

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

April 26, 2017

Marine View Building, 230 S. Franklin Street, 4th Floor
3:15 PM

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. AGENDA TOPICS
 - A. Proposed Livestock Ordinance
- IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS
- V. ADJOURNMENT



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March 10, 2017

MEMO

From: Tim Felstead, Planner II, Community Development
To: Title 49 Subcommittee of the Planning Commission
RE: Amendment of CBJ Land Use Code for regulation of livestock

1 Background

Throughout the US in recent years there has been a growing interest in small scale agriculture on residential lots including livestock husbandry (i.e. the keeping of ‘farm’ animals) . This has been observed in Juneau particularly with the raising of chickens.

The **2010 Juneau Climate Action Plan** supports increased local food production with an explicit short term action stating:

Update land use codes to allow for increased personal use animal husbandry, agriculture, and community gardens.

The **2013 Comprehensive Plan Update** identifies support for both individual and commercial food production as something to be implemented.

POLICY 2.1. TO BUILD A SUSTAINABLE COMMUNITY THAT ENDURES OVER GENERATIONS AND IS SUFFICIENTLY FAR-SEEING AND FLEXIBLE TO MAINTAIN THE VITAL AND ROBUST NATURE OF ITS ECONOMIC, SOCIAL, AND ENVIRONMENTAL SUPPORT SYSTEMS.

2.1 - IA10 Support the individual and commercial production of foods locally with careful evaluation of environmental impacts.

The current Land Use code requirements regarding agriculture and animal husbandry have been a source of confusion for both staff and the public in recent years. Current wording in the Table of Permissible Uses has been slated for an update for some time.

At present, all farm animals are covered by two uses although the distinction between ‘commercial agriculture including farm animals’ and ‘stabling of farm animals’ is unclear since for an animal to be present on a property means they presumably have to be ‘stabled’ somewhere on that property. An ambiguous sub-note to these uses only requires a conditional use permit in the allowed zoning districts if the number of animals exceeds 3 or the animals are present within 100ft of the nearest dwelling (see

strike through text in extract of proposed Table of Permissible Uses. An exception to these farm animal requirements is provided and allows up to 6 personal use hens allowed outright in most zoning districts. 'Hen' is not defined in the Land Use Code but is taken to mean all female poultry. Male poultry are not allowed unless they fit within in the broader farm animal requirements. This last aspect was the source of a community petition in 2016 which brought the issue of small scale agriculture to the attention of the Juneau Commission on Sustainability (JCOS). CDD and the Juneau Commission on Sustainability (JCOS) felt the time was prime to broadly review small scale agriculture in the CBJ Land Use Code.

CDD has worked with JCOS, public volunteers with experience of keeping livestock, and the University of Alaska Cooperative Extension in the form of a Livestock Subcommittee. The committee has developed, what is hoped, are clearer land use regulations that provide greater opportunity for small scale animal husbandry while protecting the environment, and maintaining public health and harmony.

The subcommittee would like feedback from Title 49 before they recommend a final version of changes to the full JCOS committee for approval. JCOS would then like to take the recommendation to the Planning Commission for discussion and hopefully recommendation to the Assembly. The CBJ Law department will also be asked for input.

2 Scope

The Livestock Subcommittee began with a scope suggested by Staff and a draft version of changes to the Land Use Code. The scope was developed after reviewing a number of city ordinances from elsewhere in the US including Alaska, as well as papers and reports. Existing deficiencies in the CBJ Land Use Code were also considered. Staff recommendations included:

- Don't treat chickens in isolation of other farm animals. Any examination of chicken zoning should be part of a review farm animals/livestock in general in the Table of Permissible Uses. Specifics can be added for chickens, but the framework should support other livestock
- Focus on how best to control impacts. This means finding a balance of letting a person own livestock and ensuring neighbors, animals or the environment aren't negatively impacted. Whether an operation is commercial or not should not matter if the impacts are minimal.
- Impacts to consider when determining zoning districts for all farm animals:
 - **Noise** of animals and machinery (including onsite tractors, etc.);
 - **Odor** from animals, waste, and feed;
 - **Natural Environment** including groundwater
 - **Traffic** from commercial operations entering and leaving site;
 - **Animal welfare** (minimum space requirements);
 - **Lighting** from any evening operations;
 - **Attraction of predators/pests** from the housing of animals, feed or manure (e.g. bears, birds, flies, vermin)

Through the literature review process one review paper provided useful guidance regarding what a good livestock ordinance should address. While the review was related to chickens, the same principals apply to all small scale livestock keeping¹:

- The ordinance satisfies the needs of most stakeholder groups and acknowledges that some stakeholders on both sides of the issue will be unwilling to compromise
- The ordinance does not discriminate against certain populations, such as those of lower incomes who cannot afford high permitting fees, or those with smaller property sizes
- The ordinance allows for flexibility and provides choice, such as giving chicken keepers the right to choose their own coop design and building materials
- The ordinance allows for citizen input and participation in the ordinance forming process to assure that the ordinance fits the needs of , and is supported by the community
- The ordinance recognizes the role chickens can play in developing a more sustainable urban environment
- The ordinance recognizes the importance of the ordinance being clearly stated and easily accessible to the public, which will help ensure compliance and reduce violations.

3 Discussion of amended ordinance language

A review of existing related CBJ code was undertaken, in particular, sections relating to the keeping of animals within the Borough. The intent was to ensure any changes to the Land Use Code were consistent with other CBJ ordinances and regulations. The ability of other existing CBJ requirements to deal with any impacts associated with small scale keeping of livestock was also reviewed. Alaska Statutes have also been reviewed, cross referenced, and incorporated where relevant.

The subcommittee developed proposed changes which removes existing farm animal uses from the Table of Permissible and adds new uses based on the number of animals and the distance from the property line the animals are sheltered. The distinction between commercial agriculture including farm animals and personal agriculture has been removed.

3.1 Definitions

3.1.1 Defining animals covered by ordinance

Current and some past definitions of animals and livestock as written in CBJ ordinances are provided below.

Current Title 08 Animal Control and Protection:

- *Animal* means all domesticated nonhuman members of the kingdom Animalia.
- *Domestic animal* means dog, cat, ferret, guinea pig, gerbil, snake, lizard, or bird; provided, however, that nothing in this title shall apply to raptorial birds kept under authority of state or federal falconry, rehabilitation, scientific, or educational permits.

¹ LaBadie, K.T. (2008, May, 7). Residential Urban Chicken Keeping: An Examination of 25 Cities. CRP 580. University of New Mexico. Attached as appendix.

- *Livestock* means cattle, swine, goats, sheep, horses, donkeys, mules, rabbits, llamas, and poultry.

Title 49 Land Use Code:

- Current: *Farm animal* means horses, cows, sheep, goats, swine, ducks, chickens and other similar animals, but not including domesticated cats and dogs.
- Pre 1987 code rewrite: *Farm animal* means horses, cows, sheep, goats, swine, and other animals of similar type or use, but not including ducks, chickens, rabbits or domesticated cats and dogs.

Note the definition of *Animal* in Animal Control Code is a little confusing as it refers to domesticated which to some means 'pet' rather than just something which is not wild. It could clarify by saying:

Animal means all domesticated nonhuman members of the kingdom Animalia, including domestic animal and livestock [as defined by this code].

An alternative livestock definition has been proposed for use in the CBJ Land Use Code to better include similar animals that are not specifically named. Note that four or less rabbits are excluded from being considered as livestock to allow people to keep them as pets – this number was settled on after discussion by the committee on what number would separate someone rearing for agricultural purposes and those keeping them as pets.

Livestock means cattle, swine, goats, sheep, horses, donkeys, mules, llamas, *more than* four rabbits, poultry or similar animals which are often kept, raised and used by people to produce commodities such as food, fiber, and labor. Such animals kept as pets are considered livestock.

The underlined wording is meant to clarify how they are similar in order to minimize any ambiguity.

Ideally Title 08 'Animal Control and Protection' would also use this definition to ensure consistency for future enforcement purpose but it is not essential for application of Land Use Code requirements.

3.1.2 Separating animals by size

The current CBJ ordinances treat the impacts of all farm animals/livestock equally regardless of animal size(e.g. a horse is treated in the same way as a pygmy goat). Some ordinances provide distinction between the impacts based on animal size. This allows greater impacts and space requirements of larger animals to be addressed differently from smaller animals.

Two approaches are generally used to achieve this. One approach is to use definitions to separate smaller livestock from larger livestock. A more in-depth approach is to assign individual animal types an animal unit number such as the table below. The intent is to allow a fixed number of animal units per acre and this can be made up of any livestock. Both approaches were considered by the Livestock Committee. The latter approach was considered too complicated and the former approach was thought to provide the required level of flexibility in terms of animal size.

Livestock Type		Animal Unit Factor		Number of Animals	Animal Units
Example—Milking and Dry Cows		1.4	x	256	= 358.4 AU
Dairy Cattle	Milking and Dry Cows	1.4			
	Heifers (800 lbs to 1200 lbs.)	1.1			
	Heifers (400 lbs to 800 lbs.)	0.6			
	Calves (up to 400 lbs.)	0.2			
Beef Cattle	Steer or Cows (600 lbs. to Market)	1			
	Calves (under 600 lbs.)	0.5			
	Bulls (each)	1.4			
Veal Calves	per Animal	0.5			
Swine	Pigs (55 lbs. to market)	0.4			
	Pigs (up to 55 lbs.)	0.1			
	Sows (each)	0.4			
	Boars (each)	0.5			
Chickens	per Bird (liquid manure handling)	0.033			
	Broilers (continuous overflow watering)	0.01			
	Layers (non-liquid manure handling)	0.01			
	Broilers or Pullets (non-liquid manure)	0.005			
Turkeys	per Bird	0.018			
Ducks	per Bird (liquid manure handling)	0.2			
	per Bird (non-liquid manure handling)	0.01			
Sheep	(each)	0.1			
Goats	(each)	0.1			
Horses	(each)	2.0			
Llamas	(each)	0.1			
Alpacas	(each)	0.075			
OTHER					
OTHER					
Total ANIMAL UNITS for this application =					

Three categories of livestock are therefore proposed – poultry, small livestock, and large livestock. Definitions for each are as follows:

Poultry means domesticated fowl, especially those valued for their meat and eggs, including chickens, turkeys, ducks, geese, guinea fowl, quail and other similar animals.

Small livestock means livestock under 150 pounds in weight, excluding poultry, unneutered or horned goats.

Large livestock means all livestock that does not meet definition of poultry or small livestock.

There was some discussion about treating all poultry equally regardless of size or level of noise produced by a particular species. The possibility of separating quieter poultry (such as chickens) as a line in the Table of Permissible Uses was discussed but the committee did not feel there would be an explosion of nuisance poultry. This could continue to be considered depending on reported impacts if the proposed changes are adopted.

Additional definitions regarding poultry are also added to address with nosier male poultry (e.g. roosters), and juvenile or broiler birds (which primarily remain indoors) differently from general poultry.

Juvenile poultry means poultry where the sex cannot be reasonably determined based on noise or behavior such as egg laying.

Male poultry means a poultry bird of age where the sex can be distinguished based on appearance, noise or egg laying.

3.2 Use of Specified Use Provision of Land Use Code

Where certain uses merit additional requirements or performance standards than can be placed in the Table of Permissible Uses, these requirements can be placed in the Specified Use Provision section of the Land Use Code.

A number of provisions have been suggested to be added to this section of Code to mitigate the impacts of keeping livestock.

3.2.1 Registration

The topic of livestock registration was discussed in depth by the livestock committee. The benefit of registration would be to know where all livestock in Juneau was located, for staff to alert owners of potential issues regarding wells and public waterbodies, track the growth of livestock keeping in the Borough and understand the relative scale of public complaints related to livestock. A fee for registration to provide revenue for enforcement activities by Animal Control, including complaint investigations and housing animals, was also discussed.

The Livestock Committee felt livestock owners would already be providing additional revenue to CBJ through sales tax on feed, bedding, etc. - this assumes it was purchased in the Borough and not from elsewhere. They also felt a fee for a registration process would be a further cost to keeping of livestock and act as a barrier. A registration fee was not supported. There was some suspicion about what Animal Control would do if the addresses of livestock were known to them. Some committee members had concerns Animal Control would undertake inspections of animal welfare even if no complaint had been made. If registration was required it could possibly be done through CDD (e.g. through a 'Change of Use permit' which has no fee) although this would have some administrative cost unless associated with a Building permit for an animal shelter. Most animal coops, hutches or stables would be of a size where they would be exempt from requiring a building permit if they were not connected to electricity and were 200 square feet or less than in size.

If the registration requirement serves no useful purpose then it could be removed altogether.

