

# Agenda

## Planning Commission - Title 49 Committee City and Borough of Juneau

October 15, 2018  
Marine View Building 4th Floor Conference Room  
12:00 PM

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. AGENDA TOPICS
  - A. Urban Agriculture
  - B. AME2018 0005: Common Walls
- IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS
- V. ADJOURNMENT



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October 11, 2018

**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

**Attachments:** **Attachment A** – Juneau Commission on Sustainability (JCOS) proposed Livestock ordinance

**Attachment B** – minutes from April 26, 2017 Title 49 Committee meeting to review a draft ordinance proposal. Minor amendments were made by JCOS to incorporate feedback from Title 49.

**Attachment C** – Briefing note on zoning practice for micro livestock ordinances

**Attachment D** – Review of 25 urban chicken ordinances

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**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 took feedback received from the Title 49 on April 26, 2017 and they amended the proposed ordinance to take into account the recommendations before JCOS gave final approval to the recommendation. JCOS would like to take the recommendation to the Planning Commission for discussion and hopefully recommendation to the Assembly. The CBJ Law department have also been 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 keeping<sup>1</sup>:

- *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.

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

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.
- *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.
- Prior to 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 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 though 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 (there was 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 of the sexes. For example, for ducks, the females are often louder than males.

*UPDATE: On advice from the Title 49 Committee, the allowance of Roosters has been restricted to RR, D1, D3 and Industrial if certain buffer distances can be met, or with a Conditional Use permit in D5 to at least provide same allowances as the current code. The option for a Conditional Use permit is available in these zoning districts if they want to exceed the number of roosters or be at a lesser buffer distance.*

***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 is currently allowed where the 100 foot buffer from the nearest dwelling is met.***

***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: This will allow a doubling of poultry on a lot. 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.

*UPDATE: On the advice of the Title 49 Committee, rabbits have now been placed under the same requirements as poultry due to their lesser chance of causing odor and noise nuisance.*

### **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 a lot to another person would mean the standard approach of providing buffers and determining the maximum number of livestock would be enforced.

### **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.

At a public meeting organized by JCOS in Fall 2017 to take feedback on the ordinance proposal, Stephanie Sell Wildlife Biologist with Alaska Department of Fish & Game, recommended that bear fences might be an appropriate requirement where bears are known to frequent the area or are taking an interest in livestock. The Livestock Committee had considered as part of the ordinance discussions and it was felt that mandatory electric fences were unnecessary but should be implemented if it became apparent predators were becoming interested in livestock. It was felt that this would be largely self-regulating as a responsible keeper would not want to lose livestock.

### 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 lines? 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, structures related to the keeping of livestock must adhere to building setbacks. Relevant exceptions for unheated structure would still apply if livestock 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 it 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 in 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 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 are 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 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.

### **3.2.9 Enforcement and 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 the Land Use Code's existing enforcement requirements.

CDD will be responsible for complaints under these livestock provisions with animal welfare and noise concerns dealt with in responsibility of Animal Control as is currently the case. Obviously there will be a close working relationship between the two.

The standard Land Use Code enforcement provisions should be followed. Some amount of commonsense grace period to rectify any complaints of issues should be given.

### **3.2.10 Nonconforming situations**

It is proposed that nonconforming situations can be continued under the proposed provisions with no timeframe for them to be brought into conformity. The burden of proof that they had a nonconforming situation prior to adoption rests with the keeper.

*Note: One thing we might want to change is requiring certain aspects to be conformed to after a certain time such as buffer distances but other things like number of animals and location to continue as nonconformities.*

## **3.3 Beekeeping**

During the course of working on 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.

## **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 [Land Use Code](#) 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 6.53: 7/20/17)

