



STAFF REPORT

STATUS ON PERFORMANCE OF ORDINANCE REGARDING THE REGULATION, KEEPING, AND MAINTAINING OF PYGMY GOATS ON PRIVATE PROPERTY

Honorable Mayor and Council Members:

Summary

This report provides an update, as requested by the City Council, on the performance of an Ordinance adopted by Council (December 2005) regarding the regulation, keeping, and maintaining of pygmy goats on private property. No action is required on the part of the Council, as this report is informational.

Background

The following provides a chronology of actions leading to the Council adoption of the Ordinance regarding the keeping of pygmy goats:

- May 2005 - staff receives a written request from the residents of 2734 Monserat Avenue, Kevin and Loretta Marr, to keep two pygmy goats on their property. The applicants' correspondence includes letters of support from a veterinarian and residents of 2732 and 2735 Monserat Avenue.
- May 24, 2005 – the City Council reviews the matter as an Item 9 and directs staff to return with a report.
- July 26, 2005 - pursuant to City Council direction at this meeting, staff is directed to prepare ordinance amendments for the keeping of pygmy goats in the City.
- November 22, 2005 – the City Council reviews the draft ordinance amendments; the proposed text amendments are to Sections 5-28 and 5-33 of Article II, and the addition of Article IV to Chapter 5 of the Belmont Municipal Code (See attachment I). Since the original May 2005 request, one of the neutered male goats had passed away, and the residents had adopted an unaltered baby female pygmy goat as a companion to the remaining male goat. At the 11/22/05 meeting, the City Council directs language modifications to the ordinance to be included in the second reading.

- December 13, 2005 – the City Council adopts the Municipal Code Amendments (2nd Reading), and adds a provision that a status report be returned to the Council on the performance of the ordinance.
- January 12, 2006 – the ordinance is effective.

Discussion

In summary, the ordinance includes the following provisions:

- (1) Up to two (2) pygmy goats consisting of neutered males, females or a combination, shall be permitted only in the R-1E, R-1H, R-1A, R-1B, HRO-1, HRO-2, HRO-3, and A Zoning Districts.
- (2) The Community Development Department will issue a permit only if the use is not detrimental to the health, safety and welfare of the applicants and the adjoining residents and property owners.
- (3) Pygmy goats may not be maintained for breeding, marketing, or commercial purposes.
- (4) The Pygmy goats must be maintained in accordance with the ordinance, which includes enclosed pens set back at least 10 feet from neighboring properties, pen sizes of at least 100 square feet with solid fences (a minimum of five feet in height).
- (5) In no case shall there be more than one pygmy goat per twenty (20) square feet of enclosure area.
- (6) The number of pygmy goat permits issued each calendar year shall not exceed twenty (20).

Ordinance Performance/Permit Applications

Since the effective date of the Ordinance (January 2006), staff has issued only one “pygmy goat permit”; this permit was for the subject property of the original request (Kevin & Loretta Marr – 2734 Monserat Avenue). Staff has received no other inquiries from other property owners/tenants in the City to locate pygmy goats on their property.

Staff recently inspected the subject property at 2734 Monserat Avenue; the site and conditions appeared generally acceptable for the two (2) permitted goats (Otis & Zoë). Staff received an anonymous phone call in Spring 2006 in reference to the keeping of pygmy goats for subject site; however, once staff outlined the provisions and applicability of the Ordinance, no additional follow-up was requested or warranted. Staff has received no other inquiries/complaints in reference to the subject property.

General Plan/Vision Statement

Review of this matter is consistent with the General Plan and Vision Statement.

Fiscal Impact

None.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

1. Provide guidance to staff on any issues related to the enforcement of the provisions of the pygmy goat ordinance.

Alternatives

1. Direct staff to assess future changes to the Ordinance provisions.
2. Take no action.

Attachments

- I. Adopted Ordinance – December 13, 2005

Respectfully submitted,

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Community Development Director

Jack Crist
City Manager

Staff Contact:

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Please Note - Attachment I included as part of this document is a “non-signature” copy of the adopted Ordinance – please contact the City Clerk’s Office at (650) 595-7413 for a signed copy of this Ordinance attachment.