3.2.2 Number of Animals

As described above, the existing land use code treats all livestock equally regardless of size. When reviewing some of the more progressive livestock ordinances it was noted many would link the number of permissible animals to lot size and size/type of livestock. For the three categories of livestock, animal density and minimum buffer distance from property lines have been suggested. While other Livestock Ordinance examples from elsewhere provide similar thresholds, there seems to be little scientific evidence to support a given particular livestock density or buffer distance – they are subjective values that the community deemed permissible. In the current CBJ Land Use Code it is unclear what basis the 100 foot buffer distance from the nearest dwelling was developed.

It is worth noting that the suggested approach is not new to Juneau. Greater Borough of Juneau Zoning Ordinance from 1964 allowed non-commercial raising of animals or fowl in larger residentially zoned lots (RS which had minimum lot size of 12,000 square feet) or with a conditional use permit on other residential lots smaller than 12,000 square feet. Private horse stables were also allowed on a similar basis but the number of permissible animals was linked to lot size and the stable had to remain 60 feet

from property lines (no mention of running areas). Obviously Juneau has developed significantly since then and presumably changes to the Land Use Code that restrict keeping of livestock were made for some purpose. However, public interest in small-scale livestock husbandry has recently increased.

More intense raising of livestock beyond the allowances suggested in the committees proposal could still be looked at in more detail through the Conditional Use Permit process to ensure public health, safety and welfare are adequately protected. The allowance of Conditional Use Permits provides an option for situations which could still be viable without negative impacts, but some additional standards or conditions might be required to ensure this. The adopted thresholds that would move livestock keeping to a Conditional Use Permit can continue to be reviewed over time and revised as needed.

3.2.2.1 Poultry birds

Poultry and not just chickens – the proposed changes would allow any poultry birds to be kept in the borough. The current Land Use code only allows for up to 6 ‘hens’ to be kept for personal use which has often been interpreted as allowing female poultry birds of any type and not just chickens.

Number of poultry birds linked to lot size - Poultry birds would be allowed in all zoning districts with a ‘1’ in the revised Table of Permissible uses for the relevant use provided they do not exceed the number allowed by the proposed formula. All lots would be allowed up to 3 poultry birds regardless of lot size. Additional birds would be allowed at a rate of one bird per 1000 square feet. For example, a 7000 square foot lot would be allowed 10 birds in total. A limit of 20 birds, regardless of lot size, was felt a reasonable upper limit of what could easily be looked after as an incidental use of a property owner/tenants time.

Roosters and other male poultry - A number of members of the Livestock Committee have advocated for allowance of roosters in any zoning district where chickens are allowed. The benefits of roosters were not only cost benefits to a person breeding their own chicks but also benefits to a flock in terms of predator deterrence and providing leadership to the flock.

The argument put forward is for a shift in public acceptance of the noise produced by roosters – this would be a change from accepting no rooster sounds to treating them in the same manner as other modern day intrusions such as sirens, construction, traffic, loud music or barking dogs being acceptable nuisances.

Some roosters are noisier than others and even hens can develop rooster characteristics and ‘crow’ loudly. Additionally, there are measures an owner can take to minimize neighbor disturbance, including keeping a rooster inside a dark coop, using a crow collar, or even, at an extreme, surgical procedures (it is not known if any vet in Juneau performs this surgery). CBJ ordinances (‘Animal Control’ and ‘Disturbing the Peace’ already provide scope to deal with noisy animals and nothing in the proposed amendment diminishes the responsibility of the livestock owner to ensure their animals do not unreasonably disturb neighbors. Any rooster owners subject to a complaint should realize they may have to remove a nuisance bird. A ratio of one rooster per 20 hens was considered an appropriate ratio for a single rooster to deliver the benefits described above.

Male poultry are not always the loudest sex. For example, for ducks, the females are often louder than males.

Note : This is likely to be the most contentious element of the proposed changes. If male poultry are not allowed, some communities have a provision to allow visiting male birds for breeding purposes. It is suggested a provision to allow breeding visits be included as a minimum. Roosters on bigger lots where the 100 foot buffer from the nearest dwelling is currently allowed.

Juvenile poultry – When developing the formula for the number of poultry allowed based on lot size, it was noted by a number of committee members that owners would often begin rearing new chicks as older laying hens began to age. This was to ensure the new hens could continue to provide eggs when the old hens were slaughtered. These younger poultry would invariably remain indoors during the first few months of life and not roam outdoors. There was also discussion on how someone could raise both egg laying hens breeds, which live for 2-3 years, and fast growing meat hens, which are typically slaughtered after 3-4 months. Keeping such chickens concurrently may result in exceeding the number of allowed hens. It was suggested a definition of ‘Juvenile Poultry’ be added to allow the same number of younger chickens as adult chickens. Based on this definition, juvenile poultry could double the number of poultry on the lot. The committee suggested, generally, chickens under the age of 3-4 months would meet the juvenile poultry definition.

However, fully grown meat chickens would produce just as much manure as an adult egg laying chicken which could still be composted but presumably the owner would have to dedicate more time to the upkeep of additional chickens. If this is possible then why is the total chicken allowance not higher?

Note: Some guidance on allowing a doubling of poultry on a lot is sought. If people have an interest in raising both meat and egg laying chickens should they just accept they will only be able to have half the number of egg laying chickens? The use of ‘appearance’ in the definition of Juvenile Poultry could still allow an overlap for egg laying chicks with older adult egg laying chickens and ensure there was only a small increase in total manure.

3.2.2.2 Small Livestock

A minimum lot size of 10,000 square feet is proposed for smaller livestock. Lots of this size can begin with 3 small livestock animals. This is intended to cover smaller goats, sheep and pig breeds. The increments are based on the Seattle zoning code. Due to larger increments no maximum number of animals is proposed. The minimum lot size and increments are largely subjective and would need to be based on community comfort level.

The proposal currently includes ‘more than 4 rabbits’ in the small livestock category. This was to allow rabbits to be still kept as pets. Rabbits are relatively small compared to other animals covered under this definition. This was done deliberately to prevent rabbit outbreaks such as those seen recently in the Valley. Anyone who wants to raise more than allowed under this would have to apply for a Conditional Use Permit allowing CBJ greater control over the husbandry activities.

3.2.2.3 Larger livestock

A minimum lot size of over 20,000 square feet is proposed for three animals. This intended to cover horses, cattle, larger pigs etc. The minimum lot size and increments are largely arbitrary. Input was provided by some owners of horses in the community as to appropriate minimum lot sizes.

3.2.2.4 Abutting lots

There are a number of legal lots in Juneau that abut one and other and under common ownership. To allow these to be assessed collectively in terms of size and for buffer requirements not be added to a

shared lot line, a specific provision has been added. Subsequent sale of the lot to another person would mean the standard approach of providing buffers and determining the maximum number of livestock would be followed.

3.2.2.5 *Number of livestock in each livestock category*

It is intended that the number of livestock in one category does not affect the number of animals allowed in another category - each category is assessed independently of each other. This provision clarifies that a property may have small livestock, large livestock, and poultry.

For example, the owner of a 20,001 square foot lot would be allowed 20 poultry (including a rooster), 5 small livestock and 3 large livestock provided they could meet all other requirements without a Conditional Use permit.

3.2.3 Noise

As mentioned above, Juneau already has other requirements in code that would relate to noise from animals in the Animal Control and Disturbing the Peace –extracts of these sections are provided in Appendix A. The proposed changes do not change existing responsibilities to be a good neighbor and keep noise from animals to a reasonable level. An enforcement framework would have to be developed with Juneau Police Department, Animal Control, and Community Development regarding which department dealt with livestock noise complaints. There is no formal framework in place between these entities at present.

3.2.4 Roaming of livestock

This section is intended to cover any outdoor movement of livestock. For clarity on a livestock owners responsibilities when animals are free of a building, some provisions that describe how livestock should be kept enclosed has been proposed and not allowed to run at large. This would still allow horses to be ridden and for livestock to be moved if accompanied.

3.2.5 Storage of food and bedding

Most livestock ordinances add such a provision and similar language is currently provided on the CDD handout on keeping of livestock. Preventing food from being an attractant to bears, birds, rodent, etc. is important in terms of public safety as well as public health.

Keeping bedding dry is a key way to minimize odor from the keeping of livestock animals.

3.2.6 Buffer distances

Many livestock ordinances provide minimum buffer distances for animals from property lines or nearest dwellings. The purpose of buffer distances aim to minimize potential conflict with neighbors in particular regarding noise and odors from manure.

In early drafts reviewed by the committee the buffer distances were applied to anywhere the animal could roam on the property. The current land use code requires a 100 foot buffer distance between the stabling or running area of the 'farm animal' and the nearest dwelling. The committee felt restricting the area in which livestock could run or roam on a lot would be costly and unnecessary. If an interior buffer were required for the roaming area then secondary fencing would be required. It was felt the main issue to be controlled was odor and providing minimum buffers for both the main coop/hutch/stable location and where manure composting occurred would deliver enough protection

for neighbors. As noted earlier, there are already provisions to address noise from animals in the CBJ code.

It is unknown how the existing buffer requirement of 100 feet from the nearest dwelling was arrived at. Other jurisdictions use a range of buffer distances with distances being lesser for smaller livestock. Consultation with staff at the University of Alaska Cooperative Extension revealed property line buffer distances, and rules governing the number of animals, to be relatively subjective and based on no precise science but were deemed acceptable to the community.

Buffers from property lines or nearest dwelling - this was also subject to extensive discussion and there are merits to each approach. A buffer from the nearest dwelling allowed more flexibility for the livestock owner but if a dwelling were built on a neighboring property within this buffer at a later date would unfairly burden the owner of the new dwelling or result in a livestock owner resenting their neighbor since their coop/ stable etc. would have to be relocated. In the end, it was felt greater certainty could be provided for all parties if buffers from property lines were used.

Buffers from wells and waterbodies – recognizing the impact that the keeping of livestock can have on water quality from both a drinking water and a habitat perspective, the State of Alaska has regulations and guidance on the minimum distances livestock and its manure should be from wells and waterbodies. The required 100 foot buffer distance has been included in the proposed language.

Varying buffers from property are suggested based upon the size of the animal. For small livestock and large livestock, setback distances are used for street side or front lines. This accounts for the fact that the Right-of-Way provides additional separation from neighboring property. This approach was not used for poultry as this may be too limiting on where coops/stables or manure composting could occur on the smaller lots where poultry could be kept and the level of odor could be more easily controlled due to smaller coop size.

Setbacks – it is clarified that regardless of the buffer requirements that structures related to the keeping of livestock should be adhere to for building setbacks although relevant exceptions for unheated structure could apply if buffer distances can still be observed.

3.2.7 Buildings used to keep livestock

Some jurisdictions restrict the keeping of livestock to the rear 50% of a lot. This is presumably intended to make sure coops do not detract from the appearance of neighborhoods. Recognizing that this is not practical on many of the smaller lots in Juneau some general appearance standards are proposed. The intent is to ensure that ramshackle coops made from tarps do not appear in the front yards of residential neighborhoods – in practical terms is serves as a reminder that livestock owners should be mindful of the impact of their animals on their neighbors including the appearance of shelters and the impact on property values.

In keeping with animal welfare minimums all livestock must have a shelter of at least three sides and a roof. Keeping bedding dry in coops/stables is a key way in which to control odor.

Buildings where livestock are housed, including poultry, should rest directly on the ground. Keeping livestock on balconies is not permitted to ensure material does not fall onto balconies below and to ensure all livestock has sufficient space. Minimum space requirements are stated regulations in other

jurisdictions but this was felt to be too onerous and beyond the scope of the Land Use code. Instead best practice approaches using guidance from the Cooperative Extension could be followed instead. Provisions for animal welfare are already included in the Animal control section of the CBJ code.

3.2.8 Odors and waste

Some provisions to ensure livestock owners have been included in the draft to ensure livestock owners minimize the potential for odors to disturb neighbors. These are largely self-explanatory. Again best management practice in composting should be followed and adherence to these practices could be used as part of any assessment for enforcement. Initially, language was included that was absolute on odors never being detectable at the property line. This was softened by the committee since occasional odor may always occur if compost is being turned but it should not persist if best management practices were being followed. The State has produced some guidance on how to manage manure piles for composting. A key recommendation is that all manure piles/composting remain covered in rainy climates (which Juneau definitely is). The purpose of covering is to prevent leaching of nitrates from the manure into surrounding soils and beyond – State guidance suggests a tarpaulin should be used as a minimum. This was removed after some committee members had concerns on the heat from covered storage causing combustion though guidance from staff at the Cooperative Extension suggests this would not be an issue in Juneau's climate. Resistance from the committee to construction of roofed structures and/or using a tarpaulin to cover manure is could be more to do with cost and inconvenience concerns. In the past, Conditional Use permits for keeping of farm animals have required manure and composting to be covered.