			Zones														
	Use Description		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU 2	WC	WI	I
14.200	<del>Commercial agricultural operations</del> Agricultural operations																
	14.210	<del>Excluding farm animals</del> Commercial agriculture excluding livestock	1, 3	1, 3	3	3	3	3	3	3	3	3					1, 3
	<del>14.220</del>	<del>Including farm animals<sup>M</sup></del>	<del>1, 3</del>	<del>3</del>													<del>1, 3</del>
	<del>14.230</del>	<del>Stabling of farm animals<sup>M</sup></del>	<del>3</del>	<del>3</del>	<del>3</del>	<del>3</del>					<del>3</del>	<del>3</del>					<del>1, 3</del>
	14.220	Poultry – number of poultry and buffer distance as required by specified use <sup>M</sup>	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
	14.221	Poultry - above number of poultry allowed OR less than buffer distance allowed by specified use <sup>M</sup>	1,3	3	3	3	3	3	3	3	3	3					1,3
	14.222	Roosters - number of roosters and buffer distance as required by specified use <sup>M</sup>	1	1	1	3					3	3					1
	14.223	Roosters – above number of roosters OR less than buffer distance allowed by specified use <sup>M</sup>	1,3	3	3	3					3	3					1,3
	14.224	Small livestock - number of small livestock and buffer distance as required by specified use <sup>M</sup>	1	1	1	1	3	3	3	3	1	1					1
	14.225	Small livestock - above number of small animals allowed OR less than buffer distance allowed by specified use <sup>M</sup>	1,3	3	3	3	3	3	3	3	3	3					1,3
	14.226	Large livestock – number of large livestock and buffer distance as required by specified use <sup>M</sup>	1	1	1	1	3	3	3		1	1					1
	14.227	Large livestock - above number of large livestock allowed OR less than buffer distance required by specified use <sup>M</sup>	1,3	3	3	3	3	3	3		3	3					1,3
	14.228	Beekeeping – number of hives as allowed under specified use	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1

			Zones														
Use Description			RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU 2	WC	WI	I
14.229	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

**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 – Specified use requirements apply – see Section ??? for allowance on number of livestock animals, minimum buffer distances, and required practices. Minor developments under 14.221, 14.223, 14.225 or 14.227 in RR or I zoning districts must meet required buffer distances otherwise a conditional use permit is 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 number of farm animals.~~

**Defintions**

*Agricultural operations* means the growing or harvesting of crops (excluding siviculture), the raising of plants at wholesale nurseries, but not retail nurseries, for the primary purpose of making a profit or providing a livelihood; or the raising of livestock for any purpose. See *Livestock*.

*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 ability to crow or behavior such as egg laying.

*Rooster* means adult male chicken where the maturity and sex can be determined by its appearance *and* ability to crow.

*Rabbit* means rabbits, hares, and similar long-eared, burrowing animals of any age.

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

*Small livestock* means livestock under 200 pounds in weight; excluding poultry, rabbits, and unneutered male or horned goats.

*Large livestock* means all livestock that are not poultry, rabbits, or small livestock.

*Compliance officer* means any person appointed by the Manager to represent CBJ to enforce on the requirements of this Title

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

*Keeper* means any person, group of persons, partnership, firm, trust or corporation owning, having an interest in, or having control, custody or possession of any animal and includes any adult member of a family or group of persons sharing a residential unit where another member of the family or group has an interest in, has control, custody or possession of an animal which is kept in or on the premises of the shared residential unit. "Keeper" does not include a person who voluntarily undertakes the temporary care of an animal that is otherwise abandoned.

*Horseback riding stable* - A structure and/or use of land where four (4) or more horses or ponies are kept, maintained and/or boarded for profit, or in connection with which saddle horses or ponies are rented to the general public, made available to members of a private club, or boarded for the convenience of their absentee owners. Exercise rings and show rings shall be considered uses accessory to the use of the premises of a stable. Other keeping of horses falls under livestock provisions of this Title.

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

#### **49.65 Specified Use requirements**

### **ARTICLE XII KEEPING OF LIVESTOCK**

#### **49.65.1100 Purpose**

(a) The purpose of this section is to provide for the small scale keeping of livestock and bees that has low impact on neighboring properties and the environment, minimizes risk to public health and safety, and ensures livestock is kept in a humane manner.

#### **49.65.1105 Number of animals**

(a) The number of livestock animals on a lot shall be determined as follows for each livestock category:

(1) *Poultry and more than four rabbits* – up to **4** rabbits or **3** non-juvenile poultry birds may be kept on any lot. 1 additional rabbit or non-juvenile poultry bird may be kept for every 1000 square feet of lot size up to a combined maximum of **20** rabbits or non-juvenile poultry per lot. The same number of juvenile poultry birds may also be kept on the lot. *Four or less rabbits* shall be considered to be pets and not subject to livestock provisions of this article but will be considered livestock when more than four rabbits are present on the lot.

(A) *Roosters* – 1 Rooster is allowed up for lots 20,000 square feet or less in size. Additional roosters are allowed for every additional 20,000 square feet. The number of roosters shall be included in the total number of poultry that may be kept.

