

ORDINANCE NO. 5249

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 8.04 OF TITLE 8 AND ADDING CHAPTER 8.50 TO TITLE 8 OF THE MONTEREY COUNTY CODE, RELATING TO THE KEEPING OF ROOSTERS

County Counsel Summary

This ordinance adds Chapter 8.50 to the Monterey County Code to regulate rooster keeping operations. The ordinance also adds new defined terms to Chapter 8.04. The purpose of this ordinance is to establish a comprehensive approach to the keeping of five or more roosters that balances promotion of agriculture and agricultural education with prevention of rooster keeping operations that are unsanitary, inhumane, environmentally damaging, or conducive of illegal cockfighting. The ordinance requires a permit, issued by the Monterey County Animal Control Officer, to keep five or more roosters per single property within unincorporated Monterey County. The ordinance sets standards for the feeding and housing of roosters and for waste disposal and other matters to address the health and environmental impacts of raising five or more roosters. The ordinance allows students participating in FFA, 4-H, and other school-sponsored educational projects to raise five or more roosters if they obtain an exemption from the Animal Control Officer through a streamlined exemption process. Commercial poultry operations and poultry hobbyist activities may obtain an exemption if approved by the Agricultural Commissioner. Permits will not be issued to persons convicted of illegal cockfighting or animal cruelty crimes, and persons keeping roosters are required to attest that they will not be made available for illegal cockfighting. Compliance with these standards is enforced through inspection by the Monterey County Animal Control Officer and the enforcement provisions of the Monterey County Code.

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

SECTION 1. Section 8.04.010 of Title 8 of the Monterey County Code is amended to add the following definitions:

“Agricultural Commissioner” means the Monterey County Agricultural Commissioner as specified in section 2121 of the California Food and Agricultural Code or his or her designee.

“Illegal Cockfighting” means the crimes identified in the California Penal Code, including but not limited to Penal Code sections 597b, 597i, and 597j.

“Poultry Hobbyist” means a person who is recognized by the Agricultural Commissioner as a member of a local, state or national organization which promotes the breeding of poultry for exhibition or show and/or sale of poultry to promote breeding as a hobby. The term “Poultry Hobbyist” does not include persons who raise poultry for the purpose of making them available for cockfighting.

“Poultry Operation” means the raising, keeping, or raising and keeping of, in the aggregate, more than two hundred (200) adult female chickens, turkeys, ducks, geese, pigeons, pheasants, peafowl, guinea fowl or other fowl for the primary purpose of producing eggs or meat for sale. The term “Poultry Operation” does not limit the number of Roosters that may be kept, so long as those Roosters are part of the Poultry Operation.

“Rooster” means any male chicken that:

1. Is six months or older; or
2. Has full adult plumage; or
3. Is capable of crowing.

“Rooster Keeping Operation” means five (5) or more Roosters kept or maintained on any Single Property within unincorporated Monterey County.

“Rooster Keeping Operator” means an individual, individuals, or entity operating a Rooster Keeping Operation pursuant to a valid permit under Chapter 8.50 of this Title.

“Single Property” means a unit of land, whether consisting of a legal lot of record or several legal lots of record combined, which is used or operated as a unified whole or as one working enterprise.

“Tethering” means the use of any wire, string, rope, chain or similar device to restrict or restrain the movements of a Rooster.

SECTION 2. Chapter 8.50 is added to the Monterey County Code to read as follows:

Chapter 8.50
REQUIREMENTS FOR KEEPING FIVE OR MORE ROOSTERS

Sections:

- 8.50.010 Findings and purpose
- 8.50.020 Applicability
- 8.50.030 Rooster Keeping Operations and permitting
- 8.50.040 Rooster Keeping Operation application process
- 8.50.050 Fees
- 8.50.060 Review of applications for Rooster Keeping Operation permits; appeal
- 8.50.070 Rooster Keeping Operation permit issuance; renewal; transfer
- 8.50.080 Rooster Keeping Operation permit standards –acknowledgement, compliance and inspection
- 8.50.090 Rooster Keeping Operation facilities standards
- 8.50.100 Rooster Keeping Operation inspections
- 8.50.110 Rooster Keeping Operation exemptions; appeal
- 8.50.120 Violations; appeal
- 8.50.130 Enforcement

8.50.010 Findings and purpose.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

Ordinance regulating Rooster Keeping Operations

B. The Board of Supervisors has received numerous complaints from residents of the unincorporated area of Monterey County about roosters being raised in inhumane, unsanitary and crowded conditions and being used, sold or otherwise made available for illegal cockfighting;

C. Lack of regulation relating to sanitation, waste disposal, and drainage in the housing of large numbers of roosters pollutes water supplies, breeds vermin infestation, generates odors, and creates risk of disease.