Note : Input on whether manure storage should be required to be covered is asked for.

3.2.9 Removal of livestock

Some provisions on when livestock shall be removed from a lot, including because of enforcement proceedings, are provided. It is possible that complaints may arise due to increases in noise complaints or increased odor complaints. There is currently no process in place where the Animal Control officer can house livestock on a temporary basis. An agreement with an organization such as Swampy Acres could be one solution for livestock to be cared for on a temporary basis. Animal Control currently has to pay for a vet if euthanasia is necessary – this is costly.

Any enforced removal of livestock should be at the owner's expense. A remedial period is suggested to allow livestock owners to rectify any issues before removal is required. This can be covered in Title 49's existing enforcement requirements.

3.3 Beekeeping

During the course of the livestock ordinance CDD received some phone calls regarding beekeeping. At present the Land Use code has no use listed for beekeeping. Some jurisdictions do provide regulations on the number of hives allowed on a property and their location from property lines. The purpose of these regulations appears to be to prevent swarming of bees which could obviously impact neighbors. Some language has been taken from other municipal ordinances to provide clarity on the keeping of bees.

Note: Guidance on whether this should be addressed in the livestock ordinance is requested.

3.4 Use of Conditional Use permits

The suggested changes have been designed to allow residents of Juneau to keep livestock in a manner that should ensure negative impacts to neighbors, the environment and animals do not occur. However, it is recognized that there are circumstances where smaller buffers or an increased number of animals could still be kept if additional mitigating measures are put in place. Some situations could be:

- The buffer distance from the property line is lessened since the nearest dwelling is some distance away and the neighbors have consented. A condition could be added to ensure the property owner move anything in the buffer if requested to by the neighboring property owner.
- More animals could be kept if the neighboring property were vacant. The owner would have to keep to the required buffers.
- More animals could be kept if manure were removed more frequently or kept at a reasonable distance (i.e., an increased buffer).
- The operation is larger commercial operation which by its nature requires more animals but would also have more environmental controls, animal husbandry regulation, dedicated staff, machinery etc. It is anticipated that all commercial operations would require a conditional use permit.

To allow the public to argue their case and to ensure there were no negative impacts then an option to apply for a Conditional Use permit has been allowed for many zoning districts.

Appendix A – Relevant sections of existing CBJ code regarding noise from animals

Existing CBJ Ordinances dealing with ‘objectionable’ animals

CBJ Title 08 ‘Animal control and protection’ already provides for ‘Objectionable animals’. See underlined sections below. Also note that barking dogs in an Industrial Zone has to be tolerated as it is an allowed use. This could be expanded to include noise from all animal related permitted uses in all zoning districts. It seems this is in there for kennels specifically because in Industrial Zones, most likely not need a Conditional Use permit. All other zoning districts do need Conditional Use permits. See more on Conditional Use permits below.

08.45.010 - Objectionable animals.

(a) The keeper of an animal shall:

(1) Prevent the animal from disturbing a neighborhood or any number of persons by frequent or prolonged noise, barking, howling or other noises;

(2) Prevent the animal from defecating upon, digging upon or injuring public property or a public thoroughfare or private property without the permission of the property owner;

(3) Prevent the animal from snapping, running after or jumping at vehicles or persons using the public thoroughfares within the City and Borough;

(4) Prevent the animal from snapping at, jumping upon or otherwise menacing, injuring or frightening persons, domestic animals, or livestock; provided, that this subsection shall not apply if the person is trespassing or otherwise acting in violation of the law; and

(5) Prevent the animal from snapping, harassing or otherwise disturbing or injuring any wildlife.

(b) Any animal found in violation of subsection (a) of this section may be immediately impounded by an animal control officer or enforcement agent.

(c) A person who owns or is in lawful possession of property upon which there is an objectionable animal or who observes an objectionable animal on public property or a public thoroughfare may take the animal into custody and hold the animal in a humane manner pending transfer to an animal control officer or enforcement agent; provided, no animal may be held in such private custody for more than 24 hours. A person who takes an objectionable animal into custody under this subsection shall:

(1) Immediately call the animal shelter and request that an animal control officer or enforcement agent take custody of the animal; and

(2) File a written statement at the animal shelter describing the incident. The animal control officer or enforcement agent shall take custody of the animal and shall take the written statement of the person holding the animal. The officer or agent shall issue to the keeper of the animal a citation or warning and may impound the animal if the keeper cannot be found immediately.

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section that the noise is a normal result of a kennel authorized in an industrial zone or as permitted by the City and Borough of Juneau under [Title 49](#) of this Code.

There is also 'disturbing the peace' under the penal code (Title 42) when it comes to noise. This is very subjective but indicates that even though some consideration is given to the permitted uses of the zoning district from which the noise emanates, it is not an allowance to be overly disruptive. For example, a rooster that crows frequently could still be considered unacceptable in the same way that a dog that barks continuously could be unacceptable. A rooster crow is also distinct from a raven call because it is something caused by the property owner (by keeping the animal) rather than a 'natural' noise. Presumably allowing roosters in a zoning district weakens the argument of its crowing being unreasonable.

42.20.095 - Disturbing the peace.

(a) Policy. The purpose of this section is to protect the health, welfare and safety of the City and Borough's residents by regulating the time, place, and manner of unreasonable noise. It is the intent of this section to secure the health, safety, comfort, convenience, and peaceful enjoyment of all public places, such as public streets and public parks, as well as the City and Borough's residents' homes, by prohibiting unreasonable noise.

(b) General.

(1) It is unlawful for any person to make or continue, or cause or permit to be made or continued, any unreasonable noise.

(2) As used in this section, "unreasonable noise" means noise that unreasonably annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of a reasonable person of ordinary sensibilities in the vicinity. The factors which will be considered in determining whether a noise is unreasonable will include, but not be limited to, the following:

(A) The volume of noise;

(B) The intensity of the noise;

(C) Whether the nature of the noise is usual or unusual;

(D) Whether the origin of the noise is natural or unnatural;

(E) The volume and intensity of the background noise, if any;

(F) The proximity of the noise to residential sleeping facilities;

(G) The nature and zoning of the area within which the noise emanates;

(H) The density of the inhabitation of the area within which the noise emanates;

(I) The time of the day or night the noise occurs;

(J) The duration of the noise;

(K) Whether the noise is recurrent, intermittent or constant;

(L) Whether the noise is produced by a commercial or noncommercial activity; and

(M) Whether the noise contains pure tones.

(3) Liability. In a prosecution under this section, it shall be a rebuttable presumption that the owner, tenant, or person in charge of real property from which noise emanates in violation of this section has caused or allowed to be caused the noise which violates this section.

Appendix 2 Selection of review papers

TABLE OF PERMISSIBLE USES - CBJ 49.25.300 (Version 6.3: 3/14/17)

			Zones														
	Use Description		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU2	WC	WI	I
14.200	Commercial agricultural operations Agricultural operations																
	14.210	Excluding farm animals Commercial agriculture excluding livestock	1, 3	1, 3	3	3	3	3	3	3	3	3					1, 3
	14.220	Including farm animals ^M	1, 3	3													1, 3
	14.230	Stabling of farm animals ^M	3	3	3	3					3	3					1, 3
	14.221	Poultry up to 20 birds ^M	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	14.222	Poultry 21? or more birds ^M	1, 3	3	3	3	3	3	3	3	3	3					1, 3
	14.223	Small livestock - number and buffer distance as required under specified use ^M	1	1	1	1	3	3	3	3	1	1					1
	14.224	Small livestock above number allowed OR less than buffer distance allowed by specified use ^M	1, 3	3	3	3	3	3	3	3	3	3					1, 3
	14.225	Large livestock - number and buffer distance as required under specified use ^M	1	1	1	1	3	3	3		1	1					1
	14.226	Large livestock - above number allowed OR less than buffer distance required by specified use ^M	1, 3	3	3	3	3	3	3		3	3					1, 3
	14.227	Beekeeping – number of hives as allowed under specified use	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	14.228	Beekeeping – more than number of hives allowed under specified use	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
14.250	Personal use agriculture																
	14.253	Hens, 6 maximum	1	1	1	1	1	1	3	3	1	1	3	3	1	1	1

Comment [BM1]: So it looks as if the intent is to treat all ag the same –personal or commercial?

Comment [TF2]: Need to add the 1 back in somewhere? This would need to remove property line related buffers but distances from water bodies or wells would still need to be met since these are State requirements.

Comment [TF3]: Livestock Committee suggested Conditional Use permits should be available to keep livestock in all zoning districts. Conditions could be placed on where on lot animals are stabled/ manure kept, frequency of manure disposal , number of roosters, type of poultry etc

Comment [TF4]: Similar safeguards through Conditional Use Permit as described above for poultry could be required.

Comment [TF5]: Similar safeguards through Conditional Use Permit as described above for poultry could be required.

Comment [BM6]: This language seems odd....what is this number? It would be more clear to say number or was this meant as a holding word?

Key:

1. Department approval requires the department of community development approval only.
- 1, 3. Department approval required if minor development, conditional use permit required if major development.
2. Allowable use permit requires planning commission approval.
3. Conditional use permit requires planning commission approval.
- 2, 3. Allowable use permit required if minor development, conditional use permit required if major development.

Notes:

M – Poultry allowed in MU and MU2 only where the primary use of lot is single family residential. Specified use requirements apply – see Section ??? for allowance on number of livestock animals, minimum buffer distances and required practices. Minor developments under 14.222, 14.224 or 14.226 in

required.

~~M. Only applicable to the commercial or private stabling of more than three farm animals, or where the running or stabling area is closer than 100 feet to the nearest residence other than the owner for any~~

Defintions

Livestock means cattle, swine, goats, sheep, horses, donkeys, mules, llamas, more than four rabbits, poultry or similar animals which are often kept, raised and used by people to produce commodities such as food, fiber, and labor. Such animals kept as pets are considered livestock.

Poultry means domesticated fowl, especially those valued for their meat and eggs, including chickens, turkeys, ducks, geese, guinea fowl, quail and other similar animals.

Juvenile poultry means poultry where the sex cannot be reasonably determined based on noise or behavior such as egg laying.

Small livestock means livestock under 150 pounds in weight, excluding poultry, unneutered or horned goats.

Large livestock means all livestock that does not meet definition of poultry or small livestock.

~~Farm animal means horses, cows, sheep, goats, swine, ducks, chickens and other similar animals, but not including domesticated cats and dogs.~~

Comment [TF7]: There were some concerns regarding the mechanism for dept approval. As a practice we don't review these uses unless it is part of a building permit.

Comment [BM8]: Suggest note M be changed to say something similar to NOTE X...special regs and reference....

Comment [TF9]: No buffer distance would be required for minor developments in RR or I under the existing language. This seems to be an oversight of the existing code.

Comment [TF10]: Note M is amended. The requirements covered by OLD Note M is note put into Table of Permissible Uses.

Comment [TF11]: Added to allow pet rabbits. Meat rabbits would fall under small livestock which is quite limiting. One option would be to allow the same number of rabbits as poultry. They are quiet and about twice the size of a chicken.

Comment [TF12]: Definition in Animal Control section should be updated to match. Seems a little clearer when using the term 'similar' as a catch all.

Comment [TF13]: Changed from 'appearance' to allow a greater number of meat chickens which only live for three-four months and often come in greater numbers. **Much harder to enforce if something can look like an adult chicken but still be classed as a juvenile.**

Comment [TF14]: Noisy poultry definition can be added in here. Guinea fowl really worries me.

Comment [TF15]: About the weight of smaller sheep breeds. A lower weight was considered. Dwarf goats are under 100 pounds but 150 was felt a good number. Other codes use up to 500lb for small livestock – this may want to be increased.

Comment [TF16]: This is based on Seattle. Apparently the unneutered goats get pretty noisy and smelly. Seems common that goats are required to be dehorned.

Specified Use requirements

Keeping of livestock

Purpose – The purpose of this section is to provide for the keeping of small scale keeping of livestock that has low impact on neighboring properties and the environment, and ensures such livestock is kept in a humane manner.

