

**ATTACHMENT A
DRAFT RESOLUTION**

**Before the Board of Supervisors and for the
County of Monterey, State of California**

In the matter of the appeal of:

GONZALO NAREZ

RESOLUTION NO. ----

Resolution by the Monterey County Board of Supervisors:

- 1) Find the appeal is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270- Projects which are disapproved;
- 2) Denying the appeal by Gonzalo Narez from the May 13, 2024, decision by the County of Monterey Agricultural Commissioner to deny a Poultry Hobbyist Exemption application request for a Rooster Keeping Operation; and
- 3) Denying the Gonzalo Narez Poultry Hobbyist Exemption request from a Rooster Keeping Operation permit.

[Gonzalo Narez Appeal, 19205 El Cerrito Way, Aromas, North County Area Plan (APN: 141-091-029-000)]

The Gonzalo Narez Appeal came on for public hearing before the Monterey County Board of Supervisors on July 9, 2024. Having considered the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **ROOSTER ORDINANCE BACKGROUND/POULTRY HOBBYIST EXEMPTION PROCESS-** Rooster Ordinance - Title 8- Animal Control- Monterey County Code Chapter 8.50, *Requirements for Keeping Five or More Roosters* to regulate rooster keeping operations.
EVIDENCE:
 - a) In December 2014, the Board of Supervisors adopted Ordinance No. 5249, aka the “Rooster Ordinance,” which amended Monterey County Code (MCC) *Title 8- Animal Control* making amendments to the title’s definitions and added chapter 8.50 entitled, *Requirements for Keeping Five or More Roosters* to regulate rooster keeping operations.
 - b) MCC Chapter 8.50 provides several policy reasons that it regulates rooster keeping regulations, such as, to discourage the keeping of roosters for the purpose of illegal cockfighting, to ensure humane treatment of roosters, and to address adverse effects that unregulated rooster keeping operations have on environmental health and safety.

- c) These regulations require a person or entity in unincorporated County of Monterey, that wish to keep five or more roosters on a single property, to submit a Rooster Keeping Operation Permit Application and associated documents for review and determination.
- d) County Health Animal Services has a primary role in the processing and oversight of a Rooster Keeping Operation Permit. The Animal Control Officer may issue a Rooster Keeping Operation Permit based upon compliance with the requirements and standards described in MCC Chapter 8.50 and any other conditions and restrictions deemed necessary for the protection of animals and public health, safety, or welfare.
- e) An Animal Control Officer shall deny or revoke a rooster keeping operation application or permit if the operation's applicant(s) have a criminal conviction for illegal cockfighting or other crime of animal cruelty in any state, or violations of the MCC, or if the location of the rooster keeping operation violates the applicable zoning ordinance or other laws and regulations.
- f) Exemptions to Rooster Keeping Operation Permit- A rooster keeping operation is not required to obtain a Rooster Keeping Operation Permit if it qualifies for and obtains one of the following exemptions (MCC section 8.50.110.A):
 1. Poultry Operation Exemption as defined by MCC section 8.04.010 (Definitions) and approved in writing by the Agricultural Commissioner.
 2. Poultry Hobbyist Exemption as defined by MCC section 8.04.010 (Definitions) and approved in writing by the Agricultural Commissioner.
 3. Educational Purpose Exemption which are rooster keeping operations that are conducted by minors sponsored by public or private schools registered with the California Dept. of Education. This exemption is processed by the Department of Health-Animal Services.
 4. FFA/ 4-H Exemption which are rooster keeping operations that are conducted by minors and are in furtherance of a National Future Farmers of America (FFA) project or a University of California 4-H Youth Development Program (4-H) project. This exemption is processed by the Department of Health-Animal Services.
- g) A Poultry Hobbyist Exemption is defined in the MCC section 8.04.010 as **(emphasis added in bold font)**:

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

The decision whether to grant this exemption is vested in the Agricultural Commissioner, who verifies the exemption application request materials satisfy the exemption criteria. Pursuant to MCC section 8.50.110.B and the Poultry Hobbyist Exemption application, applicants seeking a Poultry Hobbyist Exemption shall provide the exemption application and supporting information including, but not limited to:

- Number of breed of roosters.
 - Attestation that the applicant has no criminal convictions for illegal cockfighting or other crime on animal cruelty in any state and that the roosters in exempt rooster keeping operation have not been and shall not be raised for, used for, sold for, or otherwise be made available for illegal cockfighting.
 - Photocopies of documents such as breed association memberships, show entries and results, in other words, proof of hobbyist affiliations.
 - To determine whether a Poultry Hobbyist Exemption can be granted, the Agricultural Commissioner may inspect the property and facilities for which the exemption is sought.
- h) County Code specifies, that if a Poultry Hobbyist Exemption is granted, the Agricultural Commissioner shall notify the applicant in writing, and provide the same notification to the Animal Control Officer at Health Animal Services. The Animal Control Officer shall maintain records of exemptions granted to the poultry hobbyist. The exemption shall be valid for five years from the date of issuance; or until the keeping of five or more roosters ceases; or until an application for a Rooster Keeping Operation Permit is required because the circumstances for an exemption no longer exists.
- i) If a Poultry Hobbyist Exemption is not granted by the Agricultural Commissioner, the denial must be in writing stating the reason for denial and sent to both the applicant and County Health Animal Services. Applicants who wish to maintain a rooster keeping operation, but whose request for an exemption is denied, must apply for a Rooster Keeping Operation Permit with County Health Animal Services before resuming rooster keeping operations. The Monterey County Code also provides a process to appeal a denial of such a Permit to the Board of Supervisors- see *Finding j* below.
- j) Applicants denied a Poultry Hobbyist Exemption by the Agricultural Commissioner may appeal that decision by submitting to the Clerk of the Board of Supervisors a written appeal specifying the specific reasons the applicant disagrees with the Agricultural Commissioner’s denial of the exemption. The appeal must be submitted within ten days after written notice of the denial has been mailed to the applicant and must be accompanied by the applicable appeal fee. The appeal shall not be accepted as complete unless it complies with appeal requirements and the appeal fees are paid. The Board shall consider the appeal at a noticed public hearing within sixty days of the Clerk’s acceptance of the appeal as complete. The Board shall decide the appeal based on the requirements of MCC Chapter 8.50- *Requirements for Keeping Five or More Roosters*.

2. **FINDING:**

DENIAL OF POULTRY HOBBYIST EXEMPTION REQUEST

FOR GONZALO NAREZ – The County Agricultural Commissioner has processed and denied the subject Gonzalo Narez’s Poultry Hobbyist Exemption Application request in compliance with all applicable procedural requirements.

EVIDENCE: a)

On March 18, 2024, Gonzalo Narez, applicant and owner of a rooster keeping operation on property at 19205 El Cerrito Way, Aromas, applied to the County Agricultural Commissioner for a Poultry Hobbyist Exemption, providing supporting documentation. The Appellant listed 240

fowl on premises comprised of the following breeds: silkies, barnyard mix, American Game, and Plymouth Rock. In the Appellant's description of his operation, he claims that he has attended shows to gain valuable tips and insights on how to enhance the appearance and overall health of the Appellant's breeds and gain knowledge on new breeds. The Appellant also lists and provides photocopies of his membership with the American Poultry Association, Inc. (APA) that expires on November 1, 2024, and memberships with the California Association for the Preservation of Gamefowl (CA APG) and the United Gamefowl Breeders Association, Inc. (UGBA) that expire on July 31, 2024. The Appellant attests by signing that he does not have any criminal convictions for illegal cockfighting or other crimes of animal cruelty and that the roosters to be kept pursuant to the applied exemption, have not been and shall not be raised for, used for, sold for, [or] otherwise be made available for illegal cockfighting and that he has not been denied previous requests for exemption.