D. There is a public interest in combating Illegal Cockfighting and associated crimes, including limiting the available supply of Roosters and game fowl breeds that are historically and traditionally associated with cockfighting.

E. There is a public interest in preventing cruelty to animals by establishing and enforcing standards of humane care and treatment of Roosters and by ensuring that persons who keep Roosters have no criminal convictions of animal cruelty or current or prior involvement in Illegal Cockfighting.

F. The Board desires to allow the keeping of roosters in a manner that addresses the treatment of roosters and environmental and health and safety impacts of keeping roosters, while discouraging the raising of roosters for illegal purposes.

G. The Board of Supervisors also recognizes that students legitimately raise roosters for 4-H, Future Farmers of America, and other educational projects, and the Board intends to allow and encourage these educational activities.

H. The Board of Supervisors also desires to differentiate poultry operations and poultry hobbyists from persons raising roosters in unsanitary and inhumane conditions or for illegal purposes.

I. To protect the public health, safety, and welfare, this ordinance requires a permit to allow the keeping of five or more roosters, requires those operations to adhere to certain sanitation, space, and animal treatment requirements, exempts educational activities and poultry operations and hobbyists from the permit requirement, and requires applicants to attest that the applicant has no criminal convictions for illegal cockfighting and will not raise, use, or sell roosters for illegal cockfighting.

J. This ordinance serves the public health, safety and welfare by establishing a comprehensive approach to the keeping of five or more roosters that balances promotion of agriculture and agricultural education with prevention of operations that are unsanitary, inhumane, environmentally damaging, and potentially conducive of illegal conduct.

8.50.020 Applicability.

This Chapter applies in the unincorporated area of the County of Monterey.

8.50.030 Rooster Keeping Operations and permitting.

A Rooster Keeping Operation permit, or an approved exemption thereto, is required when five (5) or more Roosters are kept on any Single Property within unincorporated Monterey County. No person shall maintain a Rooster Keeping Operation without an approved permit or an approved exemption. Persons keeping Roosters pursuant to a Rooster Keeping Operation permit shall keep them consistent with the standards specified in section 8.50.090 of this Chapter. Persons or entities keeping five (5) or more Roosters on a Single Property shall become

subject to the requirements of this Chapter one hundred eighty (180) days after the effective date of Ordinance No. 5249 enacting this Chapter.

8.50.040 Rooster Keeping Operation application process.

A. Applications for a Rooster Keeping Operation permit shall be submitted to the Animal Control Officer with the required fee.

B. Application form. The applicant shall complete and submit required information on an application form, consisting of the following:

1. The applicant's name, mailing address, day time phone number, and, if available, e-mail address;
2. A 24-hour or night time contact phone number;
3. The physical address and Assessor's Parcel Number(s) (APN or APNs) of the Single Property upon which the proposed Rooster Keeping Operation will be maintained;
4. The name, phone number and, if available, e-mail address of the manager who is or will be responsible for on-site management of the proposed Rooster Keeping Operation;
5. The number and breed of Roosters and hens that will be housed at the proposed Rooster Keeping Operation;
6. A written attestation, signed under penalty of perjury: (a) that applicant has no criminal convictions of Illegal Cockfighting or other crime of animal cruelty in any state; and (b) that the Roosters that applicant proposes to keep on the proposed Rooster Keeping Operation have not been and shall not be raised for, used for, sold for, or otherwise be made available for Illegal Cockfighting.

C. Additional information. The applicant shall also submit:

1. A site map showing all locations on the Single Property which are used, or which will be used, to house Roosters;
2. Evidence demonstrating that the applicant has sole legal or equitable interest in the Single Property upon which the proposed Rooster Keeping Operation will be maintained or, alternatively, written consent to make the application and to operate a Rooster Keeping Operation from all persons and entities having a legal or equitable interest in that property;
3. A plan describing the method and frequency of manure and other solid waste removal; the plan may be demonstrated by evidence of a contract or agreement for regular solid waste removal services by the County or an entity holding a County franchise for solid waste removal services;
4. Such other information that the Animal Control Officer may deem necessary to decide on the issuance of the permit; and
5. A Rooster Keeping Operation permit application fee.