- 1) **Livestock registration** – To assist in identifying allowed non-conforming uses, tracking the growth of urban livestock keeping and understand relative level of public complaints owners of lots on which livestock of any kind is kept shall ensure the use is registered with the Community Development Department (using a change of use application?).
- 2) **Number of animals** – the number of livestock animals on a lot shall be determined as follows for each livestock category:
 - a) Poultry – up to 3 non-juvenile poultry birds may be kept on any lot. 1 additional non-juvenile poultry bird may be kept for every 1000 square feet of lot size up to a maximum of 20 non-juvenile poultry per lot. The same number of juvenile poultry birds may also be kept on the lot.
 - i) 1 male poultry bird is allowed up for lots up to 20,000 square feet. Additional male poultry are allowed for every additional 20,000 square feet.
 - b) Small livestock – up to 3 small livestock may be kept on lot sizes over 10,000 square feet. One additional animal is allowed for each additional 5,000 square feet.
 - c) Large livestock – up to 3 large livestock may be kept on lot sizes over 20,000 square feet. 1 additional animal for every additional 20,000 square feet of lot size.
 - d) Adjacent lots sharing a common lot line and under the same ownership shall be treated as one lot for the purposes of livestock keeping. Lot line buffers are not required along the shared lot line. The lots would be treated as individual lots if they then became under different ownership future and the above standards would apply.
 - e) The number of allowed livestock animals in one category are in addition to the number of livestock in another category.

Comment [TF17]: Owners of lots or owners of the animals? Animal Control refer to keepers of the animal. A fee was discussed but felt this would be a burden. General tax revenue to support enforcement is generated through feed sales tax. Felt level of complaints would be low if good BMPs were available.

Comment [TF18]: Some members of subcommittee were VERY suspicious of motives for this and were more comfortable with CDD having responsibility for this and not Animal Control. **How would CDD implement this?**

Comment [TF19]: An approach of considering larger poultry such as turkeys to count the same as for example, two chickens using an Animal Unit scoring system was discussed but felt to be too complicated.

Comment [TF20]: Based on the three hens allowed now in CBJ code for multifamily districts.

Comment [TF21]: Arbitrary number but arrived at after deliberations with chicken committee on what is manageable as a personal chicken rearer and reasonable considering lot size. Large batches of meat birds/laying hens etc. can be split amongst Juneau chicken community to ensure numbers are not exceeded.

Comment [TF22]: How many birds can be reasonably be taken care of by a single family? What if more than 2 families on the lot. What density of birds is too many. Should it be a maximum of 20 per dwelling unit (not including accessory apartments)? This way we link to both size of the lot and number of dwelling units.

Comment [TF23]: So on a 7000sq ft lot 10 adult birds could be kept and 10 meat chickens at the same time.

Comment [BM24]: As I read this I wonder...is space going to be self limiting? Do they need to a minimum amount of area per bird to live in? How about outdoor space? We may need to walk thru this with examples from several different sized lots common to Juno

Comment [TF25]: Issue of replacing older layers by having chicks at the same time so there is no gap in laying. Meat chickens (slaughtered before three months) would also fall into this categories since chickens don't start laying or crowing until three months (according to chicken committee). This would allow 'adult size' meat chickens on the lot ...

Comment [BM26]: Each or every...be consistent

Comment [TF27]: Some communities allow visiting males to be on a lot for a couple of days for breeding purposes. This is likely to be the thing that generates most complaints.

Comment [TF28]: Based on Seattle increments

Comment [BM29]: So I could have 19 chickens a rooster and 5 small livestock and 3 large live stock on a 20,001 sq foot lot? Or does this really mean live stock only

- 3) **Noise** - any livestock including poultry is subject to both 'Objectionable animals' and 'Disturbing the peace' sections of this code regarding what is deemed an acceptable level of noise (*cross reference*). Allowance of livestock in a zoning district is not a defense for an owner keeping a noisy animal.
- 4) **Roaming of livestock** –the roaming of livestock shall be subject to the following:
 - a) Unaccompanied livestock shall not be allowed in any public Right of Way.
 - b) Unless allowed by this code, no livestock animal shall be allowed to graze or be staked-out/picketed in public open spaces.
 - c) All livestock shall be kept within a fenced area, dedicated building or similarly restrictive enclosure on the lot. As per CBJ 36.20.057, barbed wire may not be used to contain livestock in residentially zoned areas.
 - d) No livestock shall be allowed to roam on public or private land within 50 feet of a private or public well or water body. Later situation of a well shall require livestock to be relocated.
- 5) **Storage of food and bedding** – Food, bedding and similar items shall be stored inside a secure, weatherproof structure to prevent attraction of bears, vermin and similar nuisance animals and assist in reducing odors from damp bedding.
- 6) **Buffer distances** – to reduce impacts to the public and neighboring property owners all livestock buildings and manure storage/ composting locations shall be situated on the lot according to the following buffer distances:
 - a) Poultry - no closer than 10 feet to the property line and no closer than 100 feet to the nearest public or private well or waterbody.
 - b) Small livestock – no closer than 20 feet to the side and rear lot lines or the required front yard setback for both street side and front lot lines, and no closer than 100 feet to the nearest public or private well or waterbody.
 - c) Large livestock - no closer than 35 feet to side and rear lot lines or the required front yard setback for both street side and front lot lines, and no closer than 100 feet to the nearest public or private well or waterbody.
 - d) Building setbacks including exceptions shall be observed for all livestock buildings.
- 7) **Buildings used to keep livestock** – Areas used to keep livestock shall meet the following standards:
 - a) All buildings in which livestock are contained are kept shall be constructed of enduring materials in a manner that is in keeping with the appearance of the neighborhood as determined by the Director.
 - b) All livestock shall have access to shelter in a building enclosed on at least three sides and has a roof.
 - c) All livestock fenced areas, dedicated buildings or similarly restrictive enclosures shall be at grade or resting directly on the ground. Keeping of livestock on balconies is not allowed.
- 8) **Odors and waste** – to ensure waste from livestock is properly managed the following requirements apply to the keeping of all livestock and poultry:

Comment [TF30]: I'm not aware of anywhere in the code that does allow this. Special events?

Comment [TF31]: Based on best practice guidance from DEC.

Comment [TF32]: ADFG say no requirement for anadromous streams

Comment [BM33]: Not good code language...

Comment [TF34]: Should the neighbor attempt to relocate it away from existing livestock uses?

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Comment [TF35]: DEC best practice states 50ft for animal containment areas and 100ft from manure/excrement storage. Feedback from DEC stated a 100foot buffer for both was required by law.

Comment [TF36]: Based on a D3 lot width of 100ft and 12*14ft stable for two horses plus some additional space for flexible configuration. Setback on the neighboring lot would be 10ft so total separation would be 45ft. There is still a requirement that odors not be detectable beyond property line.

Comment [TF37]: BMPs should be provided to give guidance on coop/stable sizing space requirements. CDD to work with cooperative extension.

Comment [TF38]: Be a responsible neighbor. This could get over the 'only' on the rear 50% of the lot suggestion.

Comment [TF39]: Who is the person that would be enforced on - the property owner or the animal owner?

- a) All buildings, pens or enclosures where livestock are kept shall be kept clean and free from disagreeable odors other than those incidental to the keeping of such animals.
- b) All manure and other refuse must be composted or disposed of at least annually.
- c) Disagreeable odors from the keeping of livestock shall be minimized using best management practices to prevent it being detected on neighboring property.
- d) The owner of the subject lot is responsible for ensuring livestock do not contribute to a violation of Federal, State or CBJ water quality standards.

9) **Removal of livestock**

- a) A compliance order may be issued, as described in 49.10.620, if any provision of this Article is violated. This will allow the livestock owner a period of time specified by the department to remedy the violation. If necessary, removal the livestock and the livestock-related structures at their own expense.
- b) The animal control officer may also order the removal of the livestock upon a determination that the livestock pose a health risk. If a livestock animal dies, it must be disposed of promptly in a sanitary manner.

10) **Slaughtering**

Nothing added here see comment

Cross references:

CBJ Title 08 Animal Control and protection

CBJ 72.02.505 Animals on highways and other areas (grazing adjacent to highway

CBJ 62.20.070 Use of cemetery restricted (grazing of animals)

CBJ 36.20.057 Barbed wire

AS 03 Agriculture and animals

AAC 18 AAC 60.040(b) Wellhead protection and 18 AAC 72.020 Wastewater separation distance.

Keeping of bees

Beehive means a habitation or dwelling-place constructed by humans for bees.

Purpose – To ensure the public health and safety is maintained by ~~required~~ requiring bees to be kept in a manner that reduces chances of swarming and aggression.

- 1) **Number of hives** - Four beehives are permitted if the subject property is less than 20,000 square feet in area. Five hives are permitted if the subject property is between 20,000 and 60,000 square feet in area. A maximum of 15 beehives are permitted if the subject property is more than 60,000 square feet in area.
- 2) **Location of hives** - The hives must be at least 25 feet from each property line unless one of the following circumstances applies, in which case the hives must be at least 10 feet from each property line:

Comment [TF40]: For example a horse stable is going to smell regardless no matter how much it is cleaned. A little subjective. If you do a) and b) you should get to c)

Comment [TF41]: State has a manure BMP document which suggests manure should be cover in rainy environments such as Juneau to prevent run off leaching nutrients. Committee felt a CDD BMP document could be used instead of requiring things to be covered. Ever piece of guidance says it should be covered. Composting requires it to be as dry as a 'wrung out sponge'

Comment [TF42]: CBJ and UA Co-op Extension should provide best practices on how to mitigate odors and how best to compost.

Comment [TF43]: Was made less absolute. There may be rare occasions where odors do occur infrequently or for short periods.

Comment [TF44]: Provide warning first giving them 30? days to remediate issue. If not done then issue and order?

Comment [TF45]: Some codes require complaints from two separate neighbors.

Comment [BM46]: What about the health of the animal being endangered by poor keeping?

Comment [TF47]: Slaughtering was considered beyond the scope of the ordinance but a line stating it should not be in view of public streets and neighboring properties might be a good thing to add. Again, a good neighbor would do this but some people need reminding.

Comment [TF48]: Based on Shoreline, WA.

(a) The hives are at least eight feet above the adjacent ground.

(b) The hives are less than six feet above the adjacent ground and are behind a solid fence or hedge which is at least six feet in height and parallel to any property within 25 feet of the hives and extending at least 20 feet beyond the hive in both directions.

3) **Housing and maintenance** - All colonies must be kept in movable frame hives. Adequate space must be maintained around hives to prevent overcrowding and swarming. Hives must be requeened following any swarming or aggressive behavior.

Cross reference

AS 03 - Agriculture and animals (importing bees)

Residential Urban Chicken Keeping: An Examination of 25 Cities



Missoula Residents with their backyard chickens.

Source: <http://www.missoula.com/news/node/226>

KT LaBadie

**CRP 580 Spring 2008
University of New Mexico
May 7th 2008**

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Abstract

City councils across the United States and Canada are increasingly being faced with the task of deciding whether or not to allow chicken keeping in residential backyards. In many cases this issue has two opposing sides: those citizens who want to keep chickens for egg production and those citizens who are concerned about the effects of chickens on their communities. This paper provides an analysis of pro-chicken ordinances from 25 cities in an effort to define the components of a just and well functioning chicken ordinance. Of the 25 ordinances, no two were identical but a variety of common regulatory themes were found across cities. Based on these findings, some considerations are suggested when forming an urban chicken keeping ordinance.

Introduction

*"I can't say that I would have envisioned chickens as an issue, but I've heard from a lot of people about them, and it seems like it's something maybe we ought to pay a little attention to."*¹

- Stacy Rye, Missoula City Councilwoman

It's happening right now in cities across the United States and Canada. Community members are organizing themselves into groups and approaching their city councils about an important urban planning issue: chicken keeping in the city.

This question of whether or not cities should allow backyard chicken keeping has increased substantially over the past 5 years as citizens become more interested in participating in their own food production. The issue has appeared recently before city councils in Missoula², Halifax³, and Madison⁴, and a case is currently pending in Ann Arbor, Michigan⁵. In many cases this interest in backyard chicken keeping has been met with much opposition and city councils often do not know how to begin approaching the issue.

The recent increase in urban backyard chicken keeping has come about for three main reasons. First, the local food movement itself has become very popular which has sparked a new interest for many in backyard food production. Since chickens are one of the smaller protein producers, they fit well into a backyard food production model. Second, rising energy and transportation costs have caused concern over increases in food costs, and backyard eggs offer a cheaper solution as they do not have to travel far to reach the plate. Lastly, many citizens are becoming increasingly concerned about food safety, and with meat recalls and other animal industry issues in the news, backyard chickens offer many a safer solution. For these reasons, backyard chickens have become

¹ Moore, Michael. Urban Chickens Scratching up a Controversy in Missoula. . Available online at <http://www.missoula.com/news/node/226>

² Medley, Ann and Jonathan Stumph. Video: Missoula Squabbles Over Urban Chickens. Available online at http://www.newwest.net/city/article/missoulas_urban_chicken_squabble/C8/L8/

³ CBC News. Halifax to Study Chickens in Cities. Available online at <http://www.cbc.ca/consumer/story/2008/02/12/chicken-report.html>

⁴ Harrison-Noonan, Dennis. Urban chicken keeper, Madison, Wisconsin. Interviewed on April 8, 2008.

