

MONTEREY COUNTY'S UNENFORCED ROOSTER KEEPING ORDINANCE



An Illegal Rooster Keeping Operation in North Monterey County

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SUMMARY

Monterey County has an ordinance regulating rooster keeping operations in its unincorporated areas but has failed to enforce it. The Rooster Keeping Ordinance No. 5249, (hereafter known as The Ordinance)¹, passed by the Board of Supervisors (BoS) in 2014, is designed 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."²

The BoS had good intentions in their fight to eliminate illegal rooster keeping operations. Unfortunately, Monterey County agencies are operating under a process, created by Environmental Health Bureau, that effectively modifies the implementation and enforcement of The Ordinance. As a result, agencies are confused about their roles, have been poorly trained, and the public does not know where to turn to have their concerns addressed. The current process for implementation and enforcement must be revised to reflect the intent of The Ordinance in order to be effective. Policy makers need to reevaluate the way this ordinance is implemented.

The restrictions contained in the ordinance are legal and justified. The mechanism for enforcement is weak and illegal rooster keeping operations in Monterey County continue with impunity. The methodology used to implement and enforce The Ordinance is insufficient to bring about the intended change for rooster keeping practices.

The Ordinance has been upheld in the Sixth Appellate District Court of Appeals putting to rest the idea that the policy is overreaching.³ Nevertheless, since its passage, this ordinance has been left to languish while the number of illegal rooster keeping operations has flourished in Monterey County.

The reasons for this failure are complex. The Monterey County Civil Grand Jury (MCCGJ) found that implementation and enforcement of the ordinance failed due to three main reasons:

1. Lack of leadership and oversight from the BoS and the Health Department,

¹ Link to: Rooster Keeping Ordinance 5249

² <https://www.co.monterey.ca.us/home/showdocument?id=16498>

³ <https://caselaw.lexroll.com/2019/02/21/perez-v-county-of-monterey-no-h044364-cal-app-2-14-2019/>

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2. The hindrance to implementation and enforcement created by a process developed by Environmental Health Bureau, and
3. The unwillingness of multiple agencies to enforce it.

Monterey County needs to enforce its rooster keeping operations ordinance. All agencies involved must coordinate their efforts to end illegal rooster keeping and the associated crime and disease. Monterey County has a legal ordinance. Monterey County should enforce it with equanimity and impartiality.

The MCCGJ agrees with this quotation from the summary of Perez V. County of Monterey.⁴ "The County has an interest in establishing humane and sanitary standards for the keeping of roosters." It is the recommendation of the MCCGJ that The Ordinance should be immediately implemented and enforced in Monterey County.

GLOSSARY

ACS – Animal Control Services

ACO – Animal Control Officer

Agricultural Commissioner – Office of the Agricultural Commissioner

BoS – Board of Supervisors

CDFA – California Department of Food and Agriculture

County Code –The law in Monterey County which contains ordinances passed by the BoS

Environmental Health Bureau – The Environmental Health Bureau is a division within the Monterey County Health Department.

HSUS – Humane Society of the United States- A private non-profit, national agency, headquartered in Sacramento, California

The Ordinance – Ordinance No. 5249, which amended Chapter 8.04 of Title 8 and added Chapter 8.50 to Title 8 of the Monterey County Code

Process – A series of steps, operations, created by Environmental Health to implement and enforce The Ordinance

SPCA of Monterey County – Society for the Prevention of Cruelty to Animals- a private non-profit, agency in Monterey County

⁴ <https://www.law.com/therecorder/static/daily-opinion-services/?download=021919CDS.pdf&slreturn=20190418133513>

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RMA – Resource Management Agency, also known as Code Enforcement, which includes Code Compliance, Building Services, and Planning

SHARK – Showing Animals Respect and Kindness – An animal rights advocate group

Title 8 – Animal Control Code of Monterey County

Title 21- Zoning Ordinance of Monterey County applicable only to the unincorporated areas outside of the Coastal Zone in Monterey County

Virulent Newcastle Disease - formerly known as Exotic Newcastle Disease, is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of roosters and poultry. The disease is so virulent that many roosters and poultry die without showing any clinical signs.⁵

Zoonotic Disease – A disease spread between animals and people. Zoonotic diseases can be caused by viruses, bacteria, parasites, and fungi.⁶

BACKGROUND

Why we Investigated

The role of the MCCGJ is to shine light on the effectiveness or ineffectiveness of publicly funded agencies and to examine policies and procedures in order to ensure wise use of taxpayer funds. (CA Penal Code section 925).⁷ The MCCGJ received a complaint from a resident who discovered a well-established, alleged illegal rooster keeping operation in Monterey County during June of 2018. Unsure of where to turn, the complainant contacted four different County agencies and reported alleged animal abuse and animal cruelty including cockfighting. The complainant's concerns were not given sufficient consideration.

The MCCGJ investigated:

1. The restrictions and provisions set forth in The Ordinance
2. The duties and responsibilities of each of the agencies the complainant contacted for remedy
3. The reasons for the failure of The Ordinance to eliminate illegal rooster-keeping operations in Monterey County

⁵ <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/animal-disease-information/avian/virulent-newcastle/vnd>

⁶ <https://www.cdc.gov/parasites/animals.html>

⁷ https://california.public.law/codes/ca_penal_code_section_925

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4. What other counties are doing about the issue of illegal rooster keeping operations
5. What recommendations can be made by the MCCGJ to resolve this issue

The MCCGJ initially chose to review this complaint because of the alleged non-response of County agencies to address the concerns of the complainant. Our focus turned to the responses of the agencies named in The Ordinance as well as the agencies contacted by the complainant. The fundamental issue was the non-responsiveness on the part of multiple agencies with whom the issue was raised.

What we Investigated

Keeping five or more roosters without a permit in Monterey County is against the law. Obtaining a permit for the keeping of five or more roosters in Monterey County is part of The Ordinance. The MCCGJ found that The Ordinance is not being implemented or enforced. We learned that, with the exception of Animal Control Services (ACS), agencies required to understand this ordinance reported never having completely read it. We wanted to understand what made the ordinance so difficult to implement and enforce.

SUMMARY INTRODUCTION TO THE ORDINANCE STATES:

"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."