(B) Poultry allowed in MU and MU2 only where the primary use of lot is single family residential.

(2) *Small livestock* – up to **3** small livestock may be kept on lots that are over 10,000 square feet. One additional animal is allowed for every additional 5,000 square feet.

(3) *Large livestock* – up to **3** large livestock may be kept on lots that are over 20,000 square feet. 1 additional animal for every additional 20,000 square feet of lot size.

(4) 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.

(b) The number of allowed livestock animals in one category are in addition to the number of livestock allowed in another category.

#### **49.65.1110 Noise**

(a) 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.

(b) Comparison to the timing, frequency of occurrence, tone and volume of domestic and wild animals, or other accepted noise sources in the vicinity of a complaint shall be used as a basis of enforcement by a Compliance Officer.

(c) Allowance of livestock in a zoning district is not a defense for keeping a noisy animal. Enforcement of a noise complaint shall be based on a complaint from a member of the public.

#### **49.65.1115 Roaming of livestock**

(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.

(e) Livestock may roam anywhere on a lot excepting:

(1) *Roosters* - To limit noise impacts, roosters shall only roam 35 feet from side or rear property lines, and for front and street side lot lines, they may roam up to the lot line or 35 feet from the lot line on the opposing side of the right-of-way whichever provides the greater buffer. A 50 foot distance from private or public wells and waterbodies shall be required.

#### **49.65.1120 Storage of food and bedding**

(a) Food, bedding and similar items shall be stored inside a secure, weatherproof building to prevent attraction of bears, vermin and similar nuisance animals and assist in reducing odors from damp bedding.

#### **49.65.1125 Buffer distances for buildings and manure**

(a) 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:

(1) *Poultry and more than 4 rabbits* - no closer than 10 feet to the property line and no closer than 100 feet to the nearest public or private well or waterbody.

(A) *Roosters* shall be housed no closer than 35 feet to side and rear lot lines or the required front yard setback for both front and street side lot lines or as restricted by roaming restrictions in 49.65.1115(3)(c). Manure shall be subject to same restrictions as other poultry.

(2) *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. Where located in two buffer areas the greater buffer shall apply.

(3) *Large livestock* - no closer than 35 feet to side and rear lot lines or the required front yard setback for front and street side lot lines, and no closer than 100 feet to the nearest public or private well or waterbody. Where located in two buffer areas the greater buffer shall apply.

(b) Where greater than the specified buffer, building setbacks including exceptions shall be observed for all livestock buildings.

#### **49.65.1130 Buildings used to keep livestock**

(a) Areas used to keep livestock shall meet the following standards:

(b) All buildings in which livestock 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.

(c) All livestock shall have access to shelter in a building enclosed on at least three sides and has a roof.

(d) 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.

#### **49.65.1135 Odors and waste**

(a) To ensure waste from livestock is properly managed the following requirements apply to the keeping of all livestock:

(1) 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.

(2) All manure and other refuse must be composted or disposed of at least annually.

(3) Disagreeable odors from the keeping of livestock shall be minimized using best management practices to prevent it being detected on neighboring property.

(b) 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.

#### **49.65.1140 Removal of livestock**

(a) A compliance order may be issued, as described in 49.10 ARTICLE VI, if any provision of this Article is violated. This will allow the livestock keeper a period of time specified by the department to remedy the violation. If necessary, removal the livestock, and livestock-related structures or manure will be at the expense of the keeper.

(b) The Compliance 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 by the keeper.

#### **49.65.1145 Slaughtering**



(a) To ensure the public are not offended by slaughtering of livestock, the following shall apply:

(1) Slaughtering of livestock shall be out of view of abutting lots and any public right-of-way.

**49.65.1155 Nonconforming keeping of livestock**

(a) Existing keeping of livestock keeping made nonconforming by this Article shall be subject to 49.30.100.

(b) The burden of proof that livestock keeping was previously conforming or was nonconforming prior to adoption of this Article is the responsibility of the livestock keeper.

**49.65.1160 Conditional Use permit for keeping of livestock**

(a) Where a Conditional Use permit is applied for, the Commission may deny the permit if the use would in particular result in risk to public health and safety, objectionable odor, noise, water quality or other deleterious impacts that mitigating permit conditions cannot adequately address.

**Cross reference**

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.