⁵ Kunselman, Steve. City Councilor (ward 3) Ann Arbor, Michigan. Interviewed on April 29, 2008.

increasingly popular, but not everyone likes the idea of chickens living in their neighborhood.

There are generally two sides to the chicken keeping issue: those who are for allowing *Gallus domesticus* in residential backyards, and those who are opposed. There are a variety of reasons why people want to keep chickens, ranging from having a safe source of protein to gaining a closer relationship to the food they consume. Those who are opposed to backyard chickens however, often express concerns about noise, smells, diseases, or the potential for chickens running loose. There is also debate between the two sides as to the appropriateness of chickens in a city environment and if chickens qualify as pets or livestock.

Chicken keeping in urban environments is nothing new, but it is now something that needs to be planned for in all major cities and small towns across the United States. As the interest in the local food movement continues to increase, and as citizens become more interested in growing their own food, municipalities will eventually be faced with the issue of regulating backyard chicken keeping within their city limits. Planning for chickens can either be pro-active on the part of the city council and planning staff, or reactionary as citizens will eventually bring the issue to city hall. Municipalities often do not know how to approach the chicken keeping issue, and this paper serves to provide some insight through an analysis of urban chicken ordinances from across the United States.

Research Methods

The main goal of this paper was to analyze how residential backyard chicken keeping is regulated through the examination of chicken ordinances from a variety of cities. To achieve this, data was gathered through the examination of residential chicken ordinances, as well as through a variety of interviews, newspaper articles, video footage, and other resources.

Residential chicken ordinances from over 30 cities were gathered, however only 25 of the cities allowed the keeping of chickens, so only those were used in the analysis (see

Appendix A). The ordinances were sourced from city web sites, online web ordinance databases, and other online sources (see Appendix B). In a few instances calls were made to city planning departments to verify language in the ordinances.

Interviews were conducted with the following city officials, urban chicken keepers, and urban food/gardening community organizations:

- Steve Kunselman, City Councilor (ward 3) Ann Arbor, Michigan. He proposed pro-chicken ordinances for Ann Arbor, which are being voted on in May of 2008.
- Thomas Kriese: An urban chicken keeper in Redwood, CA and writer about urban chickens at <http://myurbanchickens.blogspot.com/>
- Dennis Harrison-Noonan, urban chicken keeper, Madison, Wisconsin. He was involved in the adoption of pro-chicken ordinances for Madison.
- Debra Lippoldt, Executive Director of Growing Gardens, Portland, OR

These interviews served to provide personal insights into urban chicken keeping, stakeholder positions, and the urban chicken movement. The interviews were also crucial in receiving feedback about chicken ordinances and the process involved in legalizing chicken keeping.

Analysis

Of the 25 cities evaluated, no two were identical in their restrictions and allowances (see chart of detailed findings in Appendix A). There were, however, common regulatory themes that emerged from the set evaluated. These common themes are as follows:

- The number of birds permitted per household
- The regulation of roosters
- Permits and fees required for keeping chickens
- Chicken enclosure/containment restrictions
- Nuisance clauses related to chickens
- Slaughtering restrictions
- Coop distance restrictions in relation to homes or property lines

The findings of the above commonalities, as well as unique regulations that emerged, are discussed in detail below. The ease and accessibility of finding the ordinances is also discussed.

Number of Birds Permitted

Of the 25 cities evaluated, only 6 had unclear (or not specifically stated) regulations on the numbers of birds permitted, while 13 stated a specific number of birds. Of the remaining, 3 cities used lot size to determine the number of chickens permitted, 2 cities used distance from property lines as a determining factor, and 1 city placed no limit on the number of chickens allowed. Over half of the cities evaluated stated a specific number of allowable chickens, which ranged from 2 to 25 birds. The most common number of birds permitted was either 3 or 4 birds, which occurred in 8 cities.

The most common number of birds permitted was 3 or 4, which will supply on average between 1 and 2 dozen eggs per week. Depending on the size of the family in the household, this may be sufficient. In some cases however, 3 to 4 birds may not be enough for larger family sizes or allow for giving away eggs to neighbors. In cities where it is legal to sell your eggs at farmers markets, 3 or 4 birds would not be sufficient. So what is a good number of chickens to allow in residential backyards for home consumption? Thomas Kriese, an urban chicken keeper who writes online about chicken keeping and ordinances, feels that no more than 6 birds should be permitted. “That's approximately 3 dozen eggs a week which is a LOT of eggs to consume, plus that's a lot of food to go through, and excrement to clean up,” he stated in a personal correspondence.⁶

The answer of how many birds to allow is not an easy one, as other factors such as average property sizes and controlling for nuisances should be considered. A good example of how to address the issue surrounding the number of birds is Portland, Oregon's chicken ordinance. Portland allows the keeping of 3 birds per household; however you are allowed to apply for a permit to keep more (See Appendix A). In this case the ordinance is flexible, as a sufficient number of birds are permitted outright, and those wishing to keep more can apply to do so.

⁶ Kriese, Thomans. Urban chicken keeper, Redwood City, CA. Personal correspondence on April 28, 2008. His coverage of urban chicken ordinances is available online at <http://myurbanchickens.blogspot.com/>

Regulation of Roosters

The regulations regarding roosters were unclear in 14 cities and in 7 cities the keeping of roosters was not permitted. Of the remaining 4 in which the keeping of roosters was permitted, 1 city allowed roosters if kept a certain distance from neighbors residences, 1 allowed roosters only under 4 months of age, 1 allowed a single rooster per household, and 1 placed no restrictions.

Many cities choose to not allow the keeping of roosters, as neighbors often complain about the crowing which can occur at any hour of the day. Since one of the main reasons people choose to keep chickens is for the eggs, which roosters do not provide, it is generally accepted to only allow hens. In the case of Albuquerque, New Mexico, 1 rooster is allowed per household but it is still subject to noise ordinances (see Appendix A). So in this case, you can keep your rooster if your neighbors do not mind the crowing. This does allow people to have more choice, however it can also increase the costs associated with enforcing noise complaints.

Permits and Fees

The regulation of chickens through city permits and fees was unclear in 11 of the cities evaluated, while 4 required no permits or associated fees, and 10 required permits, fees, or both. The fees ranged from \$5.00 to \$40.00, and were either 1 time fees or annual fees. Of the 10 that required permits/fees, 3 required permits *only if* the number of birds exceeded a set amount which ranged from 3 to 6 birds. In two instances, it is also required that the birds be registered with the state department of agriculture.

Requiring a permit for chickens is no different than requiring one for dogs and cats, which is the case in most cities. From the perspective of affordable egg production however, attaching a large fee to the permit undermines that purpose. If a fee is too steep in price, it can exclude lower income populations from keeping chickens by increasing the costs of egg production. Fees may be necessary however to cover the associated costs for the municipality to regulate chickens. Another option, which was the approach of 3 cities, was to allow a certain number of birds with no permit/fee required, and anything

above that required a permit/fee. This allows equal participation and lowered costs, while still providing revenue for the regulation of larger bird populations.

Enclosure Requirements

In 9 cities the ordinances were unclear in regards to enclosure requirements or the allowance of free roaming chickens. Of the remaining, 2 had no restrictions and 14 required that chickens be enclosed and were not permitted to “run at large”. In one case, the approval of a coop building plan and use of certain materials was required.

Over half of the cities evaluated required that chickens be enclosed, and this regulation can help to alleviate the concerns of neighbors. Many chicken keepers want to keep their chickens confined in a coop and outdoor run, as this helps to protect them from predators. However, it is very restrictive to require confinement of chickens at all times, as many keepers enjoy watching their chickens free range about the yard. Just as there are regulations for leashing your dog, so too could there be regulation for only allowing chickens to roam in their own yard.

Requiring a building permit with specific material requirements, is also restrictive to lower income populations, and takes away from the sustainability of keeping chickens for eggs. In many cases, chicken coops are built with scrap materials and suit the design needs of the owner. Requiring a specific design or materials takes those choices away from the chicken keeper. Coops should be treated similar to dog houses, which are generally not subject to this type of regulation.

Nuisance Clauses

There were a variety of nuisance regulations stated in 17 of the cities evaluated, while the remaining 8 cities had unclear nuisance regulations. The nuisances that were stated in the 17 ordinances included one or more of the following: noise, smells, public health concerns, attracting flies and rodents, and cleanliness of coops/disposal of manure. Chicken keeping alone does not cause the nuisances listed above, but rather they result from improper care and maintenance which can sometimes occur.

A properly shaped ordinance can prevent potential nuisances by establishing clear guidelines for chicken care and maintenance, such as only allowing smaller sized flocks and not permitting roosters. An active community led education campaign, such as chicken keeping classes and coop tours, is another way in which to educate the public to ensure proper care and reduce the potential for nuisances. In many cities, chicken keeping community organizations have helped to educate the public on how to properly keep chickens within the limits of the law, thereby reducing nuisances and complaints.

Slaughtering Restrictions

Regulations regarding the slaughtering of chickens in residential areas were unclear in 19 of the cities evaluated. Of the remaining, 4 allowed slaughtering of chickens while 2 stated it was illegal to do so. This regulatory theme had the highest level of unknowns, most likely due to the issue not being included in the ordinance, or it being stated in another section of the general animal ordinances, and not referring specifically to chickens.

Although slaughtering chickens within city limits seems gruesome to some, others may wish to slaughter their birds for meat. Rogers, Arkansas for example, only allows the slaughtering to take place inside (Appendix C), which could help prevent neighbor complaints about the process. Allowing for slaughtering however, may also have its benefits, such as being a solution to aging urban chickens that no longer produce eggs.

Distance Restrictions

Distance restrictions between the location of the chicken coop and property lines, or coop and nearby residences, were stated in 16 of the ordinances evaluated. There were no restrictions in 3 of the ordinances and 5 were unclear. Of the 16 with distance restrictions, 12 were distances required from residences, while 3 were distances required from property lines. The distance required from property lines ranged from 10 to 90 feet, while the distances from residences ranged from 20 to 50 feet.

If a city chooses to have distance restrictions, the average lot sizes need to be taken into consideration. For example, Spokane, WA has a property line distance restriction of 90

feet (see Appendix A), which may be impossible to achieve in many residential yards. This large of a requirement would prevent many people from keeping chickens. The lower distance requirements, such as 10 or 20 feet are more feasible to achieve for those with smaller lot sizes. Distance requirements to neighboring homes (vs. property lines) are also easier to achieve as the distance considers part of the neighbors property in addition to the chicken keepers property.

Unique Regulations

All 25 ordinances evaluated had some combination of the above common themes, but there were also some unique regulations that one (or a few) cities had related to residential chicken keeping. These unique regulations are as follows:

- Chicken feed must be stored in rat proof containers
- Pro-chicken regulations are on a 1-year trial basis with only a set number of permits issued until the yearly re-evaluation.
- For every additional 1,000 sq. feet of property above a set minimum, 1 additional chicken may be added to the property.
- The allowance of chickens in multi-family zoned areas (allowance in single family zoning is most common)
- Coops must be mobile to protect turf and prevent the build up of pathogens and waste.
- Chickens must be provided with veterinary care if ill or injured
- Minimum square footage requirements per bird for coop/enclosure

The unique regulations listed offer some innovative solutions to possible issues such as pests and waste, as well as defining minimum space and health care standards for chickens. Some of these regulations also allow for more flexibility, such as extending the right to keep chickens to those living in multi-family dwelling units or allowing more birds on larger property sizes. In the case of Portland, ME, the permitting of chickens is on a trial basis, which may be a good option if a city wants to reevaluate residential chicken keeping after a certain time frame.

Locating and Understanding the Ordinances

Of the 25 pro-chicken ordinances, very few were actually easy to locate. In most cases, pages of code had to be searched in order to find the regulation and even then the chicken ordinances were often vague, incomplete, or regulations were spread throughout multiple sections of the code. This is an issue that should be considered, as unclear or hard to find ordinances can only lead to increased non-compliance.

The most easily accessible chicken ordinances were those specifically stated on city web pages, and those found through websites and literature from urban gardening organizations or community groups. One example of easily accessible ordinances is that of Rogers, Arkansas (Appendix C). Their chicken ordinance is not only easily accessible directly from the city website, but it is also clear and comprehensive. A clearly stated and easily accessible ordinance allows resident to know how they can keep chickens within the limits of the law, which can reduce complaints and other issues related to non-compliance.