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Agencies Involved in Enforcement of The Ordinance

The relationship between the agencies involved in the enforcement of The Ordinance is problematic as outlined in this report. The BoS passed The Ordinance and designated the Agricultural Commissioner to accept, review, approve, or deny Poultry Operations and Poultry Hobbyist exemption permit applications. ACS is designated in The Ordinance to accept permit applications for rooster keeping operations with five or more roosters as well as exemptions for 4H and FFA. ACS is the enforcement agency. The Monterey County Sheriff's Office (MCSO) is called in to accompany and or assist when needed.

The MCCGJ heard testimony from staff within multiple agencies and learned there was insufficient training to implement The Ordinance. Staff within the Environmental Health Bureau instructed ACS Officers to not enforce The Ordinance. Although rooster keeping permits must be renewed annually, no permit is current in Monterey County as of the writing of this report. The only citation issued was forwarded to the District Attorney's Office for prosecution but subsequently returned by the DA's Office to an unknown recipient. (See Appendix D.) Additionally, an employment settlement for a lawsuit against the Environmental Health Bureau was taken from the ACS Salaries and Wages budget which left Monterey County ACS severely understaffed and weakened staff morale.

What Led Up to This Investigation

The complainant, who had become aware of an illegal rooster keeping operation and possible dog fighting ring in North Monterey County, tried to no avail to bring this issue to the attention of four different Monterey County agencies. Between June 21, 2018 and August 10, 2018, the complainant contacted, by phone and email, the following County agencies multiple times: District 2 Supervisor; ACS; RMA Code Enforcement; MCSO; and two non-County agencies: the SPCA and the HSUS. The complainant voiced concerns of animal abuse, cruelty, and illegal cockfighting.

The complainant then called The Monterey County Weekly who published an article on August 30, 2018.⁸ The publication of the article became the catalyst that brought the problem of illegal rooster keeping to the attention of the agencies who are tasked to understand or enforce this law.

⁸ http://www.montereycountyweekly.com/blogs/animal_blog/animal-rights-group-posts-video-of-supposed-cockfighting-operation-in/article_ae0add72-acb0-11e8-81f1-97fc21e5c826.html

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The MCCGJ learned that the owner of a known illegal rooster keeping operation in District 2 was used as a primary resource to write The Ordinance. After the passage of The Ordinance, Environmental Health created a multi-step process for implementation and enforcement that does not align with the ordinance that was passed by the BoS on December 16, 2014. The resulting confusion caused by this process added to an already difficult work environment between ACS staff and the Environmental Health Bureau.

The Ordinance names the ACO 53 times with specific authority, duties, and responsibilities. It names the Agricultural Commissioner 17 times with duties and authority. While the ACO was well versed with the requirements of The Ordinance, the Agricultural Commissioner had not once read The Ordinance in its entirety. Although the text of The Ordinance names the ACO as the enforcement agency, the MCCGJ discovered that ACS's authority to enforce the provisions of The Ordinance were prohibited by the Environmental Health Bureau. Therefore, it became impossible to implement or enforce The Ordinance. It must be noted that in November of 2018, while the MCCGJ was conducting this investigation, the leadership and oversight of ACS was transferred out of Environmental Health and made its own division within the Monterey County Health Department.

The MCCGJ investigated the alleged non-response by County agencies and a County ordinance that was not being enforced. We evaluated the conditions relating to the complaint site and the lack of communication and coordination between agencies to learn what might be done to resolve the problem. We looked at the purposes of rooster keeping operations, animal welfare as related to the complaint, and the copious amount of debris left in the wake of such vast operations.

An Illegal rooster keeping operation will often include hundreds of roosters kept in makeshift enclosures. Property owners frequently sublet their private property to multiple rooster owners, where they have easy access to their roosters. It is common for each rooster owner to have 50 or more roosters. The result is excessive noise, environmental pollution, health and safety issues, unsightly debris, building code violations, and the possibility of the spread of Viral Newcastle Disease, as well as other avian Zoonotic Diseases.⁹ Illegal rooster-keeping operations commonly involve illegal cockfighting or the sale of roosters for illegal cockfighting. Neighborhoods with abandoned illegal rooster keeping operations suffer depreciation of property values.

⁹ <https://ucanr.edu/sites/poultry/Resources/dz/>

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While not the focus of our investigation, cockfighting is a magnet for prostitution, gambling, illegal drugs, firearms activity, and organized crime. Cockfighting in Monterey County is one of the primary reasons for the passage of The Ordinance. Cockfighting is considered a blood sport.¹⁰ It is an organized fight between two roosters, often to the death. These roosters are called gamecocks. They are bred and conditioned for increased strength and stamina. They are often injected with steroids and other drugs to increase their metabolism making them stronger and harder to kill. Small knives are attached to their legs so that when they attack another rooster in a cock pit, blood will be quickly drawn. Wagers are often placed on the roosters and a winning purse can easily reach \$50,000. Purses of \$100,000 are not unusual.¹¹

From 2010 to November 2018, ACS was managed and directed by the Environmental Health Bureau. The Environmental Health Bureau is under the administration and leadership of the Monterey County Health Department. Since 2010, ineffective leadership and direction, as well as poor communication has resulted in a drastic reduction in personnel and morale at ACS. In 2010 there were six full time ACOs and a dedicated dispatcher on staff. By the Fall of 2018 there were only two remaining ACOs and no dispatcher. Open staff positions have not been filled and this has left ACS without the necessary human resources needed to effectively do their jobs.

ACS is now its own division within the Health Department. New leadership at ACS, coupled with better communication between ACS and the Health Department has been positive. Better policies are beginning to be implemented. This change in leadership has brought back a higher level of morale and confidence among staff.

¹⁰ <https://www.merriam-webster.com/dictionary/blood%20sport>

¹¹ <https://suffolkspca.org/fight-animal-cruelty/cock-fighting/>

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A Monterey County illegal rooster keeping operation showing roosters tethered to makeshift housing

APPROACH

After first interviewing the complainant and making the determination that the complaint was within our jurisdiction, the inquiry became an investigation. The MCCGJ soon began to understand the importance of the issue. The MCCGJ studied The Ordinance. From the text of The Ordinance, we determined which agency had responsibility for implementation and enforcement. The MCCGJ conducted multiple interviews with individuals from all agencies identified in the complaint and in The Ordinance. Emails

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between principals were obtained, as well as statistics pertaining to permits issued. Drone footage, ordinance text, expert testimony from animal welfare organizations and comparable California county ordinances were studied. Members of the MCCGJ visited the original site of the complaint three times to observe progress on cleanup and to obtain photographs for evidence.