ATTACHMENT I

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF BELMONT AMENDING SECTIONS 5-28 AND 5-33 OF THE BELMONT MUNICIPAL CODE AND ADDING ARTICLE IV TO CHAPTER FIVE REGARDING THE REGULATION, KEEPING, AND MAINTAINING OF PYGMY GOATS ON PRIVATE PROPERTY

WHEREAS, on May 24 and July 26, 2005 the City Council provided direction to staff to evaluate and prepare draft amendments to Chapter Five of the Belmont Municipal Code regarding the regulation of pygmy goats in the City of Belmont; and,

WHEREAS, on November 22, 2005, the City Council, following notification in the prescribed manner, conducted a public hearing, at which hearing the Council considered public testimony and a staff report on the aforementioned amendments; and,

WHEREAS, the City Council did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth; and,

WHEREAS, the City Council finds the proposed amendments to be Categorically Exempt pursuant to CEQA Section 15308 – Actions of Regulatory Agencies for the Protection of the Environment; and,

WHEREAS, the City Council hereby directs staff to return the amendments to the City Council one year from the effective date (January 2007) documenting the performance and effectiveness of the aforementioned Belmont Municipal Code amendments; and,

SECTION 1: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that Section 5-28 and Section 5-33 of Article II, Chapter 5 of the Belmont Municipal Code is hereby amended as follows:

Sec. 5-28. Animals covered by article.

The animals and fowl coming under the provisions of this article are any chicken, goose, duck, turkey, pigeon (except homing pigeon), dove, squab, or similar fowl, or hare, rabbit, monkey, cow, sheep, llama, horse or goat (*except pygmy goats of the genus “Capra hircus” as regulated under Article IV of Chapter 5*).

Sec. 5-33. Special requirements for keeping horses, cows, sheep, llamas or goats (*except pygmy goats of the genus “Capra hircus” as regulated under Article IV of Chapter 5*).

SECTION 2: NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Belmont that Article IV be added to Chapter 5 of the Belmont Municipal Code, to read as follows:

ARTICLE IV: Regulation of Pygmy Goats

Sec. 5-50. Purposes

(a) The purposes of this ordinance are to preserve the health and safety of the people by regulating pygmy goats of the genus *Capra hircus*, in single-family residential zones, and to control and abate nuisance activities arising out of the keeping and maintaining of pygmy goats.

(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 City's general police power to protect the public health and safety.

Sec. 5-51. Definitions

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

"Pygmy Goat" means an animal of the genus and species *Capra hircus*.

Sec. 5-52. Findings

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

Staff has received inquiries about the keeping of pygmy goats in residential districts. According to Article II of Chapter 5 (Animals and Fowl) of the Belmont City Code, pygmy goats are considered livestock such as horses, cows, sheep, llamas and full-size goats. The minimum lot area upon which no more than two livestock animals may be kept is one (1) acre. However, pygmy goats are smaller than other breeds of livestock and typically owned as pets. Pygmy goats range in height from 15"-17" at the shoulders and range in weight from 8-36 pounds. They are native to Africa and were initially raised for meat, but are typically considered pets in the United States.

Regulation of keeping and maintaining pygmy goats within the city is necessary to protect the public health and safety of residents and visitors and to reduce or eliminate potential nuisances. Because of the health and sanitation risks associated with keeping and maintaining pygmy goats, this ordinance shall take force and effect on the dates provided herein despite any claims of grandfathered rights under traditional zoning laws.

Although pygmy goats are considered easier to maintain and substantially cleaner than typical livestock animals, it is common knowledge that unaltered male goats produce a musky, offensive odor to attract female goats. Goat manure may also cause offensive odors. In addition, braying from goats may cause noise nuisances to neighboring residents.

Sec. 5-53. Prohibitions

- (a) It shall be unlawful for any person to keep or maintain a pygmy goat anywhere in the City, except as provided in this ordinance.
- (b) It shall be unlawful to keep and maintain an unaltered male pygmy goat in any zoning district in the City of Belmont.

Sec. 5-54. Pygmy Goat Permit for Keeping Pygmy Goats

- (a) Up to two (2) altered male or female pygmy goats shall be permitted in the following zoning districts: R-1E, R-1H, R-1A, R-1B, HRO-1, HRO-2, HRO-3 and A, provided they are contained in appropriate pens or fenced in areas properly sized and constructed, and the area and animals are maintained in a clean, odor-free condition. All pygmy goats shall have their horn buds removed.
- (b) Any person keeping or maintaining a pygmy goat in areas provided for in Section 5.54(a) must obtain a permit in writing from the Community Development Department.
- (c) Every application for a permit to keep and maintain pygmy goats shall be made upon forms to be furnished for that purpose by the Planning Division, signed by the applicant and filed with the Planning Division. No such application shall be received for filing by the Planning Division unless accompanied by a filing fee set forth in the Master Fee Schedule.
- (d) The Community Development Department shall deny the granting of a pygmy goat 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.
- (e) Nothing herein shall authorize the issuing of a permit to keep or maintain pygmy goats for breeding, market or commercial purposes in any zone or in violation of any other ordinance of the City of Belmont.
- (f) A required condition of approval for a pygmy goat permit shall be a requirement that the permittee maintain an area housing the animal(s) in accordance with the requirements of this ordinance.
- (g) The number of pygmy goat permits issued each calendar year shall not exceed twenty (20).
- (h) The Community Development Department may impose such conditions on the granting of a permit as are reasonably necessary to carry out the purposes of this ordinance.
- (i) A pygmy goat permit shall not be approved for any applicant, nor shall a Pygmy Goat Permit be approved at a location where the property owner, a tenant or lessee, has actions pending as

