



THE DEFEND THEM ALL FOUNDATION

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Ilustre Municipalidad de Paute
Abdón Calderón 5-03 e Ignacio Calderón
Paute, Ecuador

Re: La Ordenanza que regla el manejo de la fauna urbana en el cantón paute

All;

As animal advocates committed to making the world a more peaceful place for humans and animals to coexist, we are pleased to see that Paute has taken a progressive step towards addressing its companion animal abuse and overpopulation crisis. The Ordinance that Regulates the Management of the Urban Fauna in the Cantón Paute (“the Ordinance”) adopted February 22, 2018 is hopeful in its attempt to address these issues by establishing licencing and sterilization requirements and outlining obligations and prohibited acts towards companion animals. However, as written, the Ordinance contains fundamental flaws. As such, it will fail to achieve its intended purpose as has already been the case in Cuenca, the city in which the Ordinance is based upon. To truly affect change, Paute must adopt a comprehensive, long-term strategy that is clearly defined and strictly enforced.

I. Paute’s Current Ordinance and its Fundamental Flaws

As written, the current Ordinance is problematic and will be unenforceable for the following reasons: (1) it contains inconsistent definitions and follows no clear organizational structure; (2) it provides no mechanism for enforcement; and (3) the promoted policies are unsound.



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1. Inconsistent Definitions and Organization Structure

Precise, consistent definitions and clear organization are essential elements of enforceable legislation. Such basic flaws render a law difficult for the public to understand, impossible to enforce, and subject to legal challenge. The current Ordinance contains vague, inconsistent definitions as well as significant formatting and organizational errors.

First, it is difficult to determine which species of animals are protected (and managed) under the Ordinance. While Article 1 sets out that the purpose of the Ordinance is to control and manage “urban fauna” and “domestic or companion animals,” neither of these terms are clearly defined. Yet, the term “domestic companion animals” is used throughout the Ordinance to refer to an undefined class of animals. The absence of definitions raises obvious problems for the applicability of the law, as there are no other tools provided in the Ordinance to infer what animals these terms are intended to include.

Second, while the term “pet” is defined under Article 3¹, this definition only adds to the confusion, by narrowing the scope of a “pet” to only “domestic dog[s].” This designation is inconsistent with numerous provisions and references throughout the Ordinance. For example, Article 16² strongly suggests that “pet” includes not only dogs, but also cats. Article 16 could further be interpreted to mean that the term “pets” is intended to apply to an even wider group of animals, but that this specific provision provides that only dogs and cats can be marketed in the legally authorized establishments. Another example is Article 71³, where the listing of “dogs, cats and other pets,” further implies that animals beyond dogs and cats are intended to fall under the definition of “pets.” Taking the Ordinance as a whole into consideration, it would appear that “pet” was not intended to exclusively apply to dogs, thus warranting a clearer definition that lists, or provides tools to infer, the animals included.

The title of this Ordinance (La Ordenanza que regla el manejo de la fauna urbana en el Cantón Paute) provides further evidence that the intent was not to restrict the scope

¹ Pet: is every animal in this case domestic dog that provides company and close relationship to its owner or holder, whose ownership is not protected by special laws and is allowed by the relevant laws.

² Art. 16. "You can market pets, only dogs and cats in establishments legally authorized by AGROCALIDAD, as long as the conditions of Animal housing is adequate, and in compliance with this Ordinance.

³ Art. 71- The establishments and authorized persons that at the time of the delivery of dogs, cats and others pets, do not give the buyer a signed certificate, in which the Animal registration code in the Cantonal Registry of Domestic Animals of Company and information inherent in its committed possession, its state of health and vaccination status; will be sanctioned with him equivalent of one (1) to three (3) unified basic salaries and the temporary closure of the establishment, as appropriate.



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to dogs, but to include more animals. Additionally, references to animals within the text of the Ordinance use the term “domestic companion animal.”⁴ However, this term is not defined anywhere within the Ordinance.

2. Missing Enforcement Mechanism

Valid legislation requires a rational means to accomplish its objectives. In other words, its application and enforcement must be reasonable as written. The enforcement policies proposed in the current Ordinance are both inadequate and impractical.

Section 2 of the current Ordinance calls for the establishment of la Unidad de Gestión Ambiental - a new government agency that will be responsible for all actions required by the ordinance. The entire success this Ordinance is dependent upon this agency. All actions and responsibilities from implementation to enforcement, will lie with this agency, including for example: design and implement management plans, protocols, programs and projects; execute the economic, technical and human resources for the execution of the policies described in this ordinance; and receive complaints about abuse or cruelty..⁵

Execution of these responsibilities *may* be practical for a team of experts familiar with the issues these policies seek to remedy. However, the current ordinance fails to include required qualifications for individuals that will be tasked with these activities, nor does the Ordinance provide for the training they will receive. It is unreasonable to assume that these individuals will have the ability to act with the urgency required to resolve this crisis. Additionally, the lack of a system of accountability further reduces the likelihood that sufficient action will be taken.