Over a period of nine months, the Civil Grand Jury:

1. Interviewed 20 witnesses, (some of them twice),
2. Interviewed prior employees from agencies who had moved away from Monterey County,
3. Interviewed individuals from each of the agencies identified in the formal complaint,
4. Studied the Monterey County Rooster Keeping operation requirements, verified that it was written to mirror the Monterey County Kennel Keeping permit application,
5. Obtained copies of all rooster keeping permits issued,
6. Inspected the site of the original complaint on three different occasions (See Appendix C for site report.),
7. Drafted a supplemental investigative report on our observations,
8. Documented the site with photographs and measurements,
9. Viewed drone footage of the site,
10. Viewed drone footage of several other illegal rooster keeping operations in Monterey County,
11. Viewed the PowerPoint presentation created by The Ordinance author, which was used to train personnel during the initial roll-out,
12. Reviewed emails sent between multiple agencies about the complainant site,
13. Reviewed the unpublished and unofficial memo describing how to implement and enforce The Ordinance sent outlining the procedure that effectively modified The Ordinance passed by the BoS,
14. Examined the way in which the Environmental Health Bureau instructed staff to implement The Ordinance and compared it to the way staff perceived how they were trained,
15. Studied and evaluated Supervisorial District boundaries to learn where the problem of illegal rooster keeping is most prevalent in Monterey County,
16. Studied Google Earth imagery in target areas of Monterey County and found dozens of rooster keeping operations,
17. Surveyed rooster keeping ordinances from other counties in California and compared elements of each ordinance to the ordinance in Monterey

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18. Examined complaint logs from several agencies to understand policies and procedures for addressing complaints made by the public about rooster noise, operation debris, and cruelty to roosters,
19. Learned the difference between reactive and proactive agency response,
20. Reviewed California Penal Code Section 597, which applies to animal abuse and cruelty,
21. Sought out and interviewed subject matter expert testimony from private agencies and a federal agency, and
22. Researched the serious and very real possibility of the spread of Viral Newcastle disease as well as other Zoonotic Diseases in Monterey County.

DISCUSSION

The facts in this report are the result of multiple interviews conducted by the MCGJ during the investigation process or in documentation footnoted separately.

The Ordinance was originally created to address the issue of environmental damage caused by roosters and the illegal activity that typically accompanies rooster keeping. This includes animal cruelty, gang activities, organized crime, prostitution, illegal drug activity, and excessive traffic. The debris and waste left when a rooster-keeping operation is shut down can result in property devaluations and blight across rural unincorporated areas in the County.

Not all counties in California have specific policies or ordinances regulating the keeping of roosters. Of the 58 California counties, the counties of Los Angeles, Solano, Napa, Monterey, San Diego, Merced, Santa Clara, San Bernardino, Riverside, San Benito, and San Joaquin have rooster keeping ordinances that restrict rooster keeping by number, by parcel size, or by permit requirements. California law strictly forbids cockfighting in all counties.¹⁴ Prior to 2014, Monterey County did not have a rooster keeping ordinance. Numerous expert witnesses testified that today, in Monterey County, there are an estimated one thousand known illegal rooster keeping operations housing thousands of roosters.

¹² <https://www.codepublishing.com/CA/SolanoCounty/>

¹³ <http://animalcare.lacounty.gov/wp-content/uploads/2018/09/Press-Release-09-25-18-Final-Rooster-Ordinance.pdf>

¹⁴ https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=597

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New Rooster Keeping Standards

Based upon numerous complaints received, the BoS knew a change needed to be made specific to the rooster keeping operations. Illegal rooster keeping operations are more common in certain Supervisorial Districts of Monterey County. These operations are more common in District 2 (North County), District 3 (South County), and District 5 (Carmel Valley). (See Appendix B for district maps.)

The Monterey County BoS passed The Ordinance on December 16, 2014, with a vote of 3 Ayes and 2 Noes. The Ordinance amended Chapter 8.04 of Title 8 and added Chapter 8.50 to Title 8 of the Monterey County Code. Title 8 contains standards related to Animal Control. The amended chapter added definitions and the new added chapter created a regulatory permit, inspection, exemption, and appeal process for keeping five or more roosters within unincorporated Monterey County. The ACO is primarily responsible for the implementation and enforcement of Chapter 8.50. Training to make counties aware of cockfighting is available from the HSUS at little or no charge but has not been utilized by the Health Department.

How The Ordinance Was Written

At the time of the writing of this ordinance, ACS was under the management of the Environmental Health Bureau. Environmental Health was tasked with writing the ordinance without having the necessary qualifications and expertise in animal welfare, domestic or livestock. The author's background is in hazardous waste management. The author used an individual from a known local illegal rooster keeping operation as the resource for writing The Ordinance. ACS was never consulted or included during The Ordinance writing process.

The kennel keeping permit application was used as a framework for this ordinance. The requirements and needs of poultry compared to domestic animals are vastly different. An example would be the requirement to hose down and use sanitizer on the floors of all kennel enclosures daily. Roosters are not kept on solid flooring but are kept on dirt floors, so this required sanitation process is not possible.

How Is It Working?

The Ordinance hasn't solved the problem of noise, environmental waste, disease, or cockfighting because it is not enforced. It neither guarantees the humane treatment of roosters nor are there follow-up review processes to address the effectiveness of the permitting process.

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Each agency knew little about which had jurisdiction or how to enforce The Ordinance. The MCSO could not make an arrest unless a cockfight was in progress. ACS reported that they were prohibited from issuing citations by the Director of the Environmental Health Bureau. RMA could not issue citations for illegal rooster keeping but could issue citations for code violations for inadequately constructed animal enclosures. The SPCA could not issue citations for illegal rooster keeping but could issue citations for cruelty and neglect of roosters, which could lead to possible prosecution by the District Attorney.

Although some of the agencies contacted by the complainant already knew of this illegal operation as well as other illegal operations in the County, they said they could do nothing about it.

Thwarted Authority

The Ordinance is not complicated. It has just not been properly implemented or enforced. The authority to enforce The Ordinance lies with the Monterey County ACO. ACS is now under the Administrative arm of the Monterey County Health Department; however, until very recently ACS was overseen by the Environmental Health Bureau. The creation, implementation, and direction of The Ordinance resided with the Environmental Health Bureau. Upon passage, the Health Department/Environmental Health issued 14 permits between September 28, 2015 and July 20, 2016. Nine applicants were charged a permit fee. Five applicants had their permit fee waived at the discretion of the Director of Environmental Health.