8.50.050 Fees.

The filing of an application for a Rooster Keeping Operation permit, for renewal of a Rooster Keeping Operation permit, for transfer of a Rooster Keeping Operation permit, for a Rooster Keeping Operation exemption, and appeals shall be accompanied by payment of such fees as the Board of Supervisors may establish to recover the cost of administration of this Chapter. No fee shall be required to apply for the Educational Purpose or FFA/4-H exemptions.

Permit/exemption applicants, Rooster Keeping Operators, and proposed Rooster Keeping Operation transferees are responsible for the costs of inspections, investigations, and any other fee-associated activity established pursuant to this Chapter. Fees, fines, and costs specified by this Chapter shall be as established by the Board of Supervisors and as set forth in the Monterey County Fee Resolution, pursuant to Chapter 1.40 of the Monterey County Code, as amended from time to time.

8.50.060 Review of applications for Rooster Keeping Operation permits; appeal.

A. The Animal Control Officer shall review the application and associated documents and shall require, if he or she deems necessary, additional information to complete the application. The Animal Control Officer may reject the application as incomplete if it does not contain all required information and documents.

B. At such time as the application is deemed complete, the Animal Control Officer will conduct an initial site inspection to determine whether the proposed Rooster Keeping Operation meets the permit standards established by this Chapter. Applicants shall make premises, facilities, and equipment available for inspection for the purpose of ascertaining compliance with the standards set forth in this Chapter.

C. A permit for Rooster Keeping Operations, or a written notice specifying the reason for the denial of the permit, shall be delivered to the applicant within thirty (30) days of the date the Animal Control Officer completes his or her inspection.

D. The Animal Control Officer may issue a Rooster Keeping Operation permit based upon: (1) compliance with the requirements and standards stated in this Chapter and (2) any other conditions and restrictions deemed necessary for the protection of animals and public health, safety, or welfare. The Animal Control Officer may specify such conditions and restrictions in the Rooster Keeping Operations permit.

E. If instances of non-compliance are both minor and few and are subject to expeditious cure, the Animal Control Officer may issue a Rooster Keeping Operation permit provisionally, conditioned upon an applicant's subsequent compliance with the provisions of this Chapter and subsequent compliance with other conditions and restrictions that may be imposed. Subsequent compliance shall be verified by additional inspection by the Animal Control Officer.

F. The Animal Control Officer shall deny a Rooster Keeping Operation permit to:

1. Applicants with a criminal conviction for Illegal Cockfighting or other crime of animal cruelty in any state, or with a record of violation of provisions of Title 8, Animal Control, of the Monterey County Code that pertain to animal cruelty; or

2. Applicants who fail to meet the permit standards specified by this Chapter, who fail to meet such other restrictions and conditions that may be imposed, or who fail to comply with any other provision of this Chapter; or

3. Applicants who seek to operate a Rooster Keeping Operation in a location where keeping of Roosters would violate the applicable zoning ordinance or other laws and regulations or who have not obtained any necessary permit(s) and/or license(s) required by zoning or other laws for its operation; or

4. Applicants whose existing Rooster Keeping Operation permit has been suspended, for the period during which the order of suspension is in effect; or

5. Applicants who have been or are an officer, agent or employee of a permitted establishment whose permit has been suspended or revoked and who were responsible for, or participated in, the violation upon which the order of suspension or revocation was based. Such ineligibility for a Rooster Keeping Operation permit shall extend, in the case of suspension, for the period during which the order of suspension is in effect. Such ineligibility for a Rooster Keeping Operation permit shall extend, in the case of revocation, for a period of three (3) years from the effective date of a revocation; or

6. Applicants who have a substantial financial interest in any partnership, firm, limited liability corporation, corporation, or legal entity whose Rooster Keeping Operation permit was suspended or revoked. Such ineligibility for a Rooster Keeping Operation permit shall extend, in the case of suspension, for the period during which the order of suspension is in effect. Such ineligibility for a Rooster Keeping Operation permit shall extend, in the case of revocation, for a period of three (3) years from the effective date of a revocation.