Findings and Recommendations

“Issues such as rodent control are a real concern and the ordinance can have a positive influence on keeping an already urban issue from being exacerbated any more than it already is”.

- Debra Lippoldt, Executive Director of Growing Gardens, Portland, OR⁷

The original question for this paper was “What is a good urban chicken ordinance?” This was based on the idea of examining a variety of ordinances and then singling out those that were better than most and could serve as an example. After having conducted the analysis however, the question was changed to “What are the good components and considerations that make up a just and functional urban chicken ordinance?” There is no superior “one size fits all” ordinance to regulate urban chickens, as each city has different physical, environmental, social, and political needs.

Although each ordinance will be different from one city to the next, a pro-chicken ordinance should be built upon the following considerations:

⁷ Lippoldt, Debra. Executive Director of Growing Gardens, Portland, OR. Personal Correspondence on April 8, 2008.

- It satisfies the needs of most stakeholder groups and acknowledges that some stakeholders on both sides of the issue will be unwilling to compromise
- It does not discriminate against certain populations, such as those of lower incomes who can not afford high permitting fees, or those with smaller property sizes
- It allows for flexibility and provides choice, such as giving chicken keepers the right to choose their own coop design and building materials
- It allows for citizen input and participation in the ordinance forming process to assure that the ordinance fits the needs of , and is supported by the community
- It recognizes the role chickens can play in developing a more sustainable urban environment
- It recognizes the importance of the ordinance being clearly stated and easily accessible to the public, which will help ensure compliance and reduce violations.

The general considerations above are a good compliment to the specific allowances that each municipality chooses to fit its needs and that of its citizens. These specifics however can be more difficult to choose and looking to other cities as examples can provide insight into the best possible choices.

The evaluation of 25 different chicken ordinances showed a wide spectrum of choices that municipalities have made in the regulating of chickens. Looking at the number of chickens permitted, for example, cities ranged anywhere from 2 chickens to unlimited chickens. Only allowing for 2 chickens may not be an ideal choice, as they are social creatures and if one were to become ill and die, only one chicken would be left. Two chickens also do not produce enough eggs for a larger sized family. On the other hand, allowing for unlimited chickens may mean increased nuisance enforcement, or allowing for that many chickens may be met with increased public opposition. Often the average allowances found (not the most extremes) are the best choices of an example regulation for other cities to look to when considering the formation of their own chicken ordinance. In the case of the cities evaluated, the most common allowance was 4 to 6 birds, which can provide enough eggs for a family and does not highly increase the potential for nuisances. It also allows for a more sustained population if a bird becomes ill and dies.

Another example of the middle ground being a good option would be permitting and fees for keeping chickens. In some cities there were high fees for permitting, while in others no fee or permit was required. A few cities, which only required permits and fees if you have over a certain number of birds, show a good middle ground for how to permit chickens. That model allows for citizens to keep a certain number of chickens without added costs, while also creating revenue for enforcement and regulation when people choose to exceed that amount. Many cities are concerned over increased costs if chicken keeping is legalized, and this is one way to alleviate those concerns while still allowing citizens to keep chickens.

In some of the regulatory themes, such as in the examples above, the middle ground does provide a choice which can alleviate concerns while still allowing for the keeping of chickens. Other regulatory themes, such as the slaughtering of chickens, may come down to more of a yes or no answer, as was seen in many of the cities. In either case, if a city is going to adopt a pro-chicken ordinance, the most important part is to first allow for the keeping of chickens, with the understanding that the ordinance can be revisited and changed at a future time. Allowing for the keeping of chickens is the best way to see if the concerns surrounding chicken keeping ever come to fruition, and the ordinance can then be adjusted accordingly. In many cases, cities adopt a more restrictive ordinance as that is what will pass public approval and city council. Then as time passes with few complaints or nuisances, those regulations become more relaxed and tailored specifically to the needs of the city and its residents.

Conclusions

"It seems that if we want to be a town that does its part for sustainability, this is something we ought to consider. I think we want to allow folks to use their good judgment and move toward more sustainable food practices."

- Mayor John Engen, Missoula, MT⁸

Many cities and towns are now looking at how they can be more sustainable, and allowing urban chickens is one step towards that goal of increased sustainability. Not

⁸ Moore, Michael. Urban Chickens Scratching up a Controversy in Missoula. Available online at <http://www.missoula.com/news/node/226>

only can backyard chickens provide residents with a fresh and important food source, but they also bring about an increased awareness of our relationship to the food cycle. By forming a just and well thought out pro-chicken ordinance, cities can allow citizens the right to keep chickens while also addressing the concerns of other stakeholder groups. With that said, city councils should approach the issue of urban chicken keeping with a “how” rather than a “yes” or “no”, as a growing list of pro-chicken cities across the nation shows that it can be done successfully.

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(References for 25 City Ordinances: See Appendix B)

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Moore, Michael. Urban Chickens Scratching up a Controversy in Missoula. . Available online at <http://www.missoula.com/news/node/226>

Appendix A

25 Ordinances Analyzed

City/State	# of birds permitted	Roosters allowed	Permit/permit cost	Enclosure required	Nuisance clause	Slaughter permitted	Property line restrictions	Details or unique regulations
Los Angeles, CA	unclear	only if 100 ft from neighbors	unclear	unclear	Yes	unclear	20 ft from owners home, 35 ft from neighbors	
Rogers, AK	4	No	\$5/yr	Yes	Yes	inside only	25 ft from neighbors house	
Keywest, FL	unclear	Yes	None	Yes	Yes	No	No	Can't use droppings as fertilizer, feed must be stored in rat proof containers
Topeka, KS	unclear	unclear	unclear	Yes	Yes	unclear	50 ft from neighbors house	
South Portland, ME	6	No	\$25/yr	Yes, building permit required	Yes	unclear	Yes	On trial basis till November 2008, only 20 permits issued till yearly evaluation
Madison, WI	4	No	\$6/yr	Yes	Yes	No	25 ft from neighbors house	
New York, NY	No limit	No	Yes	No	Yes	unclear	No	
Albuquerque, NM	15	1 per household	None	No	Yes	Yes	No	
Portland, OR	3 without permit	unclear	\$31 one time fee for 4 +	Yes	Yes	unclear	unclear	
Seattle, WA	3	unclear	unclear	unclear	Yes	unclear	10 ft from property line	1 additional chicken per 1,000 sq ft of property above minimum
Spokane, WA	1 per 2,000 sq ft of land	unclear	unclear	unclear	unclear	unclear	90 ft from property line	Chickens allowed in multi-family zoned areas
San Antonio, TX	property line dependent	unclear	unclear	unclear	unclear	unclear	20 ft minimum from another dwelling	5 birds allowed 20 ft from home, 12 birds at 50 ft, 50 birds at 150 ft
Honolulu, HI	2	unclear	unclear	unclear	unclear	unclear	unclear	
Oakland, CA	unclear	No	unclear	unclear	unclear	unclear	20 ft minimum from another dwelling	
St. Louis, MO	4 max. without permit	unclear	\$40 permit for more than 4 birds	unclear	unclear	unclear	unclear	
San Diego, CA	25	unclear	unclear	unclear	Yes	unclear	50 ft from neighbors house	Feed must be stored in rat proof container
San Jose, CA	dependent on coop to property line	only roosters < 4 months old	permit needed for 6 or more birds	Yes	unclear	unclear	Ranges from 0 to 50 ft, determines # of birds	<15 ft = 0 birds allowed, 15 to 20 ft = 4 birds, etc, up to 50 ft = 25 birds
Austin, TX	unclear	unclear	unclear	unclear	unclear	Yes	50 ft from neighbors house	
Memphis, TN	unclear	unclear	unclear	Yes	Yes	Yes	unclear	Feed must be stored in rat proof container
Ft. Worth, TX	based on lot size	unclear	No	Yes	Yes	unclear	50 ft from neighbors house	<1/2 acre = 12 birds, >1/2 acre = 25 birds
Baltimore, MD	4	unclear	Must register with animal control and Dept of Ag.	Yes	Yes	unclear	25 ft from neighbors house	Coops must be mobile to prevent waste build up, minimum 2 sq ft/bird,
Charlotte, NC	based on lot size	unclear	\$40/yr	Yes	Yes	unclear	25 ft from property line	minimum 4 sq. ft/bird, no more than 20/acre
Missoula, MT	6	No	\$15 permit	Yes	Yes	unclear	20 ft from neighbors house	Feed must be stored in rat proof container
Boise, ID	3	No	unclear	Yes	unclear	unclear	unclear	
San Francisco, CA	4	Unclear	No	Yes	Yes	unclear	20 feet from door or window of residence	

Appendix B

Sources for 25 Ordinances

City/State	Source for Ordinance
Los Angeles, CA	Los Angeles Animal Services. http://www.laanimalservices.org/permitbook.pdf
Rogers, AK	Ordinance No. 06-100 http://www.rogersarkansas.com/clerk/chkordinance.asp
Keywest, FL	Part 2, Title 5 Section 62 www.keywestchickens.com/city
Topeka, KS	Section 18-291 www.municode.com
South Portland, ME	Chapter 3 Article 2 Section 3 http://www.southportland.org/index.asp?Type=B_LIST&SEC={93286E1E-9FF8-40D2-AC30-8840DEB23A29}
Madison, WI	http://www.madcitychickens.com/ and www.municode.com
New York, NY	Just Food's City Chicken Project. City Chicken Guide. Information available online at http://www.justfood.org/cityfarms/chickens/
Albuquerque, NM	City ordinance chapter 9, article 2, part 4, § 9-2-4-3, c-3 http://www.amlegal.com/albuquerque_nm/
Portland, OR	Ordinance 13.05.015 http://www.portlandonline.com/Auditor/index.cfm?c=28228#cid_13497
Seattle, WA	Ordinance 122311 section 23 www.seattleurbanfarmco.com/chickens
Spokane, WA	Title 17 Chapter 17C.310 Section 17C.310.100 http://www.spokanecity.org/services/documents/smc/?Section=17C.310.100
San Antonio, TX	Municipal code 10-112, Keeping of farm animals www.sanantonio.gov/animalcare/healthcode.asp
Honolulu, HI	Chapter 7 Section 7-2.5 www.honolulu.gov/refs/roh
Oakland, CA	Ordinance 6.04.320 www.oaklandanimalservices.org
St. Louis, MO	Ordinance 62853-7 www.slpl.lib.mo.us/ccco/code/data/t102001.htm
San Diego, CA	Ordinance 42.0709 http://docs.sandiego.gov/municode/municodechapter04/ch04art02division07.pdf
San Jose, CA	Ordinance 7.04.030, 140, & 150 www.sanjoseanimals.com/ordinances/sjmc7.04.htm
Austin, TX	Title 3 Chapter 3-2 www.amlegal.com/Austin-nxt/gateway.dll/Texas/austin
Memphis, TN	Title 9 Chapter 9-80-2, 9-68-7 http://municipalcodes.lexisnexis.com
Ft. Worth, TX	Section 11A-22a www.municode.com
Baltimore, MD	Baltimore City Health Code Title 2-106; Title 10, Subtitles 1 and 3 www.baltimorehealth.org/press/2007_02_02_AnimalRegs.pdf
Charlotte, NC	Section 3-102 http://www.charmeck.org/departments/animal+control/local+ordinances/permits/htm and municode.com
Missoula, MT	Ordinance Chapter 6 Section 6-12 ftp://www.ci.missoula.mt.us/Packets/Council/2007/2007-12-17/Chicken_Ordinance.pdf
Boise, ID	Chapter 6 Section 14 http://www.cityofboise.org/city_clerk/citycode/0614.pdf and http://home.centurytel.net/thecitychicken/chickenlaws.html
San Francisco, CA	San Francisco Municipal Health Code Section 37 http://sfgov.org/site/acc_page.asp?id=5476

Appendix C
Example ordinance
Rogers, AK

ORDINANCE NO. 06- 100

AN ORDINANCE REGULATING THE CONTAINMENT OF FOWL AND OTHER ANIMALS WITHIN THE CORPORATE LIMITS OF THE CITY OF ROGERS; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:

Section 1: It shall be unlawful for any person to permit or allow any domesticated fowl to run at large within the corporate limits of the city. It shall be lawful to keep poultry flocks of any size in A-I zones of the city, so long as they are confined.

