito	Yes	12.16.120	Requires permit to have chickens					Requires permit to have chickens.6.08.010
Tiburon	No	16-40.070	The purpose of this chapter is to provide best practices standards for the non-commercial keeping of honey bees (apis Mellifera) and/or chickens (excluding roosters, quacking ducks, guinea fowl or peafowl) in all zoning districts within the town.					
Corte Madera	Yes	18.21.010	Roosters, ducks, geese, peafowl, and similar noisy animals are not permitted.					
Larkspur	Yes	18.16.275 C	Roosters, quacking ducks, geese, guinea fowl, and pea fowl are not permitted.					
Marin County	Yes	22.32.030 3-6	Roosters, quacking ducks, geese, guinea fowl, and pea fowl are not permitted.					
Mill Valley	Yes	6.12.120	Roosters, quacking ducks, geese, guinea fowl, and pea fowl are not permitted.					
Novato	Yes	19.34.060 3-14	Roosters, quacking ducks, geese, guinea fowl, or peafowl are not allowed					

C

EXHIBIT #

when said truck is stopped or impeded by traffic. Where stopped by traffic the said sound-amplifying equipment shall not be operated for longer than one minute at each stop;

d. Sound shall not be issued within 100 yards of hospitals, schools, churches, or courthouses;

e. The human speech and music amplified shall not be profane, lewd, indecent or slanderous;

f. The volume of sound shall be controlled so that said volume is not raucous, jarring, disturbing, or a nuisance to persons within the area of audibility and so that the volume of sound shall not exceed a sound level of 65 decibels (on the "A" scale) at a distance of 50 feet from the sound-amplifying equipment as measured by a sound level meter which meets the American National Standard ANSI S1.4-1971 or the latest revision thereof;

g. No sound-amplifying equipment shall be operated unless the axis of the center of any sound-reproducing equipment used shall be parallel to the direction of travel of the sound truck; provided, however, that any sound-reproducing equipment may be so placed upon said sound truck as to not vary more than 15 degrees either side of the axis of the center of the direction of travel;

h. No sound truck with its amplifying device in operation shall be driven on the same street past the same point more than twice in a period of one hour.

4. Yelling, Shouting, and Other Such Loud Noises. Disturbing or raucous yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 8:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of neighboring residents or persons of normal sensitivity within the area for whatever reason, is prohibited.

5. Hawkers and Peddlers. The shouting or crying out of any peddlers, hawkers, and vendors which disturbs the peace and quiet of a neighborhood or persons of normal sensitivity is prohibited. This provision shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at sporting events, parades, fairs, celebrations, festivals, circuses, carnivals and other similar special events for public entertainment.

6. Drums and Other Instruments. The use of any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city is prohibited. This provision shall not apply to any person who is a participant in a school band or legally authorized parade or who has been otherwise duly authorized by the city to engage in such conduct.



7. Animals and Fowls. The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied, or controlled by any person of any animal or fowl which by any frequent or long-continued noise shall cause annoyance or discomfort to persons of normal sensitivity in the vicinity is prohibited; provided, however, that nothing contained in this chapter shall be construed to apply to occasional noises emanating from legally operated dog and cat hospitals, humane societies, pounds, farm or agricultural facilities, or areas where the keeping of

EXHIBIT # D

animals or fowls is permitted. The written affirmation by two persons having separate residences that violation of this section disturbs the peace and quiet of said persons shall be prima facie evidence of a violation of this section.

8. Schools, Courts, Churches and Hospitals. The creation of any noise on any street, sidewalk, or public place adjacent to any school, institution of learning (except recreational areas of schools), church, court or library, while the same are in use; or adjacent to a hospital, rest home, or long-term medical or mental care facility which noise interferes with the workings of such institution or which disturbs or annoys patients in the hospital, rest home, or long-term medical or mental care facility, provided conspicuous signs are displayed in such streets, sidewalks, or public places indicating the presence of a school, institution of learning, church, court, library, rest home or long-term medical or metal care facility, is prohibited.

9. Steam Whistles. The operation, use or causing to be operated or used any steam whistle attached to any stationary boiler is prohibited except to give notice of the time to start or stop work or as a sound signal of imminent danger.

10. Engines and Motor Vehicles. Any disturbing or raucous noises caused off streets or highways by racing or accelerating the engine of any motor vehicle or accessory equipment while moving or not moving, by the willful backfiring of any engine and exhaust from the engine tailpipe or muffler, or from the screeching of tires, is prohibited.

11. Commercial and Recreational Motor Vehicles. The use, operation, or permitting the use or operation of any commercial or recreational motor vehicle or associated accessory equipment such as, but not limited to, refrigeration and air conditioning equipment between the hours of 10:00 p.m. and 7:00 a.m. the following day within hearing distance of any residence or temporary sleeping accommodations is prohibited.