- b) On May 1, 2024, two County of Monterey Agricultural Commissioner's Agricultural Inspector/Biologists inspected the Narez property at 19205 El Cerrito Way in Aromas and met with Appellant. The Inspectors observed mostly all fowl to be roosters with only a few hens. When asked by the Inspectors about the 240 roosters listed on the application, the Appellant stated that he has roughly 100 roosters and that the information he provided on the application was incorrect. The Appellant also stated he breeds roosters and gives them away to people that want to raise them and to use them for food. Finally, Appellant noted that he was a member of the UGBA, but that he had not yet submitted roosters for competition but was planning on it.
- c) On May 13, 2024, the Agricultural Commissioner mailed a written denial of the Poultry Hobbyist Exemption to the Appellant. The primary reason the Agricultural Commissioner denied the exemption is that the Appellant provided supporting documentation in their application as being a registered member of the California Association for the Preservation of Game Fowl Breeders Association or UGBA. Since a Poultry Hobbyist Exemption explicitly excludes: "*...persons who raise poultry for the purpose of making them available for cockfighting,*" the Agricultural Commissioner, in consultation with California Department of Food and Agriculture (CDFA), does not recognize the UGBA as a legitimate poultry hobbyist organization because of their promotion of preserving the rights of keeping cockfighting birds and their connection to the cockfighting realm.
- d) On the UGBA website, it describes game fowl behavior as "Males meet in a selected arena—natural precursor of the gamecock pit, where they use their sharp leg spurs in combat, often to the death". The article also goes on to describe the practice of "dubbing" of game fowl, which is the removal of comb and wattles of a rooster so that the rooster's opponent cannot tear them off during a fight. It also describes the practice of spur trimming, in which the natural spurs on a rooster's legs are removed so the owner can equip the rooster with a sharp metal spur - called a gaff - to be used as a weapon in cockfights.

- e) The written denial to the Poultry Hobbyist Exemption request by the Agricultural Commissioner also stated the following at the conclusion of the letter, pursuant to MCC section 8.50.110.B.11,
 “At this time, you can apply for a permit [Rooster Keeping Operation Permit] with the County of Monterey Animal Services Department if you intend to keep five or more roosters. A copy of the permit application is enclosed for your convenience.”
- f) The Agricultural Commissioner also relied upon the following factors in denying the exemption:
- On the Additional Information section of the Poultry Hobbyist Exemption Application the Appellant neither adequately described his operation nor provided sufficient evidence to demonstrate he meets the definition of a poultry hobbyist. No evidence was submitted by the Appellant of active involvement in poultry hobbyist shows, including no mention of show entries and/or awards through the listed affiliations in his application.
 - During the May 1, 2024, inspection, it was observed that a vast majority of the birds were roosters and very few hens. The large male to female ratio suggests that breeding is limited and promoting breeding of the birds is not a focus with this operation.
 - Additionally, during the inspection, the inspectors photographed roosters that are the variety used for cock fighting. Some of these roosters were dubbed and their spurs trimmed, which is how cockfighting roosters are customarily groomed.
 - The Agricultural Commissioner’s Office consulted with County Health Animal Services and learned the following:
 - In September 2021, the Appellant submitted a Rooster Keeping Operation Permit Application to Animal Services.
 - Animal Services performed inspections of Appellant’s property. Animal Services found rooster cages that may not meet building code standards. Consequently, they consulted with Housing and Community Development Code Compliance staff, which subsequently visited the property and found building code violations.
 - Animal Services noted that, in one of their inspections, they found six tie downs on the property and keep boxes which restrain and confine the roosters. Animal Services Officer required the Appellant to remove the tie downs and the keep boxes from the property, as these items are considered cockfighting paraphernalia.
 - Ultimately, the Animal Services staff was prohibited to enter the premises by the Appellant and therefore, no follow up to the conditions of the inspections was conducted. This resulted in Animal Services’ November 2022 written denial of the Appellant’s Rooster Keeping Operation Permit.

3. FINDING:

APPEAL AND APPELLANT CONTENTIONS –

On May 20, 2024, Gonzalo Narez, Appellant, filed a timely appeal with the Clerk of the Board of Supervisors to the written decision by the Agricultural Commissioner to deny his request for a Poultry Hobbyist Exemption. Appellant’s contentions are listed below followed by staff responses.

The Board of Supervisors denies the appeal based on the following findings regarding the Appellant's contentions and the findings and evidence set forth below and in the previous Findings and Evidence.

EVIDENCE: a) **Contention 1** – Appellant contends that the County Agricultural Commissioner denied Appellant's Poultry Hobbyist Exemption request based on Appellant's membership association with the California Association for the Preservation of Gamefowl (UGBA) despite also being a member of the American Poultry Association or APA, a reputable organization in the poultry industry, which was also listed by the Appellant in the Appellant's Poultry Hobbyist Exemption request.