Furthermore, this new agency will require substantial long term financial support by Canton Paute. It is not self-sustaining and there is no guarantee that novice agents will properly execute the functions. It should also be noted that advocates in Cuenca are actively demanding a response by the municipal government regarding failure to implement and enforce its ordinance by the Unidad de Gestión Ambiental of Cuenca charged with the same responsibilities.

⁴ See article 6, article 12, article 14, article 23, article 24, article 25, article 26, article 28, article 29, article 30.

⁵ See article 8



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If the current Ordinance fails to reduce the overpopulation of companion animals, costs of these policies will only compound. The approach of the current ordinance to heap onerous responsibilities entirely onto GAD without a system to execute the functions will frustrate the legislative intent and cause the ordinance to fail. Thus, the inadequate distribution of responsibility will result in ineffective enforcement policies. This is currently being witnessed in Cuenca and could easily be avoided in Paute.

3. Problematic Policies

Several of the policies at the core of the current ordinance are problematic and unlikely to advance its underlying objectives. For example, article 35 aims to protect public safety by prohibiting the ownership of two breeds, the Pitbull and Rottweiler. Similar breed specific legislation, once popular in the United States, is now widely understood to be ineffective in reducing the rate and severity of dog bites.⁶ Targeting specific breeds perceived to be more “dangerous” than others fails to address the underlying cause of most incidents: irresponsible ownership. These breed specific policies have the consequences of wasting public resources, leading to a false sense of community safety, and raising welfare concerns for dogs identified (often incorrectly) as belonging to specific breeds.

Furthermore, the policies could actively discourage people from bringing unhealthy animals to the attention of a veterinarian. Owners (tenedores) are defined as “people or establishments that, for whatever reason, have in their temporary or permanent possession *a dog or mascota (pet)*.” These owners are required to register, vaccinate and identify their domestic companion animals.⁷ Unfortunately, if someone is considered to be an owner the moment they have an animal in their temporary possession they can be discouraged from providing the animal with urgently needed medical care. This legislative structure disincentivizes free civilian participation in remediating dogs that pose a public health risk because of the possibility of being held accountable for licensing, registration and vaccination costs for the animal. Overall, this policy structure can result in the undesired effect of promoting a lack of engagement in the amelioration of the public health crisis that this legislation is intended to solve.

In addition, there is a sizeable local concern regarding the policy to establish an animal shelter as described in Article 44. While erecting a shelter for the purposes of providing temporary lodging for abandoned pets may seem like a feasible approach premised by good intentions, resorting to shelters as a long-term solution would likely have a detrimental effect on the stray dog situation in Paute. Running shelters would be a

⁶ <https://www.humanesociety.org/resources/breed-specific-legislation>

⁷ See article 13, article 38



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massive, costly project. Unfortunately, instead of promoting the adoption and care of dogs, it would provide an ideal opportunity for individuals to abandon their pets. Moreover, as has been seen in North America, this “solution” can quickly morph into a way to ignore urban fauna instead of contending with the source of the problem. This is particularly problematic when the funds for this massive costly program would be better allocated toward an aggressive spay and neutering program. Overall, the shelter program would likely exacerbate problems that it is meant to correct and carry with it the opportunity cost of effectively tackling the dog overpopulation.

II. Proposed Alternative - a Smarter Solution for Paute

The enclosed draft ordinance seeks to address the specific concerns echoed by animal and human health advocates in Paute, including the policy issues described above. While it is based in large part on the ordinance currently in place in Cuenca, it has been substantially revised to incorporate smarter solutions that are reasonably achievable in this Canton and have proven to be effective in similar jurisdictions. This ordinance approaches the problem with a comprehensive strategy that includes:

- Clearly defines obligations for companion animal guardians and service professionals that include registration, vaccinations and identification⁸. There are also requirements for maintaining companion animals in public spaces. These restrictions are complemented by prohibitions and sanctions.
- Aggressive sterilisation programs that reduce the cost of services for both strays and animals under the care of a guardian.
- Practical enforcement mechanisms to ensure proper application of the law. This will be accomplished by a specialized Animal Enforcement Warden, employed by the Municipal Police Department and financed through collected fines. The Warden’s responsibilities will include conducting inspections of markets, investigating allegations of companion animal mistreatment, and administering sanctions.
- Educational programs aimed at increasing public knowledge and understanding of the law and related policies concerning sterilization, adoption and reporting animal abuse. Campaigns are to be designed and implemented by the Animal Welfare Enforcement Warden in coordination with individual organizations.
- Strict licencing and registration requirements to protect public health and safety. This registration and identification of animals impose vaccination and control requirements on owners that will safeguard the public.

⁸ See article 56, article 58



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III. Conclusion

It is important to understand that the proposed legislation is a comprehensive, long-term approach to the crisis at hand. The policies herein will require an initial investment by the canton. However, Title II establishes an enforcement mechanism that, once implemented, will be financially self-sustaining and will result in substantial cost savings in the future.

We strongly encourage you to adopt this legislation in full, and as soon as possible. Your efforts will be congratulated by the public.

Sincerely,

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