12. No person shall operate or permit the operation of any sound amplification system from a motor vehicle not being operated upon a highway which can be heard from outside the vehicle from 150 or more feet, unless that system is being operated to request assistance or warn of a hazardous situation.

13. This section does not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications or water utilities. This section does not apply to the sound systems of vehicles used for advertising, or in parades, political or other special events; provided, that such systems comply with all other requirements of local ordinance and state law. [Ord. 91-21; Code 1990 § 4.2.12.]

8.15.130 Responding to disorderly gatherings.

A. Definitions. For the purposes of this section, the following definitions shall apply:

1. "Loud and/or disorderly gathering or party" means a loud and/or disorderly activity attended by a group of persons on public or private property which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

Jean M. Jung

536 Scenic Rd
Fairfax, Ca 94930

March 12, 2013

Ms Linda Neal
Town of Fairfax
142 Bolinas Rd.
Fairfax, CA 94930

RECEIVED

MAR 14 2013

TOWN OF FAIRFAX

Dear Ms Neal,

I am writing in response to your letter dated February 19, 2013. I am so sorry that you have had to spend your important time in something as trivial as a possibly crowing rooster. On february 18, prior to receiving your letter we re-homed "Chuck" one of the "offending bird". We re-homed "Tolouse Latrec," the remaining rooster. on March, 4th. On February 4, 2013 a bobcat came into our yard when the chickens were out looking for bugs and killed two hens and our rooster, " Andy Warhol".

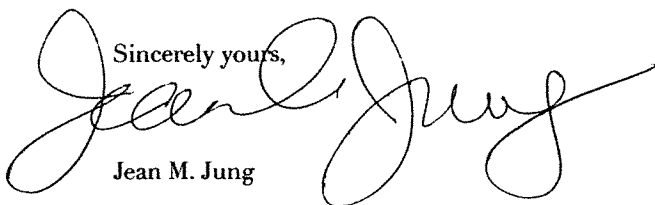
We are very sorry that any one is bothered by our roosters. when we realized that some of the chickens we grew from eggs and one day old hatchlings were roosters (which was not our intent) we e-mailed and spoke with everyone directly around us to please let us know if the crowing awoke them. All of our neighbors responded that it was NOT a problem and in fact several liked to hear the crowing. After receiving a letter from Martin Marks (a copy enclosed)who complained about the roosters, We began behavior modification by putting the roosters in a crate at night inside so they would not crow. Primarily they crow when they perceive danger as they are protecting their hens. Our understanding was that it would not be a problem if they crowed occasionally during the day and that the noise ordinance was from 10 pm- 7 am. I hope no one is confusing the constant loud chatter of the crows with our chickens. The crows are very noisy, the chickens are not. In any event we no longer have roosters.

I have owned my property at 536 Scenic Rd since 1972. We have had chickens for most of the past 40 years with no problems.

Currently my daughter and her family are living with me and since she had chickens at our house as a child she wanted to have them for her boys, my grandsons. We have fresh organic eggs and the kids learn how chicks hatch out and what it takes to have healthy contented chickens along with our organic vegetable garden etc. It was extremely upsetting when the bobcat killed some of them.

We have created a safe quiet spot for our chicken run. We feel we are in compliance with the spirit of the code. I will contacting Mark Lockaby as soon as I am able to discuss pertinent information about this. Currently I am traveling back and forth as my 96 year old Mother broke her pelvis and is being treated for the injury and dementia so I am trying to help her.

Sincerely yours,



Jean M. Jung

EXHIBIT #

E

Linda Neal

From: intern
Sent: Tuesday, October 08, 2013 10:01 AM
To: Linda Neal
Subject: FW: Town Code, Title 6, Chapter 6.16

Hi Linda,
could you print this pro-rooster email out?
thanks,

Corwin Bell
Intern, Planning & Building Services
Town of Fairfax
intern@townoffairfax.org

From: Michele Gardner
Sent: Monday, September 16, 2013 1:52 PM
To: intern
Subject: FW: Town Code, Title 6, Chapter 6.16

Ere you go

From: Patti Elliott [<mailto:mpe@fairfaxfresh.com>]
Sent: Saturday, September 07, 2013 12:22 PM
To: Judy Anderson
Subject: Town Code, Title 6, Chapter 6.16

I am against a possible amendment to the town code to ban roosters;

Here's why;

This is Fairfax not San Anselmo, crowing raises the funk quotient and that's what Fairfax is known for.

Please simplify the town staffs job by instituting a rooster tax to offset the any fiscal impact of complainers wasting their time.

If they don't want to wake up in the morning, let the complainers move to Mill Valley with the rest of the trust fund people.

We do not want to give up our chickens just because they are boys.

Respectfully,

Margaret Elliott

53 Ridge Rd.