G. The Animal Control Officer shall notify applicants of denials of applications for a Rooster Keeping Operations permit in writing. This notification shall inform applicants of the reason or reasons for denial and of the right to appeal the denial to the Board of Supervisors. Applicants denied a Rooster Keeping Operations permit may appeal that decision by submitting to the Clerk of the Board of Supervisors a written appeal specifying the specific reasons the applicant disagrees with the Animal Control Officer's denial. This appeal must be submitted within ten (10) days after written notice of denial has been mailed to the applicant and must be accompanied by a Rooster Keeping Operation appeal fee. The appeal shall not be accepted as complete unless it complies with these appeal requirements and the appeal fee is paid. The Board shall consider the appeal at a noticed public hearing within sixty (60) days of the Clerk's acceptance of the appeal as complete. The Board may grant or deny the appeal based on the requirements of this Chapter. Applicants whose appeal is granted, and who are thereby subsequently issued a Rooster Keeping Operations permit by the Animal Control Officer, remain subject to all the requirements of this Chapter.

8.50.070 Rooster Keeping Operation permit issuance; renewal; transfer.

A. Upon issuance of a Rooster Keeping Operation permit, a Rooster Keeping Operator may operate a Rooster Keeping Operation upon the specified property for a period of one (1) year.

B. Rooster Keeping Operators may seek renewal of a previously-issued Rooster Keeping Operation permit in one (1) year intervals, beginning from the original permit date. Rooster Keeping Operators who seek to renew a previously issued Rooster Keeping Operation permit shall pay a Rooster Keeping Operation renewal fee. Rooster Keeping Operators shall make the Rooster Keeping Operation for which renewal of a permit is sought available to the Animal Control Officer for inspection. The Animal Control Officer will verify, by inspection, that the Rooster Keeping Operation continues to meet the standards prescribed by this Chapter.

C. The Animal Control Officer may notify the holder of a Rooster Keeping Operation permit, in advance, of the expiration date of that permit, and of the opportunity to renew. If there is no response to this Rooster Keeping Operation permit renewal notice, or if the holder of a Rooster Keeping permit indicates no interest in renewal, the Rooster Keeping Operation permit will expire. Upon expiration of a Rooster Keeping Operation permit, the

Animal Control Officer will inspect the Single Property upon which the Rooster Keeping Operation was previously maintained and will verify that the Rooster Keeping Operation has been dismantled and is no longer operative.

D. A Rooster Keeping Operation permit may be transferred from a Rooster Keeping Operator to another individual, individuals, or entity to maintain a Rooster Keeping Operation on the same Single Property during the one (1) year term it remains valid, if: (1) the proposed transferee submits an application for such permit that meets all requirements of this Chapter, including the attestation specified in section 8.50.040; (2) the proposed transferee pays a Rooster Keeping Operation transfer fee; and (3) the Animal Control Officer verifies, by inspection, that the Rooster Keeping Operation on the Single Property continues to meet the standards prescribed by this Chapter. If transferred, a Rooster Keeping Operation permit remains valid for the remainder of the one (1) year period for which it was originally issued. If a transfer is denied, the proposed transferee may appeal that denial to the Board of Supervisors, as provided in subsection G of section 8.50.060 of this Chapter.

8.50.080 Rooster Keeping Operation permit standards – acknowledgement, compliance, and inspection.

A. As a condition of the issuance of a Rooster Keeping Operation permit or renewal of such permit, applicants shall agree in writing to comply with the standards set forth in this Chapter and shall demonstrate that the premises, facilities, and equipment to be used in the Rooster Keeping Operation comply with the standards set forth in this Chapter.

B. Upon request by the Animal Control Officer, the Rooster Keeping Operator must make premises, facilities, and equipment available for inspection as set forth in section 8.50.100.

8.50.090 Rooster Keeping Operation facilities standards.

A. Notwithstanding any other provision of law, no person shall maintain any Rooster by tethering the rooster to an object. Each individual Rooster so tethered constitutes a separate violation.

B. All indoor or outdoor structures, pens, cages, or other housing for Roosters shall be structurally sound and shall be maintained in good repair to protect the Roosters from injury, to contain the Roosters, and to restrict the entrance of other animals. Crates and boxes, automobile bodies, and scrap materials such as linoleum, tin, canvas, and salvaged ply-boards are not suitable and shall not be used.