Roadblocks to Leadership and Oversight

Although the text of The Ordinance passed by the BoS on December 16, 2014, names ACO as the implementation and enforcement agency, the MCCGJ discovered that ACO's authority to enforce the provisions of The Ordinance was prohibited by an onerous process created after The Ordinance was passed and made law. ACO's, who are highly skilled animal care professionals, were neither consulted nor advised during the creation of the process.

The Ordinance gave a definitive timeline of 31 days from its adoption to become effective and 180 days to be fully implemented. The Environmental Health Department created a one-year "soft rollout" before fully implementing or enforcing it. At the end of the soft roll out year it was still not fully implemented or enforced and four years later, The Ordinance is still not being implemented or enforced.

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Two other factors were involved in The Ordinance not being fully implemented. First, Staff were inadequately trained to implement The Ordinance. Second, the Environmental Health Bureau issued the following multi-step process for implementation which conflicted with The Ordinance:

1. *Mail out initial "informational letter" with 30-day response time.*
2. *Mail out second reminder "informational letter" with 20-day response time.*
3. *Mail out "notice of violation" letter with 15-day response time.*
4. *Advise EH Director of failure to comply. After review, Director will approve issuance of compliance notice.*
5. *Mail out "compliance notice" per Title 21, if no response by date indicated on "notice of violation" work with Code Enforcement to ensure we follow process as required.*
6. *County Counsel to be advised and consulted prior to sending out notice.*
7. *No staff will issue any infraction notice to any rooster operation. We will utilize Title 21. (Code Enforcement)*
8. *What to do if owner/operator threatens to release or abandon roosters?*
9. *Inform them we will refer them to SPCA humane officers for animal abandonment or cruelty citations.*
10. *Manager will inform SPCA of identified rooster operation not in compliance with ordinance to prevent release or abandonment of animals. We will need to meet with SPCA.¹⁵*

Agencies Involved in The Multi-Step Process

The process created by the Environmental Health Bureau that was used for implementation and enforcement created a dysfunctional structure. No agency was identified as the coordinating agency. Multiple agencies were not informed about their role in the process. For example, RMA was not referred to in The Ordinance, but was given a role in the process. RMA Code Enforcement can issue citations for non-compliant animal enclosures. They can ask owners to move their roosters, but they do not issue citations for illegal rooster keeping. They can give multiple extensions to remove roosters and debris from property. They do not contact ACS when animals are involved. Although the complaint occurred within the Coastal zone, RMA Code Enforcement did not contact the Coastal Commission.

Another example: the MCSO will make arrests for illegal activity if cockfighting is in progress, but cannot issue a citation or make an arrest for illegal rooster keeping operations in general. According to the process, County Counsel must be consulted and

¹⁵ Unpublished interagency memo

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advised prior to any notice of violation. As a result there is no coordinated effort between agencies, no shared database for information about permit applications, illegal rooster keeping operations or other illegal rooster keeping activities.

Ordinance Circumvented

The Environmental Health Bureau created a multi-step process that modified the provisions originally outlined. The author of that process injected three additional agencies into the ordinance process that were not named in the original text. The oversight of County Counsel is required to enforce the policy. These layers were outside the parameters of The Ordinance passed on December 16, 2014. The new agencies added by Environmental Health are:

- RMA (Code Enforcement),
- SPCA
- County Counsel

The Ordinance reads: *"Persons or entities keeping five or more roosters on a single property shall become subject to the requirements of this chapter one hundred eighty days (six months) after the effective date of Ordinance 5249 enacting this chapter."* Section 4 of the Ordinance stipulates that it (the Ordinance) *"shall" become effective on the thirty-first day following its adoption* (emphasis added).

However, in a PowerPoint presentation created by the Environmental Health Bureau, the process's "soft roll-out" was defined as a one-year period and left enforcement entirely out of the picture. The first permit was issued on 09/28/15, more than nine months after the ordinance was passed. Four permits for rooster keeping were issued during 2015. Ten permits were issued during 2016. No permits were issued after July 13, 2016. To date, no permits for rooster keeping are in effect. After the soft rollout, the Environmental Health Bureau still would not allow ACOs to enforce the law by issuing citations for violations of illegal rooster keeping. The only citation issued for illegal rooster keeping is dated March 31, 2016.

Permitting Process

The permit application process can be completed in person or online. A required fee of \$270.00, renewable annually, must be submitted. Zoning allowance verification for applicant's property must be obtained from RMA to ensure no outstanding code violations exist or bans on poultry keeping are in place. (An example of the latter would be property located in the Coastal Commission jurisdiction.) ACS must also verify that the applicant does not have convictions for cockfighting. It was learned that it frequently

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took days to weeks to get the necessary information from other county agencies, in part because there wasn't a designated contact person assigned in other agencies to respond to ACS requests for information. In the event of violations, the permit process stops until violations are resolved. The applicant may correct violations and request to be re-inspected. A fee of \$135.00 an hour is charged for re-inspection. The Ordinance permit process is lengthy and unnecessarily onerous.

An Increased Risk of Contracting Diseases Specific to Avian Species

Viral Newcastle disease is common worldwide, and currently California is experiencing a severe outbreak which is rapidly spreading to Northern California counties. As of the end of 2018, there were six million documented cases in Los Angeles County alone.¹⁶ During the week of March 25th, 2019, the Salinas Valley Fair, the Monterey County Fair, and the California Mid State Fair canceled all poultry exhibitions due to this disease.¹⁷ Highly contagious, it is an acute respiratory disease that is spread easily among avian populations both wild and domestic. This disease kills poultry and the primary way this disease spreads is by moving roosters that have the disease.¹⁸ Particularly devastating to domestic poultry, it has been known to wipe out whole commercial poultry operations. This disease is also transmittable to humans via clothing and avian contact resulting in conjunctivitis and influenza-like symptoms. Known as the poultry "Grim Reaper", California Department of Food and Agriculture (CDFA) recommends not moving roosters or other roosters to different locations. Viral Newcastle disease can be present in roosters before symptoms are present.

An Issued Citation Not Processed

The MCCGJ discovered what appeared to be a missing and unaccounted for citation. This is the only known citation issued for illegal rooster keeping. The citation was scanned into the District Attorney's computer system and a request was made by the reviewing attorney for additional information to proceed with the prosecution. This request for information was never received by the ACS Officer involved with issuing the citation. The citation was issued but was subsequently never processed nor were fines levied. (See Appendix D.)