Section 2: It shall be lawful for any person to keep, permit or allow any fowl within the corporate limits of the city in all other zones, except A-I, under the following terms and conditions:

- a. No more than four (4) hens shall be allowed for each single-family dwelling. No birds shall be allowed in multi-family complexes, including duplexes.
- b. No roosters shall be allowed.
- c. There shall be no outside slaughtering of birds.
- d. All fowl must be kept at all times in a secure enclosure constructed at least two feet above the surface of the ground.
- e. Enclosures must be situated at least 25 feet from the nearest neighbor's residence.
- f. Enclosures must be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent offensive odors.
- g. Persons wishing to keep fowl within the city must obtain a permit from the Office of the City Clerk, after an inspection and approval by the Office of Animal Control, and must pay a \$5.00 annual fee.

Section 3: The above Section 2 is not intended to apply to the 'ducks and geese in Lake Atalanta Park, nor to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to poultry kept in areas of the City which are zoned A-I.

Section 4: Fowl currently existing in the city shall not be "grandfathered" or permitted to remain after the effective date of this Ordinance; however, owners of the poultry will have 90 days from the effective date to come into compliance with this ordinance.

Source: <http://www.rogersarkansas.com/clerk/chkordinance.asp>

ZONING **PRACTICE** APRIL 2013

AMERICAN PLANNING ASSOCIATION



➔ ISSUE NUMBER 4

PRACTICE URBAN LIVESTOCK



4

Urban Micro-Livestock Ordinances: Regulating Backyard Animal Husbandry

By Jaime Bouvier

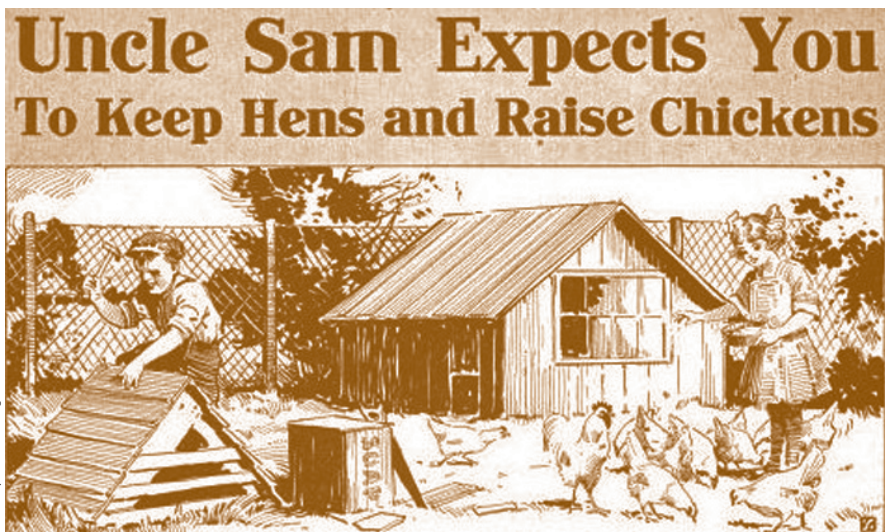
While small farm animals never completely disappeared from most cities, a growing number of communities are revisiting their animal control and zoning regulations in response to a renewed interest in chickens, bees, and goats among urban agriculture practitioners and backyard hobbyists.

This article explores how small farm animals (i.e., micro-livestock) can and already do coexist in urban environments, and it examines the regulatory tools cities use to sanction and control backyard animal husbandry. The following sections are intended to serve as a guide for local governments considering legalizing and regulating this budding hobby.

WHAT IS MICRO-LIVESTOCK?

There is no universal definition of micro-livestock. It often just means small animals—like chickens, ducks, quail, and rabbits. It can also mean breeds that are smaller than average—such as bantam chickens, Nigerian Dwarf goats, or Red Panda cows. Finally, it can mean an animal of what is normally a large breed that just happens to be small. Many international organizations have long championed raising micro-livestock in cities to provide a secure and safe local food source. Because they require less food and water, are often especially hardy breeds, and their small size makes them ideal for small lots, micro-livestock are especially well suited to urban living.

Right now, most attempts to legalize micro-livestock focus on chickens, goats, and bees. Although rabbits are micro-livestock, they have caused less controversy. Perhaps because they are more accepted as pets, they were never made illegal in many cities. Very small pigs, like the pot-bellied pig, have also been accepted in many cities



U.S. Department of Agriculture

🕒 During World War II, the U.S. government framed backyard chicken keeping as a patriotic duty.

as a pet; because they are not being raised for bacon, people don't think of them as livestock. There has been some move to legalize miniature horses as guide animals for the blind and disabled. Other animals, like miniature hogs, cows, or sheep, may also be suitable for city life under the right circumstances, but fewer people are advocating for them.

A SHORT HISTORY OF URBAN HENS AND OTHER MICRO-LIVESTOCK.

Although micro-livestock never disappeared from cities altogether, they used

to be an accepted and even encouraged part of urban life. For example, during the Victory Garden campaign, when the U.S. government urged American citizens to grow more of their own food to support the war, the government encouraged people to keep and raise chickens.

As it became cheaper and more convenient to buy food from a grocery store, it became less common to see livestock in the city. While many people believe that livestock became illegal because they were a nuisance, there is little evidence that this was the case—especially when just

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About the Author

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a few animals were kept. Instead, exiling livestock was partially a class-based phenomenon. Excluding animals that were seen as productive, that is animals kept for food purposes, was a way to exclude the poor. Animals that came to be viewed as nonproductive, such as dogs and cats, required money to keep and did not have the same associations. By illegalizing behavior associated with the recently rural and poor, a city could present itself as prosperous and progressive.

The desire to exclude the poor is a reason why ordinances making livestock illegal are often found in suburbs and even exurbs where the lot sizes are especially conducive to raising animals. It is also a reason why changing the regulations, even in such suburbs, is often especially contentious.

Now, however, raising livestock is becoming an activity that many young, educated, middle-class people seek out. The association between micro-livestock and poverty is no longer relevant. And distinguishing cities and suburbs from rural occupations is no longer universally seen as a sign of progress. In fact, many view a well-regulated return of micro-livestock to the cities and suburbs as embracing progressive values. And legalizing micro-livestock can actually attract people who seek to live in a place that supports the close-knit communities that this hobby creates.

MICRO-LIVESTOCK COMMUNITIES

Communities are essential to the micro-livestock movement. They provide much-needed support for people to discuss common problems and share interests.

Many communities began as a few people who already raised chickens, or goats, or bees—in violation of city law. They organized to legalize their animals. One of the leading examples of this is a group called Mad City Chickens in Madison, Wisconsin. Members of the group who kept chickens illegally, the self-described “Chicken Underground,” were

**Many communities
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people who already
raised chickens, or
goats, or bees—in
violation of city law.**

generally law-abiding citizens uncomfortable with their outlaw status. They did not understand why raising chickens in a way that did not bother their neighbors should be illegal. In 2004, in response to the group’s lobbying efforts, Madison amended its zoning ordinance to allow chickens (and, subsequently, bees in 2012). Their lobbying efforts became the focus of a film, also titled *Mad City Chickens*, and have been a model for other groups seeking to legalize micro-livestock, such as the New York City Beekeepers Association and Seattle’s Goat Justice League.

These groups’ stories show that many people already keep micro-livestock in cities whether or not they are legal. It also shows that once citizens and city leaders are educated about these animals and shown how

they can, and already do, peacefully coexist in cities, they often will legalize these animals. Finally, it shows that cities are better off reasonably regulating micro-livestock, rather than forcing hobbyists out of their cities or underground.

CHICKENS, GOATS, AND BEES: BENEFITS

The main benefits to keeping chickens, goats, and bees is not so much to eat the animal itself, though people do eat chickens and goats. The main benefit is to eat the food they produce: eggs, milk, and honey. There is good research to show that backyard eggs are tastier and have more nutrients than store-bought ones. Milk from backyard goats, moreover, tastes better because goat milk does not store or ship well. It is also, arguably, easier to digest for those who cannot drink cow’s milk. Goat hair is a prized material for making cashmere and mohair fabric. Manure from these animals is an excellent, and surprisingly pricey, fertilizer. Many people also value these animals for their companionship and become as close to them as they do any other pet. Finally, backyard and hobbyist livestock keepers ensure a diverse and more robust population of animals, ensuring the propagation of breeds that are not valued commercially but may become important if commercial breeds, because of genetic uniformity, become threatened by disease.

Apart from honey, keeping bees in urban areas has two main benefits: pollination services and ensuring an extant bee population. Honeybees pollinate two-thirds of our food crops and in recent years have suffered devastating losses. Some experts assert that these losses are caused or exac-

erbated by the use of pesticides, the stress of constant travel to different farms to pollinate crops, and the lack of plant diversity in rural environments. Thus, hobbyist beekeepers who do not subject their hives to such stressors may prove to be a haven for the continued existence of honeybees.

CHICKENS, GOATS, AND BEES: CONCERNS

Concerns about chickens and goats generally boil down to three things: odor, noise, and disease. None of these provide a reason to ban hens and does, but roosters can be too noisy and a ratty buck may be too smelly for dense urban environments.

Contrary to popular myth, roosters do not just crow in the morning to greet the rising sun—roosters crow all day. Hens do not need roosters to lay eggs; roosters are only necessary to fertilize the eggs. Hens are generally quiet, but when they do cluck, the resulting noise is about the same decibel level as a quiet human conversation. And, as long as a chicken coop is regularly cleaned and adequately ventilated, a small flock of hens will not be smelly.

Goats, too, are not generally noisy animals. While a goat may bleat, the sound is generally far less than the noise of a barking dog. Some goats, just like dogs or cats, are noisier than others. And, as for odor, female goats (does) and neutered male goats (wethers) do not smell. Male goats (bucks), during the mating season, do smell. The gamy odor of a ratty buck is the smell many associate with goats. While it is necessary for a doe to mate with a buck and deliver a kid to lactate and provide milk, this can be arranged with a stud-buck kept in more rural environs.

Finally, there is the issue of disease. As with any animal, including dogs and cats, disease can be spread through feces. Regular cleaning and straightforward sanitation practices, such as hand washing, can take care of this issue. While concerns about backyard chickens spreading avian flu have surfaced in some communities, the kind of avian flu that can cross over to humans has not yet been found in North America. And neither the Centers for Disease Control nor the Department of Agriculture have asserted that the possibility of bird flu is a reason to ban backyard hen keeping. Public health scholars have concluded that backyard chickens present no greater threat to public health than other more common pets like dogs and cats.

The major objection to honeybees is the fear of being stung. Here, it is important to understand the distinction between bees and wasps. Honeybees are defensive; they will not bother others unless they are threatened. A honeybee's stinger is attached to the entrails, so it will die if it stings. Bees want pollen; they are not interested in human food. Wasps, by contrast, are predatory, can sting repeatedly with little consequence, and are attracted to human food. Many people confuse fuzzy honeybees with smooth-skinned yellow jackets, a kind of wasp that forms papery hives. People do not keep wasps because they are not effective pollinators and do not produce honey.

A connected objection is a fear of a swarm. A swarm is a group of bees traveling to establish a new hive. While a swarm can be intimidating, before bees swarm they gorge on honey to prepare for the trip, which makes them particularly lazy and docile. Unless attacked or bothered, they will follow a scout bee to a new location within a few hours to a day.

§451 et seq.; 21 U.S.C., §1031 et seq.; and 21 U.S.C. §601 et seq.). The FDA requires that all milk be pasteurized, including goat milk (21 C.F.R. §1240.61) and regulates nutrition and information labeling of honey (21 U.S.C. §§342–343). Many of these laws have exceptions for animals and animal products raised for home consumption, but someone who wants to raise eggs, milk, or meat for sale or distribution would need to comply.

Most states have laws regulating the movement of livestock, including chickens, goats, and bees, into and out of the state. To track and attempt to control some diseases associated with livestock and bees, some states either require or encourage keepers of livestock and beekeepers, even backyard hobbyists, to register their premises with the state. Other states only ask to be alerted if a particular disease is found. Many states also have laws regulating the slaughter and sale of any animal used for meat, as well as laws regulating the sale of eggs, milk, and milk products. While these, also, generally have exceptions for home consumption, they will apply to sales. Often state agricultural

Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock.

AGRICULTURAL BASICS FOR CITIES CONSIDERING LEGALIZING MICRO-LIVESTOCK

Chickens and goats require companionship. As a consequence, cities should allow a minimum of four hens and two does. This ensures that the city is not interfering with good animal husbandry practices.

And, while bees never lack for companionship, it is a good idea to allow beekeepers to have more than one hive. This allows the beekeeper to better inspect for and maintain hive health. Cities should not be overly concerned that hives kept too close together will compete for food—honeybees fly up to a three-mile radius from the hive to find pollen.

FEDERAL AND STATE LAW CONSIDERATIONS

Before drafting an ordinance, local governments should be aware that federal and state laws already regulate livestock. The federal government regulates the sale, processing, labeling, and transportation of chickens, eggs, and other meats (21 U.S.C.

extension services will have online information pages describing the regulations and exemptions for hobbyists.