C. The Rooster Keeping Operation must meet the standards below for the applicable facility:

1. Indoor facilities:

a. Temperature. Indoor facilities shall protect Roosters from cold, when the ambient temperature falls below that temperature to which a Rooster is acclimated.

b. Ventilation. Indoor housing facilities shall be ventilated so that they: (i) provide fresh air, by means of windows, doors, vents, or similar; and (ii) minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans, shall be provided when the ambient temperature is eighty-five (85) degrees Fahrenheit or higher within an indoor housing facility.

c. Lighting. Indoor housing facilities shall have light, by natural or artificial means, or both, that provides uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning.

d. Interior Surfaces. Indoor housing facilities shall be constructed of interior building surfaces which make them substantially impervious to moisture and readily sanitized.

e. Drainage. Indoor housing facilities shall be constructed to rapidly eliminate excess liquid. If drains are used, they shall be kept in good repair to avoid pooling and/or foul odors. If closed drainage systems are used, they shall be equipped with traps and installed so as to prevent backup of sewage into a facility.

2. Outdoor facilities:

a. Weather. Shelter shall be provided for Roosters kept outdoors. Sufficient protection from weather elements shall be provided to protect against cold, when the ambient temperature falls below that temperature to which the Rooster is acclimated. During rain or snow, access to shelter shall be provided to allow Roosters kept outdoors to remain dry. When sunlight and ambient temperature are likely to cause overheating or discomfort, shade shall be provided to allow Roosters kept outdoors to avoid the direct rays of the sun.

b. Drainage. Outdoor facilities must provide for rapid elimination of excess liquid.

3. All facilities:

a. Fencing. Fencing shall be in conformance with zoning and building code requirements and of sufficient height to prevent Roosters from escaping. If, in the discretion of the Animal Control Officer, a cover over the fenced area is necessary to accomplish containment, a cover shall be installed.

b. Water. Clean potable water shall be available to Roosters in conformance with accepted principles of animal husbandry, unless water is restricted for veterinary care. Watering receptacles shall be kept clean and sanitized.

c. Food Storage. Food shall be stored in containers that adequately protect such supplies against infestation or contamination by vermin.

d. Waste Disposal (Manure, Food Waste, Debris). Disposal containers shall be utilized so as to minimize vermin infestation, odors, and disease hazards in compliance with section 10.41.020 of the Monterey County Code. Waste disposal of discarded manure, food waste and debris is required at least once per week. Bird or other animal carcasses shall be disposed of in accordance with subsections (D) and (E) of section 10.41.020 of the Monterey County Code.

e. Enclosures/Safety. Roosters shall be separately housed in a discrete, primary enclosure per Rooster. Primary enclosures shall be structurally sound and maintained in good repair to protect the Roosters from injury, to contain them, and to keep other animals out. They shall be constructed and maintained so as to enable Roosters to remain dry and clean and to enable access to food and water. Floors shall be constructed and maintained so as to protect Roosters' feet and legs from injury.

f. Enclosures/Space. Primary enclosures shall have sufficient room for Roosters to spread both wings fully and to be able to rotate in a complete circle without impediment and without touching the side of the enclosure.

g. Feeding. Roosters shall be fed daily with food that is free from contamination, fresh, and of sufficient quantity and nutritive value to meet normal daily nutrition requirements for the condition and size of the rooster. Food receptacles shall be accessible to all Roosters and

shall be located to minimize contamination by excreta. Feeding pans shall be durable and sanitized. Disposable food receptacles may be used but must be discarded after each feeding.

h. Cleaning. Excreta shall be removed from primary enclosures as often as necessary, at least daily. When a hosing or flushing method is used for cleaning, any Rooster contained in the enclosure shall be protected during the cleaning process, and adequate measures shall be taken to protect Roosters in other enclosures from being contaminated with water and other wastes.

i. Sanitizing. Enclosures shall be sanitized regularly, sufficient to prevent an accumulation of debris or excreta. Before introducing new Roosters into previously occupied, empty primary enclosures, such enclosures shall be sanitized as provided by this Chapter. For purposes of sanitation, cages, rooms and hard-surfaced pens shall be: (1) washed with hot water (one hundred eighty (180) degrees Fahrenheit) and soap or detergent; or (2) washed with a detergent solution followed by washing with a safe and effective disinfectant; or (3) cleaned with live steam.

j. Housekeeping. Premises (buildings and grounds) shall be kept clean, in good repair, and free of accumulations of trash.

k. Pest control. An effective program for the control of insects, rodents, or other vermin shall be maintained.