¹⁶ <https://www.sfgate.com/bayarea/article/poultry-virulent-newcastle-disease-quarantine-bird-13715501.php>

¹⁷ <https://www.ksbw.com/article/outbreak-of-poultry-disease-cancels-chicken-exhibit-at-the-salinas-valley-fair/26901028>

¹⁸ <http://wp.sbcounty.gov/cao/countywire/?p=4207>

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The Role and Duty of The Animal Control Officer

The role of the Animal Control Officer (ACO) is crucial to the success of this policy implementation and enforcement. Named 53 times in The Ordinance, The ACO is authorized by the BoS to fulfill the following responsibilities and functions for implementing and enforcing The Ordinance:¹⁹

- Accepts applications with the required fee for Rooster Keeping Operations.
- Accepts information from the applicant which is deemed necessary to decide on the issuance of the permit.
- Reviews the application and associated documents and require additional information to complete the application.
- Specifies conditions and restrictions in the Rooster Keeping Operations permit process.
- Conducts an initial site survey and issues a Rooster Keeping Operation permit.
- Verifies, via inspection, Rooster Keeping Operations.
- Issues a Rooster Keeping permit provisionally.
- Maintains compliance oversight and verification by performing additional inspection(s).
- Notifies applicants of denied applications and the reasons therefore.
- Notifies the holder of a Rooster Keeping Ordinance permit the expiration date of the permit and offer the opportunity to renew the permit.
- Inspects Rooster Keeping Operations seeking renewal of an issued permit.
- Verifies that Rooster Keeping Operations maintain standards prescribed by the ordinance.
- Upon expiration of an existing Rooster Keeping Operations permit, ACO inspects the single property and verifies the operation has been dismantled and is no longer operative.
- Upon transfer of a Rooster Keeping Operations permit, ACO verifies, by inspection, the single property continues to meet the standards prescribed in The Ordinance.
- Inspects at determined intervals each Rooster Keeping Operation in which a permit has been issued.
- Upon complaint or notice of violations responds to such complaint, responds to an emergency, or accompanies or assists law enforcement personnel.
- Inspects using biosecurity protocols.
- Reviews plans for new or remodeled Rooster Keeping Operations facilities.

¹⁹ <https://www.co.monterey.ca.us/home/showdocument?id=16498>

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- Maintains records of exemptions granted to a Poultry Operation or Poultry Hobbyist.
- Notifies the holder of an exemption of the expiration date of the exemption and requirement to either apply for a Rooster Keeping Operation permit or to reapply for an exemption.
- Maintains records of denied exemptions and the Agricultural Commissioner's approval determination of a Poultry Operation or Poultry hobbyist exemption. He/she shall maintain records of denied exemptions.
- Verifies compliance provisions for those applicants whose request for an exemption was denied but wish to maintain a Rooster Keeping Operation.
- Maintains suspension of permits unless correction of violations has been verified by inspection.
- Revokes a Rooster Keeping Operation permit due to violations verified by inspection.
- Determines appropriate penalties for verified violations.
- Serves as the Enforcement Official in the event of appeal of a suspension or revocation of a Rooster Keeping Operation permit.
- Establishes guidelines and procedures to implement The Ordinance.
- Issues notice of violation(s)
- Imposes fines, penalties and collects administrative costs.

RMA Code Enforcement

RMA personnel were not previously familiar with The Ordinance and had not been trained or instructed by the Environmental Health Bureau on their role with enforcement. Subsequent to contact by the complainant, the responding RMA code enforcement inspector began to familiarize himself with The Ordinance. RMA inspected the site of the complaint and asserted jurisdiction regarding building code violations. RMA bypassed Animal Control Services and contacted the SPCA regarding the possibility of animal cruelty. RMA rarely deals with ACS. There is no written policy for working with ACS, nor is there a written policy for addressing illegal rooster keeping.

Monterey County employees are not mandated to report conditions of animal abuse, as is required in the case of child or elder abuse. Other illegal rooster keeping operations are located on the same road in North Monterey County. The complaint site is within the Coastal Zone, where rooster keeping is not allowed and where permits are prohibited. RMA did not notify the Coastal Commission. RMA's stated goal is 'voluntary compliance' which is determined by subjective criteria: RMA asks "Are they 'making an effort' to comply?" RMA gave multiple extensions to rooster owners to remove their roosters. RMA Code Enforcement mandated owners remove roosters without

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knowledge of the possibility of Viral Newcastle Disease. RMA has given multiple extensions to property owners to remove rooster enclosure debris. RMA is aware that rooster keeping permits come through Animal Control Services and the Agricultural Commissioner but is not required to ask to see permits. There is no coordination between RMA, Environmental Health, ACS or The Coastal Commission.

SPCA of Monterey County

The SPCA of Monterey County is a private non-profit organization and is not affiliated with the American SPCA or the County of Monterey. The organization is fully versed on Title 8 of the County Code and its amendments, Chapter 8.04 and Chapter 8.50. They receive over a thousand calls per year regarding both domestic and livestock animals. The SPCA has jurisdiction where animal cruelty or neglect is apparent. They interface with the Monterey County District Attorney's Office for possible prosecution of perpetrators of crimes against animals.

Although named in the multi-step process established by the Director of Environmental Health, the SPCA was not contacted, trained, or otherwise made aware of their involuntary inclusion in this process. The SPCA Humane Officers are sworn deputies in the State of California and have jurisdiction in Monterey County solely pertaining to cases of animal cruelty. It was after contact by the complainant that the SPCA began contacting county agencies to resolve the complaint, only to discover that no one was enforcing The Ordinance. The Environmental Health Bureau provided information that indicated that no one had been issued a permit since July 2016. After the complainant called the SPCA, the SPCA went to the property at the request of RMA but found no evidence of animal cruelty nor did they find any evidence of cockfighting.

District Supervisor

The Ordinance was passed before many of the current Monterey County Supervisors were in office and, upon multiple interviews, it was noted that Supervisors were only vaguely familiar with The Ordinance. The Supervisors were not aware there was a problem with illegal rooster keeping, except within the Boronda area of North Monterey County. Communication logs are kept by staff that record complaints by constituents, and the Supervisors did not recall any complaints regarding roosters. The BoS does not have any written policy or procedure in place requiring progress reports on the effectiveness of new ordinances. The Supervisors were unaware an ordinance they passed was not being enforced.