For beekeeping, however, a few states have passed laws that interfere with a local government's ability to regulate. Wyoming, for instance, controls how close together apiaries (an area with one or more beehives) may be located (Wyo. Stat. Ann. §11-7-201). In June 2011, Tennessee preempted all local government ordinances regulating honeybee hives (Tenn. Code. Ann. §44-15-124). And in July 2012, Florida also preempted all local government ordinances regulating managed honeybee colonies or determining where they can be located (Fla. Stat. §§586.055 & 586.10).

COMMON ASPECTS OF URBAN MICRO-LIVESTOCK REGULATION

In the cities that have recently passed ordinances regulating micro-livestock, the ordinances are all quite different. No standard ordinance has yet been established.



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- Portland, Oregon, allows up to three pygmy goats in a residential backyard without a permit (§13.05.015.E).

There are, however, many common aspects to these regulations. Most of them limit the number and type of livestock that can be kept in the city, establish setbacks for where the animals can be kept on the property, and require a certain amount of space per animal. Some also require a license.

Micro-Livestock Standards

Most cities have not taken a comprehensive regulatory approach to micro-livestock, but appear to allow particular livestock in response to citizen lobbying. Hundreds of cities have legalized chickens in the past few years. And the growing popularity of beekeeping means many cities have also adopted separate ordinances to allow for it. For example, South Portland, Maine (§§3-51 & 3-710; Cary, North Carolina (§5.3.4(I) & (O)); Ypsilanti, Michigan (§§14-13 & 14-171); and Littleton, Colorado (§§10-4-4 & 10-4-14) have recently passed ordinances separately allowing for both chickens and bees.

Some cities make idiosyncratic choices. For example, Ponca City, Oklahoma, allows miniature horses and donkeys, but still bans all other fowl and livestock (§7-3-10). Sebring, Florida, allows two hens and

two pot-bellied pigs (§4-1). And Carson City, Nevada, allows chickens, pigs, rabbits, and bees, but no goats (§§7.02 & 7.13.190).

And some only allow goats. In 2011, Loveland, Ohio, allowed two pygmy goats on residential properties of any size (§505.16). It defines pygmy as a goat no heavier than 60 pounds. The choice of such a light weight is curious, given that many micro-goat breeds weigh more than 60 pounds. Also, many breeds of dogs weigh up to three times as much, but most cities do not restrict the size of dogs. In 2010, Carl Junction, Missouri, allowed just one pygmy goat on a property of any size (§205.200(C)). Because goats are herd animals, this limit encourages poor animal husbandry practices.

Meanwhile, many cities are legalizing a wider variety of livestock. For example, Denver allows up to eight ducks or chickens and up to two dwarf goats and two beehives (§8-91; §11.8.5.1). But it requires 16 square feet of permeable land available to each chicken and 130 square feet for each goat. The city also requires adequate shelter to protect the animals from the elements and from predators. This means that to keep the full complement of eight chickens and two

goats, the yard would have to have approximately 400 square feet of space. For chickens, ducks, and goats, Denver has a 15-foot setback from neighboring structures used for dwelling and requires that the animals be kept in the rear half of the lot. For bees, Denver has a five-foot setback from any property line and requires that hives be kept in the back third of the lot.

Seattle allows up to eight domestic fowl, four beehives, one potbelly pig, and two pygmy goats, or no pig and three pygmy goats, on any lot (§23.42.052). It then employs a step system for additional animals. For lots larger than 20,000 square feet, an additional small animal—which means a dog, cat, or goat, may be kept on the lot. Seattle also allows other farm animals, including cows, horses, or sheep, to be kept on lots that are greater than 20,000 square feet. Seattle allows one of these animals per 10,000 square feet. Also, it has a 50-foot setback from the neighboring property for all farm animals, not including potbelly pigs, fowl, or miniature goats. Finally, Seattle has a separate ordinance that restricts goats to their premises, “except for purposes of transport or when on property other than

that of the miniature goat's owner with the permission of a lawful occupant of that property" (§ 9.25.084(H)).

Cleveland has a slightly more complex ordinance in that it has different regulations for residential and nonresidential districts (§347.02). It also employs a step system, allowing one animal per a certain number of square feet. In residential districts, it allows one hen, duck, rabbit, or similar animal per 800 square feet, and one beehive per 2,400 square feet. The ordinance spells out that a standard residential lot in Cleveland is 4,800 square feet, so most households could keep up to six hens and two beehives. Setbacks for hens are five feet from the side-yard line and 18 inches from the rear-yard line. Setbacks for bees are five feet from the lot line and 10 feet from any dwelling on another parcel. Neither animal is allowed in the front or side yard. Cleveland only allows goats, pigs, sheep, or similar farm animals on lots that have at least 24,000 square feet (i.e., a little more than a half-acre). If a lot is that size or larger, two of these animals will be allowed, with an additional one for each additional 2,400 square feet. Enclosures for these animals must be set back 40 feet from the property line and at least 100 feet from the dwelling of another.

In Cleveland, the nonresidential districts are less restrictive, with one chicken, duck, or rabbit per 400 square feet, one beehive per 1,000 square feet, and one goat, pig, or sheep per 14,400 square feet. This can allow for more intensive operations in less populated areas—and also opens the area to urban farms.

Hillsboro, Oregon, and El Cerrito, California, employ similar step systems. El Cerrito allows three hens as long as the property is at least 4,000 square feet (§7.08.020). Hillsboro allows three hens as long as the property is 7,000 square feet (§6.20.070). Both cities require at least 10,000 square feet to keep goats, but Hillsboro limits goats to two, and El Cerrito does not appear to limit them. El Cerrito, however, does require an administrative use permit to keep goats and allows for a conditional use permit to keep goats on a smaller parcel of land. El Cerrito requires a property of at least 5,000 square feet to keep one beehive. That beehive must be 20 feet from an adjacent dwelling and 10 feet from the property line. Hillsboro allows up to three beehives on any size residential property with a setback of 10 feet from the property line.

Vancouver, Washington, is an example of a less restrictive ordinance (§20.895.050). It allows up to three goats, if they weigh less than 100 pounds, on any size property. It also allows chickens, ducks, geese, or rabbits on any size lot with no numerical restriction. It does provide in the ordinance that the keeping of animals is subject to already existing nuisance requirements.

Roosters and Bucks

Most of these cities prohibit roosters and male goats (or bucks). Hillsboro prohibits roosters and uncastrated male goats with no exceptions. Seattle also prohibits roosters and uncastrated males but has an exception for nursing offspring that are less than 12 weeks old. Denver does the same but only until they are six weeks old. El Cerrito prohibits roosters but does not say anything about the gender of the goats it allows. And Cleveland has a more complicated system, in that it will allow roosters,

the license on those grounds (§205.04). The department also notifies neighbors about the license application and waits at least 21 days to hear back from them. The director can consider any evidence that the neighbors submit concerning nuisance, unsanitary, or unsafe conditions. To determine whether to grant the license, and any time after the license is granted, the department can inspect the property and enforce any penalties for violating sanitation or nuisance regulations.

Ellensburg, Washington, has an interesting ordinance in that it requires a license for dogs and cats, but does not require a license to keep up to two beehives and four hens (§§5.30.260 & 5.30.310). Seattle, likewise, requires a license for dogs, cats, pigs, and goats, but does not require one for chickens or bees (§9.25.050).

After restricting livestock to property with three acres or more, Pittsburgh amended its ordinance to allow chickens

**Some cities require a permit or license . . .
[which] are relatively straightforward and do
not allow for much discretion on the part of the
official who issues it.**

but only on property that is at least one acre in size with a 100-foot setback from the property line for the coop. Cleveland, like El Cerrito, does not say anything about goat gender.

Licensing

Some cities require a permit or license. Most of these permits are relatively straightforward and do not allow for much discretion on the part of the official who issues it. For instance, Denver requires a livestock or fowl permit to keep chickens or goats but requires no more than the provisions of the ordinance be met and a fee be paid to acquire the license. The city charges \$100 annually for a livestock permit and \$50 annually for a fowl permit.

Cleveland also requires a license. Its health department issues a two-year license to keep any type of livestock, including chickens and bees. In issuing the license the director of public health must consider evidence of "nuisance or conditions that are unsafe or unsanitary" and any "recorded violations" and may deny

and bees in 2011 (§912.07). It allows three hens and two beehives per 2,000 square feet on occupied, residentially zoned lots. It allows one more bird and hive for each additional 1,000 square feet. However, it requires the home owner to seek a special exception to keep livestock as an accessory use (§922.07). The special exception requires the zoning board of adjustment to hold a public hearing, to make findings of fact, and issue a written decision within 45 days of the hearing. This allows it to reevaluate and reweigh all of the concerns with raising chickens and bees in the city, even though the city council had already made the legislative determination and established criteria for when and where it was legal to do so. This puts a substantial burden on each home owner to fully argue the case before each iteration of the board. It also uses up considerable city resources.

COMMON AND LESS COMMON BEE PROVISIONS

Some cities never made keeping bees illegal, and do not regulate the practice.



Michael Aras

→ Chicago allows up to five bee colonies in a residential backyard without a permit (§17-17-0270.7).

Among cities that do regulate beekeeping, flyway barriers and a source of fresh water are common requirements. Flyway barriers force bees to fly up over the heads of people so that they do not establish flight paths through a neighbor's property or populated sidewalks, streets, or parks. Bees require water; if a beekeeper does not provide it, bees will frequently use a close source, like a neighbor's pool.

Concerning flyway barriers, Cleveland requires a fence or a dense hedge of at least six feet in height within five feet of the hive and extending at least two feet on either side. However, it does not require a flyway barrier if the hive is at least 25 feet from the property line or on a porch or balcony at least 10 feet from the ground. South Portland, Maine, has a similar flyway barrier standard, but requires it to extend at least 10 feet in each direction. And Carson City, Nevada, requires the flyway barrier to "surround" the hive on any side that is within 25 feet of a property line. Neither South Portland nor Carson City has exceptions for balcony or rooftop hives.

Concerning a water source, Ellensburg, Washington, requires "a consistent source of water . . . at the apiary when bees are

flying unless it occurs naturally. The water may be 'sweetened' with mineral salt or chlorine to enhance its attractiveness." Cleveland requires a freshwater source to be maintained "throughout the day." And Carson City requires water only from April 1 to September 30.

As for less common provisions, Ellensburg, Washington, requires that all hives "consist of moveable frames and

combs." Cleveland prohibits Africanized bees. Africanized bees have only been found in a few southern states; beekeepers, moreover, do not seek to keep Africanized bees. Boise, Idaho, prohibits Africanized bees, as well as wasps and hornets (§11-09-11.03). This is peculiar; people do not keep wasps or hornets because they do not provide honey or pollination services. Boise and Carson City require a queen to be removed if the hive shows "unusually aggressive characteristics." And Carson City requires the new queen to be chosen from "stock bred for gentleness and non-swarming characteristics." Carson City only allows honey to be extracted "where there is no access by bees before, during, or after the extraction process." Carson City also requires any hive found to be diseased to be either "treated so as to completely eradicate the disease" or destroyed at the owner's expense. Finally, both Carson City and Ellensburg provide that abandoned hives are to be considered nuisances.

RECOMMENDATIONS

Of the ordinances discussed above, two stand out as potential models: Denver's and Seattle's. These ordinances show that the trend, over time, is to simplify regulations. Local governments seeking to regulate these practices should consider how much they are prepared to spend, in terms of resources, on licensing or monitoring these practices given the relatively small degree of actual nuisance they cause. Governments should also keep in mind that straightforward ordinances following developing norms will be easier to follow and easier to enforce.

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VOL. 30, NO. 4

Zoning Practice is a monthly publication of the American Planning Association. Subscriptions are available for \$95 (U.S.) and \$120 (foreign). W. Paul Farmer, FAICP, Chief Executive Officer; William R. Klein, AICP, Director of Research

Zoning Practice (ISSN 1548-0135) is produced at APA. Jim Schwab, AICP, and David Morley, AICP, Editors; Julie Von Bergen, Assistant Editor; Lisa Barton, Design and Production.

Missing and damaged print issues: Contact Customer Service, American Planning Association, 205 N. Michigan Ave., Suite 1200, Chicago, IL 60601 (312-431-9100 or customerservice@planning.org) within 90 days of the publication date. Include the name of the publication, year, volume and issue number or month, and your name, mailing address, and membership number if applicable.

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Printed on recycled paper, including 50-70% recycled fiber and 10% postconsumer waste.

ZONING PRACTICE
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HOW DOES YOUR COMMUNITY
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