8.50.100 Rooster Keeping Operation inspections.

A. The Animal Control Officer and the Agricultural Commissioner shall have the right to inspect Rooster Keeping Operations. As a condition of the issuance, transfer, or renewal of a Rooster Keeping Operation permit, and as a condition of seeking an exemption as a Poultry Operation or Poultry Hobbyist pursuant to section 8.50.110 of this Chapter, each applicant, proposed transferee, proposed exemptee, and Rooster Keeping Operator shall agree to allow such inspections; such acknowledgment shall be made as part of the application for permit issuance, transfer, renewal, or exemption and part of each issued Rooster Keeping Operation permit. Each Rooster Keeping Operation for which a permit has been issued shall be inspected at intervals as determined by the Animal Control Officer, or as a result of a public complaint, or upon other notice received of possible violation of the provisions of this Chapter. The Animal Control Officer may inspect Rooster Keeping Operations at any time of day in order to respond to a complaint, to respond to an emergency, or to accompany and assist law enforcement personnel. The Animal Control Officer and Agricultural Commissioner will conduct inspections pursuant to this Chapter utilizing appropriate biosecurity protocols.

B. Each applicant or Rooster Keeping Operator shall correct any deficiencies noted within a reasonable time, as specified by the Animal Control Officer.

C. Plans for new or remodeled Rooster Keeping Operation facilities shall be submitted to the Animal Control Officer for review with the required fee, and no Rooster Keeping Operation permit or renewal of a Rooster Keeping Operation permit shall be issued until completion of construction, to ensure that new or remodeled facilities meet the standards set forth in this Chapter.

D. When an inspection is conducted as a result of a public complaint or other notice received of possible violation of the provisions of this Chapter, and when violations are found to exist, a Rooster Keeping Operator or a non-permitted, non-exempted person keeping five or

more Roosters, shall pay complaint investigation costs, including the costs of inspections and other investigatory activities. Investigation costs shall be assessed from the initial inspection following a complaint or notice, and shall include such subsequent inspection or inspections and other investigatory activities as deemed necessary by the Animal Control Officer. Investigation costs shall be assessed through the period that either (1) the Rooster Keeping Operator comes into compliance with the provisions of this Chapter or (2) the Rooster Keeping Operator's permit is suspended or revoked, or (3) a non-permitted, non-exempted person ceases and desists from keeping five or more Roosters pursuant to this Chapter.

E. When a Rooster Keeping Operation permit is suspended or revoked, outstanding fees and investigation costs shall be paid before reinstatement, if any, of that Rooster Keeping Operator's permit or before issuance of a new Rooster Keeping Operation permit to that Rooster Keeping Operator.

8.50.110 Rooster Keeping Operation exemptions; appeal.

A. A Rooster Keeping Operation is not required to obtain a Rooster Keeping Operation permit if it qualifies for and obtains one of the following exemptions:

1. Poultry Operation exemption: A Poultry Operation, as defined by section 8.04.010 of the Monterey County Code and approved in writing by the Agricultural Commissioner;

2. Poultry Hobbyist exemption: Rooster Keeping Operations operated by a Poultry Hobbyist as defined by section 8.04.010 of the Monterey County Code and approved in writing by the Agricultural Commissioner;

3. Educational Purpose exemption: Rooster Keeping Operations that are conducted by minors and sponsored by public or private schools registered with the California Department of Education; and

4. FFA/4-H exemption: Rooster Keeping Operations that are conducted by minors and are in furtherance of a National Future Farmers of America (FFA) project or a University of California 4-H Youth Development Program (4-H) project.

B. Poultry Operation and Poultry Hobbyist Exemptions: Applicants seeking a Poultry Operation or Poultry Hobbyist exemption shall complete a Rooster Keeping Operation exemption application and submit it to the Agricultural Commissioner, who shall determine whether the applicant has met exemption criteria. Such applicants shall submit the required information on the exemption application and shall provide supporting information, consisting of the following:

1. The applicant's name, mailing address, day time phone number and, if available, email address;

2. The number and breed of Roosters subject to the exemption;

3. The physical address and Assessor's Parcel Number(s) (APN or APNs) of the Single Property upon which Roosters will be housed;

4. Identification of the applicable category under which exemption is sought and sufficient written verification, in the discretion of the Agricultural Commissioner, to demonstrate that applicant meets exemption criteria;

5. A written statement, signed under penalty of perjury, as to whether the applicant has previously been granted or denied a request for an exemption under this Chapter;

6. A written attestation, signed under penalty of perjury: (a) that the applicant has no criminal convictions for Illegal Cockfighting or other crime of animal cruelty in any state; and (b) that the Roosters the applicant proposes to keep on the exempt Rooster Keeping Operation have not been and shall not be raised for, used for, sold for, or otherwise be made available for Illegal Cockfighting;

7. A Rooster Keeping Operation exemption fee.

8. To determine whether a Poultry Operation or a Poultry Hobbyist is entitled to an exemption, the Agricultural Commissioner may inspect the property and facilities for which exemption is sought.