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Monterey County Sheriff's Office

According to testimony, the Monterey County Sheriff's sole task relating to The Ordinance is to respond to in-progress cockfights. Staff were never trained on The Ordinance and had never viewed the PowerPoint presentation created by the Environmental Health Bureau. They did not coordinate with other county agencies and did not have discussions regarding the expectations of and collaborations with other agencies. They have never read The Ordinance.

The Sheriff's Office was contacted by the complainant in 2018 regarding an alleged active cockfighting location. Subsequently, it was determined that an active fight was not in progress and they did not respond. The complainant also reported that there were caged dogs allegedly used in dog fights within the same property as the roosters. The complainant then contacted RMA Code Enforcement to get assistance on this property. RMA then contacted the Sheriff's Office for assistance with Vehicle Abatement at the site. The Sheriff's Office indicated it could issue citations for vehicle abatement, but found no violations at the site. The Sheriff's Office does not document their calls for service with follow-up rooster operation incidents.

The Office of Agricultural Commissioner

The Office of Agricultural Commissioner indicated having direct knowledge of most County Ordinances and Policies passed by the BoS that reference their office. The Office of Agricultural Commissioner had not read Title 8; Chapter 8.04 and 8.50, or Ordinance 5249. The Office of the Agricultural Commissioner was unfamiliar with any litigation involving The Ordinance. The Office of Agricultural Commissioner had no information of permits filed, on file or issued to FFA, 4H or Hobbyist. They were also unaware of any illegal rooster keeping within Monterey County.

The Office of the Agricultural Commissioner is aware of and has concerns about diseases generated by gameroosters that can be transmitted from flock to flock, especially if the gameroosters are moved around, and that Viral Newcastle disease can decimate an entire poultry operation.

Conditions of The Complaint Site

According to agencies that responded to the complaint site, hundreds of roosters were being kept on the property. The property owner was subleasing space to various owners. Each owner constructed his/her own substandard enclosures. Having no jurisdiction over the number of roosters being kept, RMA cited for substandard enclosures and zoning violations. There were piles of manure, an abandoned motor

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vehicle, and various piles of debris. The RMA policy is to encouraging compliance, not enforcement. The compliance process has been painstaking and slow.

MCCGJ Site Visit

With the owner's permission, the MCCGJ made several site visits beginning in late September 2018 to observe the site and progress of rooster keeping code compliance and debris removal. In January 2019, after months of extensions for compliance, forty to fifty roosters were still remaining. A large pile of debris, measuring approximately fifty yards by 20 yards and seven feet high, was observed. The MCCGJ observed that efforts were made to conceal the rooster enclosures and rooster keeping with locked fencing. This debris pile consisted of animal manure, scrap plywood, wire, concrete, and other miscellaneous materials. An individual was living in an illegal, crudely constructed shanty on County property to the rear of the homeowner with a dog chained to a tree. An abandoned dilapidated trailer was on the property. The illegal rooster keeping operation is located adjacent to a property with a childcare facility.

The following photos reveal the conditions MCCGJ observed six months after RMA Code Enforcement and Sheriff-Vehicle Abatement visited the site, (January 22, 2019).



**Remaining Rooster enclosures after half of the operation had been torn down.
January 2019**

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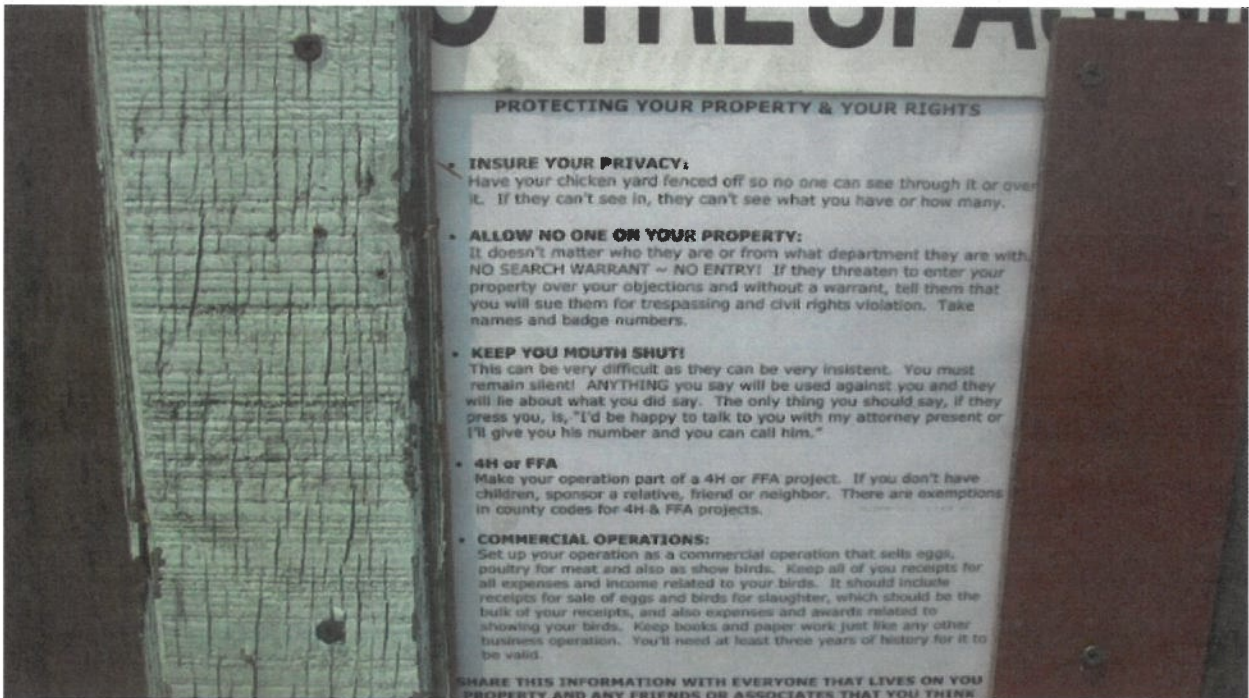


Debris pile after a portion of enclosures were demolished



**Abandoned trailer at rooster keeping operation which was not addressed by
Sheriff's Office Vehicle Abatement**

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**Warning to lessees of illegal rooster keeping operation site
Close-up view of Keep-Out No-trespassing sign**