**ARTICLE XII KEEPING OF BEES**

**49.65.1200 Purpose**

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

**49.65.1205 Number of hives**

(a) 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.

**49.65.1210 Location of hives**

(a) 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:

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

(2) 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.

1    **49.65.1215     Housing and maintenance**

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

5    **49.65.1220     Nonconforming keeping of bees ???**

6           *Ask Law if we need to put something in here. Seems like they should meet the location*  
7 *requirements within a year of the ordinance but all other requirements can continue until*  
8 *discontinued per the nonconforming section*

9

10   **Cross reference**

11   AS 03 - Agriculture and animals (importing bees)

12

Meeting Agenda of the  
City and Borough of Juneau  
**Title 49 Committee of the Planning Commission**

**Wednesday, April 26, 2017**  
**Community Development Department, Large Conference Room**  
**3:15 p.m. to 4:30 p.m.**

**Members Present:**

Dan Miller, Carl Greene, Paul Voelckers, Dan Hickok (Alternate)

**Members Absent:**

Kirsten Shelton-Walker

**Staff Present:**

Laura Boyce (CDD), Jill Maclean (CDD), Tim Feldstead (CDD & JCOS)

**Public Present:**

Laura Baker, Stefanie Jones, Crystal Schmitz, Erich Schaal, Darren Snyder (UAS Cooperative Extension), Darrell Wetherall, submitted letter from Madi Nolan Grimes

**I) Call to Order**

Meeting called to order at 3:15 pm.

**II) New Business**

**a) Livestock Ordinance**

The Juneau Commission on Sustainability's Livestock Committee came before the Title 49 Committee looking for feedback on the following topics:

- Is proposed categorization of animals appropriate (i.e. poultry, small livestock and large livestock)? The weight separation between small and large livestock and rabbits warrant discussion.
- Should roosters be allowed in all zoning districts if the lot size is big enough (is 10,000 sq. ft. a big enough minimum for roosters to be kept)? Why should potentially acceptable roosters be banned from zones where noisy female poultry such as guinea fowl, ducks etc. are currently allowed?
- Are the suggested minimum lot sizes, buffers and number of animals per square foot appropriate? The allowance for the same number of juvenile poultry under a certain 4 months could result in 20 adult sized chickens on a lot.
- Are the zoning districts in which each livestock category can be kept appropriate?

Paul Voelckers invited the members of the public in attendance to speak and share their comments on the points listed above. He said the committee was especially interested to hear about rooster issues.

*Public Comment:*

Erich Schaal raises chickens and started chicken group on Facebook. Now he is involved with JCOS around this issue of poultry. Juneau is unique, he said, because the city and borough is both urban and rural. Places such as Swampy Acres is considered a "farm" but is zoned D10. He thinks Juneau can handle higher numbers of chickens than is currently allowed on properties. Also, he noted, this would not be an experiment, people

already have these animals on their properties. We already know about the complaints, which are low he said. He feels there is no reason to not make them legitimate. Current code has a buffer related to the nearest neighbor's house. He thinks this is a wrong approach and instead buffers should relate to current property boundaries. For example, if a neighbor subdivides their property and builds a new dwelling closer to the property line, this will affect livestock activity on the neighboring lot since now a house is closer to the chicken coop.

Laura Baker stated she is interested in large livestock – horses particularly. She said she is happy with the work that has been done on the draft Table of Permissible Uses.

Crystal Schmitz pointed out that roosters' crows vary in volume depending on the animal. She had one rooster for a time that was quite loud and has since been relocated to a less densely zoned area of the borough. Now she has a new rooster whose crow is significantly quieter. Yet she has a continuing issue with one of her neighbors who is bothered by the crowing, whereas other neighbors who are closer to her home are not bothered or have chickens themselves. She wants to propose that enforcement be about decibels, not about all roosters. She thinks that would be easy to use a phone to measure decibels and decide if it complies or not. She also is concerned about the inequity of requiring a zoning category of D3 or higher for the keeping of chickens – only certain socio-economic segments of the population will be able to raise livestock. Also Crystal shared with the committee a letter from a neighbor who couldn't be in attendance, Madi Nolan Grimes.

Stefanie Jones is in favor of the recommendations now before the committee. She also is particularly interested in large livestock.

