Subchapter Six: Regulation of Pigeons

8.06.010 Purposes.

(a) The purposes of this ordinance are to preserve the health and safety of the people by regulating carrier, homing and racing pigeons in single-family residential zones, and to control and abate nuisance activities arising out of the keeping, maintaining, or releasing of pigeons

(b) The City Council intends that provisions of this ordinance shall take force and effect as provided herein despite any claims of grandfathered rights under traditional zoning laws.

(c) This ordinance is adopted under the Town's general police power to protect the public health and safety and is intended to be consistent with Government Code section 65852.6.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.020 Definitions

As used herein, the following words shall have the meanings shown.

"Loft" means any house, dovecote, structure or enclosure for the keeping or housing of pigeons.

"Pigeon" means a bird of the order Columbidae and includes racing pigeon, carrier pigeon, homing pigeon, fancy pigeon and sporting pigeon.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.030 Findings

The City Council finds that regulation of pigeons is necessary to protect the public health and safety of City residents and visitors, as evidenced by the following facts.

Over the past eight months, staff has received statements describing the presence of a large number of pigeons in the Sterling Park neighborhood, the proliferation of mites in the vicinity of the property and damage by pigeons to nearby fruit trees. On investigation, staff has observed a significant amount of pigeon manure on otherwise clean vehicles and roofs and windows of residences that are located near to pigeon lofts.

It is common knowledge that pigeons drop feces below areas where they roost and fly. Bacteria and fungi is transmitted from the droppings and respiratory secretions of infected pigeons to humans, leading to infection which in turn can cause liver damage, kidney damage or even meningitis.

It is also common knowledge that pigeons consume fruits, grains and vegetation, especially in

areas near their nests and attract mites and pests to their locations.

Bacteria are spread from an infected bird in its droppings and respiratory secretions (i.e. sneezing and coughing). The bacterium which homing pigeons (if infected) can spread is called Chlamydiosis. Chlamydiosis, also known as Psittacosis, can be transmitted to humans. In people, the disease causes flu-like symptoms of fever, chills and headache. If left untreated, Psittacosis can cause liver and kidney damage or even meningitis. (This Chlamydia is not the same infectious agent that is spread among humans as a sexually transmitted disease.)

Cryptococcus is another fungus infection. Though uncommon in pet birds, infection can cause diarrhea, paralysis, nervous-system signs and masses with a gelatinous consistency. Humans can contract this disease when they inhale the dust from dried droppings (most commonly from pigeons). Infection in people can be quite serious leading to meningitis, encephalitis (brain inflammation) or respiratory symptoms.

Dryness, cleanliness and proper sanitation in pigeon lofts are essential to the health of pigeons and necessary to prevent the spread of disease. This ordinance adopts standards and conditions for maintaining pigeon lofts to prevent the spread of disease.

Disease can also be spread by allowing pigeons to stay outside of their loft for extended periods of time or to perch on neighboring yards, houses and cars. Pigeons can be trained to not land anywhere except on the landing board of the pigeon owner's loft, from staying out all day, from perching on neighbor's yards, houses and cars, and to return to their loft promptly after release. The risk of disease and nuisance is minimized when pigeons are trained in this manner. This ordinance mandates permit conditions requiring the permittee to train pigeons to behave in a manner that will minimize or prevent the spread of disease. These requirements are based on techniques for training pigeons recommended by the American Racing Pigeon Union, Inc. and are based on the concept that it is a pigeon's love of home, need for food, and fear of the unknown that brings it back to its loft.

Prior to the introduction of this ordinance, staff inspected certain areas near an existing pigeon loft that reportedly contains 50 pigeons. Staff found, on an average day, 30 incidents of pigeon droppings within 75 feet of the loft and an additional average of 20 incidents of pigeon droppings between 75 and 110 feet from the loft. There were higher concentrations of droppings on rooftops and perch areas within 100 feet of the loft. Thus, residences and personal property commonly stored outdoors, such as vehicles and patio furniture, within 100 feet of a pigeon loft are more likely to be affected by the nuisance caused by the consistent presence of pigeon droppings.

Based on the evidence, a set back requirement of up to 100 feet from the pigeon loft to the nearest dwelling unit would be warranted. However, this would result in a complete ban on all pigeon lofts in the residential areas in Town. With the adoption of requirements that pigeons be trained to return to their lofts without perching in the surrounding areas, a less restrictive setback requirement of ten feet is established in this ordinance.

Another health concern is that rodents and other animals are attracted to properties where pigeon food is left out or improperly stored. These rodents will leave feces in areas visited and will carry diseases. For this reasons, this ordinance adopts standards to prevent rodents and other animals

from feeding or residing on or about pigeon lofts.