9. If the Agricultural Commissioner approves a Poultry Operation or Poultry Hobbyist exemption, the Agricultural Commissioner shall notify the applicant in writing and shall provide the Rooster Keeping Operation exemption application form, and the Agricultural Commissioner's approval determination, to the Animal Control Officer. The Animal Control Officer shall maintain records of exemptions granted to a Poultry Operation or to a Poultry Hobbyist. These exemptions shall be valid for the earlier of: (a) five (5) years from the date of issuance; or (b) until the keeping of five (5) or more Roosters ceases; or (c) until an application for a Rooster Keeping Operation permit is required because the circumstance giving rise to an exemption no longer exists.

10. In advance of the expiration of an exemption granted to a Poultry Operation or Poultry Hobbyist, the Animal Control Officer will notify the holder of an exemption of the expiration date of that exemption, and of the requirement to either apply for a Rooster Keeping Operation permit or to re-apply for an exemption, if the holder of an exemption continues to keep five (5) or more Roosters on a Single Property.

11. If the Agricultural Commissioner denies a Poultry Operation or a Poultry Hobbyist exemption, the Agricultural Commissioner shall provide the Rooster Keeping Operation exemption application form, and the Agricultural Commissioner's denial determination, to the Animal Control Officer. The Animal Control Officer shall maintain records of denied exemptions. If the exemption application is disapproved, applicants who operate a Rooster Keeping Operation without a Rooster Keeping Operation permit shall immediately cease and desist from doing so. Applicants who wish to maintain a Rooster Keeping Operation, but whose request for an exemption is denied, must apply for a permit pursuant to the provisions of this Chapter before resuming Rooster Keeping Operations. Compliance with these provisions will be verified by the Animal Control Officer.

12. The Agricultural Commissioner shall notify applicants of denials of a Rooster Keeping Operation exemption in writing. This notification shall inform applicants of the reason or reasons for denial and of the right to appeal the denial to the Board of Supervisors. Applicants denied a Poultry Operation or a Poultry Hobbyist exemption may appeal that decision by submitting to the Clerk of the Board of Supervisors a written appeal specifying the specific reasons the applicant disagrees with the Agricultural Commissioner's denial of the exemption. This appeal must be submitted within ten (10) days after written notice of denial has been mailed to the applicant and must be accompanied by the applicable appeal fee. The appeal shall not be accepted as complete unless it complies with these appeal requirements and the appeal fee is paid. The Board shall consider the appeal at a noticed public hearing within sixty (60) days of the Clerk's acceptance of the appeal as complete. The Board may grant or deny the appeal based on the requirements of this Chapter.

C. Educational Purpose and FFA/4-H Exemptions: This exemption applies to minors participating in projects that are operated by a public or private school registered with the California Department of Education or that are in furtherance of a Future Farmer of America or University of California 4-H Youth Development Program project. The parent or legal guardian of the minor shall be considered to be the applicant for such exemptions and may complete the forms required for these exemptions on behalf of the minor. The application for an Educational Purpose, FFA, or 4-H Exemption shall consist of the following:

1. The name of the parent or legal guardian and minor seeking an exemption;
2. The mailing address, day time phone number and, if available, email address of the parent or legal guardian submitting the application on behalf of the minor;
3. The number and breed of Roosters subject to the exemption;
4. The physical address and Assessor's Parcel Number(s) (APN or APNs) of the Single Property upon which Roosters will be housed;
5. A written attestation, signed by the minor's parent or legal guardian, under penalty of perjury: (a) that the parent or legal guardian has no criminal convictions for Illegal Cockfighting or other crime of animal cruelty in any state; and (b) that the Roosters the applicant proposes to keep have not been and shall not be raised for, used for, sold for, or otherwise be made available for Illegal Cockfighting;

6. Written documentation of eligibility for the exemption shall be provided by the applicant. Such documentation may include the following: written verification from a public or private school registered with the California Department of Education that the minor is a participant in a Rooster Keeping project operated by that school; a copy of the minor's membership card in FFA or 4-H; or other evidence of the minor's membership in the Future Farmers of America or University of California 4-H Youth Development Program.