Darren Snyder from the UAS Cooperative Extension stated he was in attendance in support of the work that has been done drafting the new ordinance. He said that the extension service and the university is at the ready to provide mediation and other assistance to the city when there are concerns from neighbors and to assist folks with best practices in the keeping of livestock. He is in favor of permitting roosters on any lot and then addressing problems as they arise, on a case-by-case basis.

Paul Voelkers asked about the advantages of keeping roosters. Darren said that roosters help reduce pecking order problems within a flock. Food security issues are addressed with good healthy populations, and roosters help keep populations healthy. Roosters are also good "watch dogs" for homes. Darren also encourages more rabbit production for food purposes but said they shouldn't be considered with same limitations as small livestock as they are quite different creatures, for example they make virtually no noise.

Darrel Wetherall is a member of the board of the Juneau Commission on Sustainability. He has learned of the strong interest from the public for food sustainability and thinks the city needs to take a good look and support the keeping of chickens and livestock. He believes there needs to be more leniency in zoning and rules because parcels are not getting bigger, and we are locked into tight proximity here in Juneau.

Paul Voelkers asked if the Cooperative Extension could play a role in enforcement. Darren said he couldn't see taking over that role, but they could help with a process of conflict resolution.

Dan Hickok asked if there were bear issues involved with keeping livestock. Not if things are done right, said Darren, especially with electric fences. No more issues than there might be with trash or dogs.

Dan Miller said we accept the ambient noise of the community, be it ravens or roosters. But he can sympathize with people who are disturbed by noise.

*Discussion on the Table of Permissible Uses:*

Tim Felstead gave committee members an overview of how the table has been organized.

Does the bird count include juveniles, asked Dan Miller? This is not fully determined and needs feedback, said Tim. How do you measure age, asked Carl Greene? Tim said it was determined by plumage but would be difficult to enforce.

Dan Miller asked how the keeping of rabbits is currently being managed. It is not, said Tim. Likely this is because there are less noise concerns than chickens. Dan Miller asked why they are lumped together with small livestock if they are a different type of critter. Tim said it could be appropriate to move them into the same category as poultry. Do we have similar restrictions for pets asked Dan Hickok? Somewhat, Tim replied. The Table of Permissible Uses only kicks in if there are 6 or more dogs being kept. There is no limitation for the keeping of cats.

Carl Greene asked about where decibel level might be measured. Tim thinks Gastineau Humane Society (GHS, Animal Control) does not do assessments like that. They may have an informal policy, he said, but will make individual assessments when there is a complaint. Dan Miller said that some years ago the Assembly brought up the idea of developing a noise ordinance, and the Planning Commission was charged with doing a study about that. In the end the commission threw up their hands and determined it an impossible task, he said.

Tim Felstead said speaking from his traffic noise analysis background there has to be standards of work to take such measurements such as distance from the animal when collecting data. It may be possible to do this, but what is the threshold? People have different tolerances for noise.

Paul Voelkers asked about animal control and the Gastineau Humane Society. Tim said animal control is covered under objectionable animal ordinances related to domesticated animals and also disturbing the peace. Is there draft language in the table under specified uses, asked Paul? The question of enforcement needs to be cleared up before the ordinance moves forward, said Tim. This is still something the JCOS Livestock Committee needs to work on.

Paul Voelkers asked for thoughts from the public about types of enclosures and having that level of specificity for the ordinance. Erich Schaal commented that there are natural controls like wild predatory birds if people let chickens go free range. There will be outliers always, he said, just as there are with dog owners. For chickens, following best management practices would keep flocks intact and healthy. It is recommended that anyone keeping livestock have a shelter with 3 sides. And even if the poultry are allowed free range, there needs to be a way to confine the animals to the property.

Is there a category concerning slaughter, asked Paul Voelkers? In Alaska people do all sorts of things with the animals they hunt or fish. Maybe domesticated animals are no different. He wondered if it would be appropriate to go as far as saying slaughter should not take place in full view of the neighbors. A number of the public in attendance responded saying that they didn't think it fair in this environment which includes many hunters and fisher folk that the treatment of domestic animals be different regarding the preparation of the animal for consumption.

Dan Hickok commented that he thinks this is over analyzing the situation.

*Staff requested suggestions from the committee as they continue work on the draft ordinance:*

Carl Green doesn't see how regulating the number of feet from neighbors will work for placing livestock enclosures. He thinks the regulation has to be about annoyance to the neighbors. Paul Voelkers asked how the reasonableness of a complaint might be assessed. Carl suggested considering a certain percentage of the neighbors as an assessment of reasonableness. Jill Maclean said that setbacks are more about best management practices in the hopes of avoiding complaints. Tim Felstead said that buffers can be required for odor issues and some noise mitigation. There are other parts of the CBJ code that already deal with noise complaints, he said.