Response: As detailed in *Finding 2, Evidence a-f*, the arrival on the determination for denial of the Appellant's Poultry Hobbyist Exemption request, was based on the following merits of the case:

1. Appellant provided supporting documentation in his application that he was a registered member of the California Association for the Preservation of Game Fowl Breeders Association or UGBA. Since, for purposes of the exemption, a "Poultry Hobbyist" *"does not include persons who raise poultry for the purpose of making them available for cockfighting,"* the Agricultural Commissioner, in consultation with California Department of Food and Agriculture (CDFA), does not recognize the UGBA as a legitimate poultry hobbyist organization. UGBA promotes the right to keep and raise cockfighting birds. On the UGBA website, it describes game fowl behavior as "Males meet in a selected arena—natural precursor of the gamecock pit, where they use their sharp leg spurs in combat, often to the death". The article also goes on to describe the practice of "dubbing" of game fowl, which is the removal of comb and wattles of a rooster, done so that the rooster's opponent cannot tear them off during a fight. It also describes the practice of spur trimming, in which the natural spurs on a rooster's legs are removed so the owner can equip the rooster with a sharp metal spur - called a gaff - to be used as a weapon in cockfights.
2. The Agricultural Commissioner also relied upon the following factors in denying the exemption:
 - a. In the Additional Information section of the Poultry Hobbyist Exemption Application, the Appellant neither adequately described the operation nor provided sufficient evidence to demonstrate he meets the definition of a poultry hobbyist. No evidence was submitted by the Appellant of active involvement in poultry hobbyist shows with entries and/or awards through the affiliations listed in his application.
 - b. During the May 1, 2024, inspection, it was observed that a vast majority of the birds were roosters and that there were very few hens. The large male to female ratio suggests both that breeding is limited and that promoting breeding of the birds is not a focus of the operation.

- c. Additionally, during the inspection, the inspectors photographed roosters that are the variety used for cock fighting. Some roosters were dubbed and their spurs trimmed which is how cockfighting roosters are customarily groomed.
- d. The Agricultural Commissioner's Office consulted with County Health Animal Services and learned the following:
 - In September 2021, the Appellant submitted a Rooster Keeping Operation Permit Application to Animal Services.
 - Animal Services performed inspections of Appellant's property. Animal Services found rooster cages that may not meet building code standards. Consequently, they consulted with Housing and Community Development Code Compliance staff, which subsequently visited the property and found building code violations.
 - Animal Services noted that in one of their inspections, they found six tie downs on the property and keep boxes which restrain and confine the roosters. Animal Services Officer required the Appellant to remove the tie downs and the keep boxes from the property, as these items are considered cockfighting paraphernalia.
 - Ultimately, Appellant barred Animal Services staff from entering the premises. Consequently, no follow up inspection was conducted. This resulted in Animal Services' November 2022 written denial of the Appellant's Rooster Keeping Operation Permit.

- b) **Contention 2** – Appellant contends the decision by the Agricultural Commissioner to deny Appellant's Poultry Hobbyist Exemption request was arbitrary because the decision was not based on the application's merit, but rather on a perceived association with an organization not favored by the Agricultural Commissioner.

Response: See Finding 3, Evidence a).

4. **FINDING:** **CEQA (Exempt):** - The project is statutorily exempt from environmental review.

EVIDENCE: California Environmental Quality Act (CEQA) *Article 18. Statutory Exemptions*, describes the exemptions from CEQA granted by the Legislature. CEQA Guidelines section 15270 provides that CEQA does not apply to projects which a public agency rejects or disapproves. Since the Board is denying the appeal, the project is exempt from CEQA.

5. **FINDING:** **NOTICED APPEAL HEARING**

- a) Said appeal was timely brought to a duly noticed public hearing before the Monterey County Board of Supervisors on July 9, 2024. Notice of the hearing was published on June 20, 2024 in the Monterey County Weekly.
- b) On July 9, 2024, the Board of Supervisors held a public hearing on this item.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Board of Supervisors does hereby:

1. Finds the appeal is statutorily exempt from CEQA pursuant to CEQA Guidelines section 15270- Projects which are disapproved;
2. Denies the appeal by Gonzalo Narez from the May 13, 2024, decision by the County of Monterey Agricultural Commissioner to deny a Poultry Hobbyist Exemption application request for a Rooster Keeping Operation; and
3. Denies the Gonzalo Narez Poultry Hobbyist Exemption request from a Rooster Keeping Operation permit.

PASSED AND ADOPTED this 9th day of July 2024 upon motion of _____,
seconded by _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____ for the meeting on _____.

Dated:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____

Deputy