Because of the health and sanitation risks associated with keeping or maintaining pigeons, many of the provisions of this ordinance shall take force and effect on the dates provided herein despite any claims of grandfathered rights under traditional zoning laws. In order to allow persons who were keeping pigeons a reasonable notice and opportunity to comply with certain provisions herein, the provision requiring a permit will take effect approximately 60 days after passage of this ordinance and the provision requiring a reduction in the number of pigeons will take effect on approximately one year after passage of this ordinance

Finally, feeding of wild animals and birds on public property causes a public nuisance by attracting wild animals and birds which drop feces in the areas where they are fed, which must be cleaned by city crews, at taxpayers' expense.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.040 Prohibitions

(a) It shall be unlawful for any person to keep or maintain a pigeon anywhere in the Town, except as provided in this ordinance.

(b) No person shall keep or maintain more than fifty (50) pigeons in any zone other than the G zone.

(c) It shall be unlawful for any person to construct, keep or maintain a pigeon loft unless the pigeon loft meets the requirements of an Accessory Building under sections 5.03.070 and 5.03.080 of this Code, is constructed in accordance with the Uniform Building Code, and the City Council has issued a Permit to such person to keep and maintain pigeons, as provided in this ordinance.

(d) It shall be unlawful to release a pigeon in a residential zone unless a permit in writing, authorizing the keeping of pigeons in a residential zone was first applied for and obtained from the City Planner.

[*History*: ORD.. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.050 Pigeon Permit for Keeping Pigeons

(a) Every application for a permit to keep and maintain pigeons shall be made upon forms to be furnished for that purpose by the Planning Department, signed by the applicant and filed with the Planning Department. No such application shall be received for filing by the Planning Department unless accompanied by a filing fee set forth in the Master Fee Schedule.

(b) Any person keeping or maintaining more than two pigeons anywhere in Town must obtain a permit in writing from the City Planner.

(c) The City Council shall deny the granting of a pigeon permit unless it finds that all criteria set forth in this ordinance have been met and that such use is not detrimental to the health, safety and welfare of the applicants and adjoining residents and property owners.

(d) Nothing herein shall authorize the issuing of a permit to keep or maintain pigeons for market or commercial purposes in a residential zone or in violation of any other ordinance of the Town of Colma.

(e) A permit to keep pigeons shall be conditioned upon each of the following:

(1) That the permittee maintain a pigeon loft in accordance with the requirements of this ordinance;

(2) That all pigeons shall be banded and registered with one of the national pigeon associations or registries, that the permittee shall maintain a list of all pigeons in the permittee's possession and shall make the list available upon request by the Code Enforcement Officer or designee;

(3) That the permittee train each pigeon to fly with a flock within two weeks after the first time that pigeon is let out of the loft;

(4) That the permittee train each pigeon not toland anywhere except on the landing board of the loft within four weeks after the pigeon is first let out of the loft;

(5) That the permittee not release a pigeon from the loft except during the period beginning two hours before sunset and ending at sunset unless the pigeon has been trained to fly with the flock and not to land anywhere except on the landing board of the loft;

(6) That the permittee not release a pigeon from the loft, whether for exercise, training, competition, or other reason, until at least four hours after the pigeon has been fed;

(7) That the permittee shall be required to keep such records as may be required by the City Planner to establish compliance with each of the conditions of the permit; and

(8) That the permittee shall allow the Code Enforcement Officer to enter and inspect the permitee's property or loft at any reasonable time for the purpose of investigating either an actual or suspected violation of this ordinance or to ascertain compliance or noncompliance with this ordinance.

(f) The City Council may impose other conditions on the granting of a permit as are reasonable and necessary to carry out the purposes of this ordinance.

(g) A Pigeon Permit shall not be approved for any applicant, nor shall a Pigeon Permit be approved at a location if there is an action pending as provided in either (1) or (2) listed below against the property owner, tenant or lessee of the property. Further, an approved Pigeon Permit shall be revoked for an applicant or location for either of (1) or (2) listed below.

(1) Any combination of two or more outstanding citations of the Town of Colma Municipal Code, or adjudicated citations found in favor of the Town of Colma by a court of competent jurisdiction, issued within the twelve months preceding the date of the Pigeon Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Pigeon Permit application is proposed; or,

(2) The individual listed as the applicant on the Pigeon Permit application has, or where the property owner, a tenant or lessee, of the property listed on the Pigeon Permit application as the intended site of the raising, housing or handling of homing, carrier or racing pigeons, has a Municipal Code violation(s) being processed by the Town of Colma or pending before a court of competent jurisdiction and directly or indirectly related to, or similar to, any property, event, activity or use for which the Pigeon Permit application is proposed.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.060 Pigeon Lofts; Sanitation Standards

(a) Each person keeping or maintaining pigeons in the Town of Colma shall maintain a pigeon loft in a dry, clean and sanitary condition at all times, shall scrape and clean the pigeon loft and remove food scraps not less than two times each week, and shall dispose of all food scraps in a sanitary manner. Specifically, but without limitation:

(1) All pigeons shall be fed within the confines of the loft;

(2) Droppings should be removed from all surfaces of the loft at least twice a week;

(3) Before cleaning, all food, grit and water containers must be removed from the loft to prevent possible contamination; and

(4) Waste material shall disposed of in accordance with the provisions of Subchapter Four of Chapter Three of the Colma Municipal Code.