The Aftermath of an illegal Rooster-Keeping Operation in District 2

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FINDINGS

- F1) There are reported to be more than a thousand illegal rooster keeping operations in Monterey County, which is why Monterey County desperately needs a workable rooster keeping operations ordinance.
- F2) The BOS approved a workable ordinance, but the added processes made implementation and enforcement impossible.
- F3) The lack of oversight from the Health Department, BoS, and RMA Code Enforcement, contributed to the failed implementation of The Ordinance.
- F4) The Environmental Health Bureau had no background in animal welfare and was insufficiently qualified to write a rooster keeping operations ordinance.
- F5) The process created to obtain a rooster keeping permit deters applicants from obtaining one.
- F6) The one-year roll-out period was not in keeping with the requirements of the ordinance.
- F7) To accommodate the community of rooster keepers, the Environmental Health Bureau created what was referred to as a "soft roll-out", intentionally circumventing the timeframe given in The Ordinance.
- F8) After the one-year soft roll-out period ended, no direction was given to any agency, creating confusion and inability to execute The Ordinance.
- F9) The Environmental Health Bureau enacted a multi-step process that hindered enforcement.
- F10) Staff from multiple agencies are inadequately trained to implement and enforce The Ordinance creating confusion with the public.
- F11) ACS staff morale suffered after learning that funds allocated for salaries and wages were diverted to settle a lawsuit against the Environmental Health Bureau.
- F12) Inadequate cooperation between ACS and The Office of the Agricultural Commissioner has caused poor implementation and enforcement of The Ordinance.
- F13) RMA Code Enforcement's current involvement in The Ordinance process hinders the effectiveness of the Animal ACO's responsibilities.
- F14) The ACO has authority to implement and enforce Title 8, Chapter 8.50 but was prohibited from doing so by the Director at Environmental Health.
- F15) ACS budget would benefit from keeping revenues generated from issuing permits, citations, and services.
- F16) ACS is severely understaffed, which prevents them from adequately and effectively implementing and enforcing The Ordinance
- F17) Illegal rooster keeping operations in Monterey County are so pervasive that current ACO's cannot eradicate the problem.
- F18) During the recession of 2010, ACS staff began to be reduced, which affected morale and quality of service.
- F19) A dedicated Assistant District Attorney (ADA) for animal cruelty cases is crucial to keeping up with enforcement and prosecution in Monterey County.
- F20) Ample revenues to cover additional staff could be generated from permitting and enforcement from rooster-keeping application and permitting fees.

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- F21) With new leadership at Animal Control Services, better communication and policies are beginning to be implemented. This has brought back a high level of morale and confidence among staff.
- F22) Without regard to the possibility of spreading Viral Newcastle Disease, RMA Code Enforcement mandated owners relocate roosters.
- F23) The Environmental Health Bureau did not follow the mandates of The Ordinance and did not provide adequate direction, training, and oversight to those who were to implement its provisions.
- F24) The debris and animal waste left after illegal rooster keeping operations are abandoned, create unsightly conditions and ultimately lower property values.

RECOMMENDATIONS

- R1) Immediately, The Health Department should remove the multi-step process required by the Environmental Health Bureau for implementation and enforcement and restore The Ordinance as written.
- R2) By March 2020, the Health Department should provide paid training for all Animal Control Services staff and any other necessary staff for the implementation and enforcement of The Ordinance.
- R3) By March 2020, the Director of the Health Dept. should fill all budgeted ACS staff positions.
- R4) Beginning March 2020, the Director of the Health Dept. should ensure that fees collected for applications and permits for rooster keeping are retained in the ACS budget to help subsidize enforcement of The Ordinance.
- R5) Immediately, The Health Department should create an interagency task force for the purposes of implementing and enforcing the rooster-keeping ordinance, to include the Health Department, ACS, Sheriff, The Agricultural Commissioner and SPCA.
- R6) By March 2020, the BoS should ensure that The Ordinance has been implemented and is being enforced.
- R7) The BoS should immediately institute a two-year mandatory feedback plan for ordinances they pass to ensure they are being implemented and enforced according to Monterey County Code.
- R8) By August 31, 2019, the Health Department should allow ACS to avail itself of training from the Humane Society subject matter experts pertaining to rooster keeping and cockfighting.
- R9) By July 2020, the BoS should pass an Ordinance mandating that all County employees report animal welfare concerns of cruelty and notify appropriate agencies.
- R10) Beginning immediately the Health Dept. should allow the ACO to fully execute the duties of their office as it relates to rooster keeping implementation and enforcement.
- R11) By January 2020, the District Attorney should assign a dedicated Assistant District Attorney (ADA) to accept and review all criminal animal cruelty referrals, from SPCA and Animal Control Services.

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- R12) By July 2020, the Director of Health should assign a dedicated ACO to specifically oversee rooster keeping operations.
- R13) By March 2020, the BoS should enact a process and procedure to remove and clean up abandoned rooster keeping operation blight.

REQUESTED RESPONSES

Pursuant to Penal Code sections 933 and 933.05, the grand jury requests responses from the following elected county officials within 60 days:

- Monterey County District Attorney's Office
Finding: F19, and
Recommendations: R9) and R11)

From the following governing body within 90 days:

- Monterey County Board of Supervisors;
Findings: F1)-F4), F6)-F7), F11)-F12), F14)-F17), F19)-F20), F23)-F24), and
Recommendations: R1), R3)-R13)

INVITED RESPONSES

From the following within 90 days:

- Director of Health, Monterey County Health Department:
Findings: F1)-F5), F6)-F11), F13)-F17), F20), F22)-F24)
Recommendations: R1)-R12)
- Office of the Agricultural Commissioner:
Findings: F12 and F22
Recommendation: R5)

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.

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APPENDICES

- A. Appeals Decision announced:
<http://www.courts.ca.gov/opinions/documents/H044364.PDF>
- B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping: Districts 2, 3 and 5
- C. Illegal Rooster Keeping Operation Site Report
- D. A copy of the only citation issued