provided in either (1) or (2) listed below. Further, an approved Pygmy Goat 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 City of Belmont City Code, or adjudicated citations found in favor of the City of Belmont by a court of competent jurisdiction, issued within the twelve months preceding the date of the Pygmy Goat Permit application and directly or indirectly related to, or similar to, any property, event, activity or use for which the Pygmy Goat Permit application is proposed; or,
- (2) The individual listed as the applicant on the Pygmy Goat Permit application has, or where the property owner, a tenant or lessee, of the property listed on the Pygmy Goat Permit application as the intended site of the keeping and maintaining pygmy goats, has a City Code violation(s) being processed by the City of Belmont 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 Pygmy Goat Permit application is proposed.

Sec. 5-55. Pygmy Goat Pens; Enclosures; Food

(a) Each person keeping or maintaining pygmy goats in the City of Belmont shall maintain a pen and an enclosure. Both the pen and enclosure must be maintained in a sanitary condition at all times. Each person keeping or maintaining such pygmy goats shall scrape and clean the pen and enclosure and remove food scraps not less than two times each week, and shall dispose of all food scraps in a sanitary manner.

(b) Pygmy goat pens and enclosures shall be constructed in such manner as to preclude the attraction of rodents.

(c) All feed for such pygmy goats shall be stored in containers that offer protection against rodents.

(d) No person shall keep or maintain more than two (2) pygmy goats within ten (10) feet of any adjacent property line, unless written consent of the property owner and occupant of adjacent property allows a variance in the ten (10) foot setback. A new letter of authorization must be obtained from any subsequent property owner or occupant for the subject adjacent property.

(e) Pygmy goat pens shall consist of a minimum one hundred (100) square feet of land area and may include the pygmy goat enclosure. The pen shall be of a size sufficient to house the number of pygmy goats contemplated. The pen should include a solid fence no less than five (5) feet in height.

(f) Pygmy goat enclosures shall be of a size sufficient to house the number of pygmy goats contemplated. In no case shall there be more than one pygmy goat per twenty (20) square feet of enclosure area. Any enclosure that requires a Building Permit must be permitted prior to construction.

(g) All pygmy goats shall be fed within the confines of the enclosure.

(h) All pygmy goats shall be kept inside the enclosure at night.

Sec. 5-56. Violation and Penalties

(a) Each violation of this ordinance is an infraction, punishable as set forth in Section 17 of the Belmont Zoning Ordinance.

(b) Violation of this ordinance also constitutes a public nuisance, which may be abated in accordance with the provisions of Article XI of Chapter 7 of the Belmont City Code.

Sec. 5-57. Appeals

An aggrieved party may appeal to the City Council from a decision of the Community Development Director under this ordinance. The appeal shall be heard in accordance with the procedures set forth in Section 15 of the Belmont Zoning Ordinance. The City Council may affirm, overrule, or modify the revocation, denial or suspension.

Sec. 5-58. 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 animals. No diseased pygmy goats 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 pygmy goat 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.

Sec. 5-59. 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 pygmy goats, all non-conforming uses must meet the requirements stated in section 5-54 and 5-55, effective by February 9, 2006, unless an extension is granted by the Community Development Director if a good faith effort towards compliance is made to the satisfaction of the Community Development Director.

(c) This section (§5-59) shall be repealed as of January 1, 2007.

SECTION 3: Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 4: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION 5: The City Clerk shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED this 22nd day of November, 2005.

* * * * *

PASSED AND ADOPTED as an Ordinance of the City of Belmont at a regular meeting thereof held on the 13th day of December, 2005.

AYES,COUNCIL MEMBERS:_____

NOES,COUNCIL MEMBERS:_____

ABSTAIN,COUNCIL MEMBERS:_____

ABSENT,COUNCIL MEMBERS:_____

RECUSED,COUNCIL MEMBERS:_____

MAYOR of the City of Belmont

ATTEST:

CLERK of the City of Belmont