(b) Pigeon lofts shall be constructed and maintained in accordance with the following standards:

(1) The loft must keep out mice, rats, opossums, raccoons, weasels, snakes, cats, dogs, and other wild birds;

(2) There must be a minimum of eight cubic feet of air space and one square foot of area per bird in the loft;

(3) There must be at least three major sections, one for breeders, one for young birds and one for old birds, with a landing board large enough for all pigeons to land on it at one time;

(4) The loft must be designed and maintained so that a pigeon may not exit from the loft without being released by a person;

(5) The ceiling of the loft must be tall enough to allow a person to enter the loft to clean it;

(6) The loft must be elevated at least 18 inches from the groundwith open area underneath to prevent rodents from taking up residence under the floor;

(7) The loft must allow free circulation of air throughout and lots of sunshine to all areas; and

(8) The loft must be at least ten feet from the side and back yard property boundaries.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.070 Violation and Penalties

(a) Each violation of this ordinance is an infraction, punishable as set forth inSubchapter five of Chapter One of the Colma Municipal Code.

(b) Violation of this ordinance also constitutes a public nuisance, which may be abated in accordance with the provisions of Subchapter Eleven of Chapter One of the Colma Municipal Code.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.080 Appeals.

An aggrieved party may appeal to the City Council from a decision of the City Planner under this ordinance. The appeal shall be heard in accordance with the procedures set forth in section 1.02.120 of the Colma Municipal Code The City Council may affirm, overrule, or modify the revocation, denial or suspension.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.090 Diseased Pets: Notice to San Mateo County Health Department.

Whenever any pets shall appear to have any communicable disease, the San Mateo County Health Department shall be notified immediately of such condition with such information as may be necessary and such pets shall be immediately isolated from healthy pigeons. No diseased pigeons shall be sold or given away, nor shall they be otherwise disposed of except in the manner authorized by the Health Officer. A Health Officer may seize or impound a pigeon based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health and safety of others, any such seizure or impoundment shall be consistent with the requirements stated in Penal Code sections 597.1, 597f, 599d, and 599e.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]

8.06.100 Transition Provisions

(a) Any use of real property existing on the effective date of this ordinance that does not conform to the provisions of this ordinance, but which was constructed, operated, and maintained in compliance with all previous regulations, shall be regarded as a nonconforming use which may be continued or terminated as stated in this section.

(b) Because of the health and sanitation risks associated with keeping or maintaining pigeons, all non-conforming uses must immediately meet the requirements of this ordinance, except as follows:

(1) The provisions in paragraphs section 8.06.050 shall take effect March 15, 2006; and

(2) The provision in paragraphs 8.06.040(b) shall take effect on January 1, 2007, unless an extension is granted by the City Planner in accordance with the provisions of paragraph (c) below.

(c) A person keeping or maintaining more than fifty pigeons may obtain an extension to time to comply with the provisions of sections 8.06.040(b) upon demonstrating, to the satisfaction of the City Planner, that:

(1) the Adjusted Value of his or her cost of pigeonsin possession of the permittee as of the date this ordinance was introduced by the Colma City Council ("Introduction Date") is greater than $5,000; and

(2) the permittee shall have used reasonable efforts to reduce the number of pigeons in his possession; and

(3) The permittee shall have used his or her best efforts to comply with all other provisions of this ordinance.

(d) For purposes of this section, the Adjusted Value of the cost of pigeons shall be calculated by adding the average replacement cost of all pigeons in possession of the permittee on the Introduction Date to the actual cost of a pigeon loft in existence as of the effective date of this ordinance. If the adjusted value is greater than $5,000, then the City Planner shall grant an extension up to December 31, 2007 to comply with the terms of sections 8.06.040(b) or 8.06.060(d).

(e) A complete application for an extension of time must be filed in writing no later than October 31, 2006, and must contain all of the following information: justification for an extension, evidence supporting the calculations of Adjusted Value, evidence of compliance with all terms and conditions of the Permit Allowing Keeping and Maintaining Pigeons,contact information and signature of the permit holder and property owner. The application shall be processed in accordance with the procedures for an Administrative Use Permit set forth in the Colma Municipal Code. The Planner may impose reasonable conditions on the granting of the extension, including but not limited to a schedule for phased reduction in the number of pigeons that the permittee may keep. An appeal from a grant or denial of such an application shall be made in accordance with section 8.06.080 above.

(f) Notwithstanding anything to the contrary in this section, all non-conforming uses shall terminate by December 31, 2007.

(g) This section (§ 8.06.100) shall be repealed as of January 1, 2008.

[*History*: ORD. 636, 12/14/05]

[*Reference*: GOV'T CODE § 65852.6]