B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping

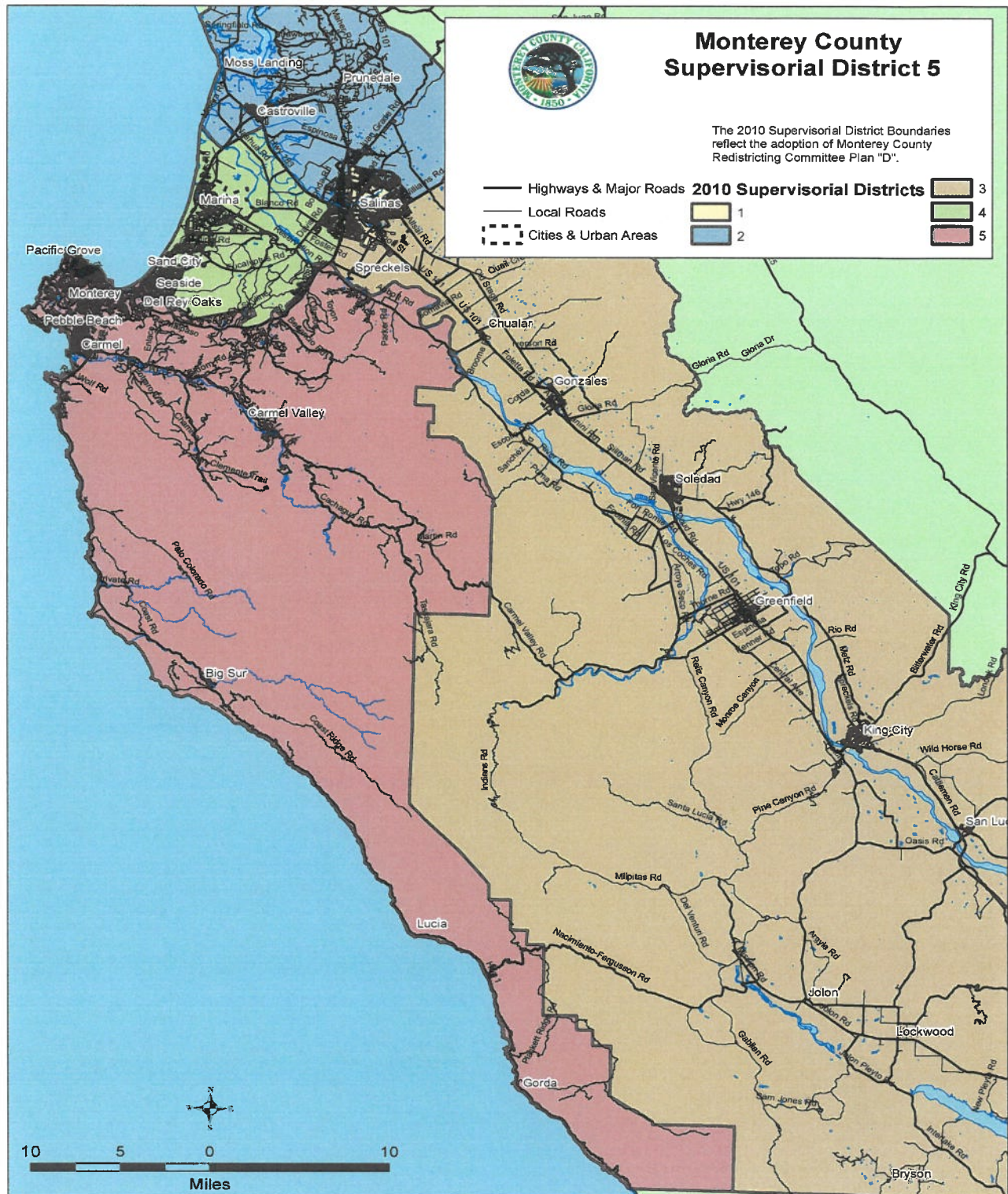


B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping



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- B. Maps of Districts prone to illegal rooster keeping and illegal crimes associated with rooster keeping



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C. Illegal Rooster Keeping Operation Site Report

On [REDACTED] approximately 11:30 am, fellow Grand Jurist [REDACTED] went on a site visit to a single-family residence w/ property at [REDACTED] Prunedale, California. This property was identified as the site of alleged Rooster Keeping Code violations in a complaint to the Grand Jury and had also been discussed several days earlier; [REDACTED] 2019, during an interview with [REDACTED].

Prior to observing the property to the rear of the house, which was open to public access and plain view from the roadway, we first attempted to contact the resident and property owner. [REDACTED] knocked on the door twice without response. [REDACTED] also rang the doorbell; however, no one answered the door or initially responded to our attempts for contact.

[REDACTED] proceeded to walk down the open dirt drive to see whether any recent attempt to correct code violations had been made. During the earlier interview on [REDACTED], [REDACTED] indicated steady but slow progress had been made to correct previously noted violations.

The rear of the residence is an open field area with several nearby outbuildings. Between the residence and the outbuildings was an approx. 50-yard-long X 20-yard-wide X 6-foot-high trash pile. The heap consisted of discarded metal, wood, vegetation, dirt and rubbish. As we walked toward the outbuildings, we could hear roosters crowing from behind a crudely constructed metal and wood barrier perimeter fenced area.

As I got closer, [REDACTED] could see through openings in the barrier roosters housed in pens or coops. There were approx. ten pens housing about forty roosters. Approximately 3-4 roosters were housed together in each individual pen.

While pacing off the size of the trash heap, [REDACTED] hailed us from a rear door of the house. We spoke with [REDACTED]. [REDACTED] identified [REDACTED] as the resident owner. We explained to [REDACTED] that we were following up on a complaint made to the Grand Jury. The [REDACTED] said [REDACTED] understood and gave us further consent to be on the property. During the conversation, she referred to an earlier inspection by [REDACTED] believed to be [REDACTED]. Our entire conversation remained pleasant and cordial throughout our contact.

Using a digital SLR which [REDACTED] brought with her to document our findings, we photographed the general area, which included the housed roosters, the pens and coops, the fencing, and the discarded trash heap. The photos were entered as proof in this investigation. It should be noted that a section of pens to the rear of the enclosure (about ½ of the enclosure) did not contain any live roosters and appeared to have been previously cleaned out and abandoned.

[REDACTED] returned to our [REDACTED] parked on [REDACTED] and drove around to [REDACTED], which bordered the rear of the property. Railroad tracks

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paralleled the back of the property and the [REDACTED]. We saw a [REDACTED] living in a lean-to shanty. the [REDACTED] waved at us from the other side of the railroad tracks. The [REDACTED] appeared to be living in squalor, secluded in the rear of the property near the railroad tracks. The tracks formed a border to the rear of the property. A pit bull type dog believed to belong to [REDACTED] was tethered in place with a chain. We waved from a distance across the railroad tracks but did not converse with the [REDACTED] because of the distance and a language barrier.

At the conclusion of our site visit we formed the opinion that while some progress may have been made in correcting some code violations on the property, as evidenced by the pile, there was still much more to be done in bringing the noted violations into compliance. There seemed to be a lack of urgency in correcting noted violations and enforcing the ordinance as it was adopted. Follow-up site visitation was random, unscheduled, and not a priority.

D. A copy of the only citation issued

2019