7. Applications for Educational Purpose and FFA/4-H Exemptions shall be submitted to the Animal Control Officer, without payment of an application fee. The Animal Control Officer shall approve the exemption if the application contains the information and documentation of eligibility required by this subsection C. An Educational Purpose or FFA/4-H Exemption shall be valid until the minor's participation in the project or similar projects concludes and shall expire when the minor's participation in the project or similar projects ceases, provided that no exemption shall be valid for longer than five (5) years from the date the Animal Control Officer approves the exemption. The Animal Control Officer shall maintain records of Educational Purpose and FFA/4-H exemptions.

8. If the Animal Control Officer denies an application for an Educational Purpose of FFA/4-H exemption, the Animal Control Officer shall notify the applicant in writing. The applicant may appeal the denial of the exemption following the exemption procedures specified in Section 8.50.110.B.12 above.

8.50.120 Violations; appeal.

A. Maintaining a Rooster Keeping Operation without a valid permit or without a valid exemption, as required by this Chapter, is a violation. Failure to adhere to any requirement of this Chapter, or to any of the conditions or restrictions set forth in a Rooster Keeping Operation permit, is a violation.

B. Each violation of a requirement of this Chapter, or of any of the conditions or restrictions set forth in a Rooster Keeping Operation permit, is a separate violation and will be separately subject to fines and/or penalties. Each day a violation exists constitutes a new and separate violation. Each Rooster subjected to a condition or circumstance in contravention of this Chapter, or in contravention of any of the conditions or restrictions set forth in a Rooster Keeping Operation permit, constitutes a new and separate violation.

C. Violations may be corrected immediately, under the supervision of the Animal Control Officer, or may require a schedule for correction, as determined by the Animal Control Officer.

D. Any act or omission by a Rooster Keeping Operator in contravention of the provisions of this Chapter, or in contravention of any of the conditions or restrictions set forth in a Rooster Keeping Operation permit, shall be grounds for the suspension and/or the revocation of the Rooster Keeping Operation permit, as follows:

1. Upon inspection, the Animal Control Officer may suspend an existing Rooster Keeping Operation permit until violations have been corrected or for the remainder of the one (1) year permit term. No suspension shall be lifted by the Animal Control Officer unless corrections of violations have been verified by inspection;

2. Upon inspection, the Animal Control Officer may revoke a Rooster Keeping Operation permit for a period of three (3) years;

3. In determining appropriate penalties for violations, the Animal Control Officer will be guided by the seriousness of the violations observed, the number of violations observed, and whether violations are repeated.

E. Suspension or revocation of a Rooster Keeping Operation permit may be appealed pursuant to the administrative procedures set forth in Chapter 1.22 of the Monterey County Code. In the event of appeal of a suspension or revocation of a Rooster Keeping Operation permit, the Animal Control Officer may serve as the Enforcement Official within the meaning of Chapter 1.22.

8.50.130 Enforcement.

A. The Animal Control Officer shall be primarily responsible for implementation and enforcement of this Chapter. The Animal Control Officer is authorized to establish guidelines and procedures to implement this Chapter and to take such action as may be necessary to monitor compliance with this Chapter.

B. In the event of a violation of this Chapter or any requirement imposed pursuant to this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement action as is authorized under the Monterey County Code and any other action authorized by law, including the issuance of a Notice of Violation, imposition of fines and penalties, and collection of administrative costs.

C. Any violation of this Chapter is a violation of the Monterey County Code and is enforceable under all provisions of the Monterey County Code, including Chapter 1.20 and, in the discretion of the Animal Control Officer, pursuant to the administrative process set forth in Chapter 1.22. The Animal Control Officer may serve as the Enforcement Official within the meaning of Chapter 1.22.

D. All violations specified in this Chapter are independent of any criminal prosecution or the results thereof.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 16th day of December, 2014, by the following vote:

AYES: Supervisors Calcagno, Parker and Potter
NOES: Supervisors Armenta and salinas
ABSENT: None
ABSTAIN: None

/s/ Louis R. Calcagno
Chair, Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: /s/ Gail T. Borkowski
Clerk

APPROVED AS TO FORM <u>/s/ Wendy S. Strimling</u> WENDY S. STRIMLING Senior Deputy County Counsel
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