Dan Miller likes the table and the diagram. However, he has concerns about roosters and their locations. He suggested that there should be a large area requirement, such as 20,000 feet.

Carl Green said that if there are problems with roosters then the committee should hone in on that topic. He also wonders why the ordinance talks about ducks. Dan Hickok thinks roosters should be a separate category.

*Touch points:*

- Are there opinions about weight separation? The committee members did not have strong feelings in this regard.
- Rabbits should be moved into the same category as poultry.
- Roosters should have their own category. Darren Snyder said there are ways to keep roosters in control, like putting them in the garage during certain hours of the night.
- Lot size should determine the numbers of animals allowed.
- There are questions about selling eggs or other animal products. There should be a distinction between commercial and non-commercial operations.
- What about waste? Composting is a good way to take care of this. People pay for the waste to use on their gardens. Odor can be mitigated.
- Enforcement and complaints needs more work.
- GHS has limited resources to respond to noise and does not respond to other complaints like odor. JPD has ultimate responsibility for enforcement.

## **VI. Next Meeting**

Wednesday, May 17, 3:15 pm

## **VII. Adjournment**

The meeting adjourned at 4:47 pm.

# ZONING PRACTICE

APRIL 2013



AMERICAN PLANNING ASSOCIATION

➔ ISSUE NUMBER 4

## PRACTICE URBAN LIVESTOCK



Attachment C - Zoning Practice

# Urban Micro-Livestock Ordinances: Regulating Backyard Animal Husbandry

By Jaime Bouvier

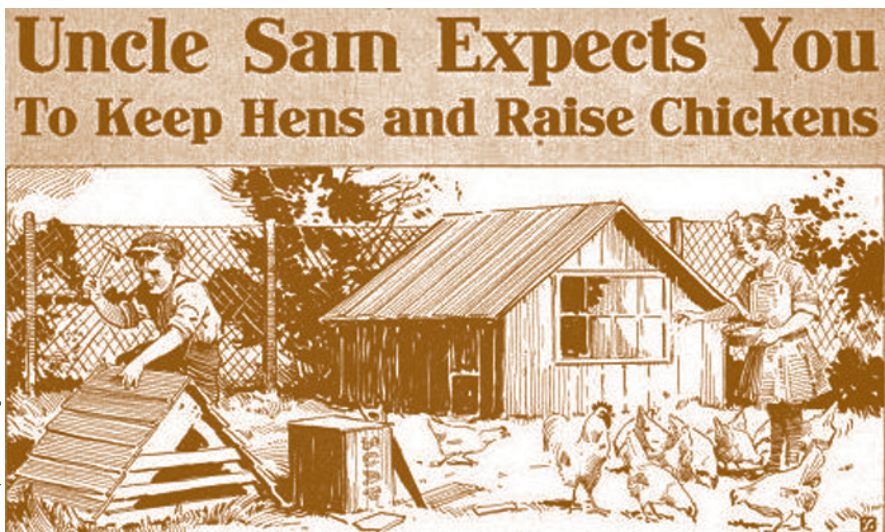
While small farm animals never completely disappeared from most cities, a growing number of communities are revisiting their animal control and zoning regulations in response to a renewed interest in chickens, bees, and goats among urban agriculture practitioners and backyard hobbyists.

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



⌚ 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

Jaime Bouvier is a senior instructor of law and codirector of the Writing and Academic Support Program at Case Western Reserve University School of Law in Cleveland, Ohio. She has also represented state and local governments as well as landowners in zoning and land-use litigation.

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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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.



Wikimedia Commons/Joeh h

ⓘ 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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# HOW DOES YOUR COMMUNITY REGULATE BACKYARD FARM ANIMALS?

# 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 7<sup>th</sup> 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."*<sup>1</sup>

- 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 Missoula<sup>2</sup>, Halifax<sup>3</sup>, and Madison<sup>4</sup>, and a case is currently pending in Ann Arbor, Michigan<sup>5</sup>. 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

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

<sup>2</sup> 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/](http://www.newwest.net/city/article/missoulas_urban_chicken_squabble/C8/L8/)

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

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

<sup>5</sup> 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.<sup>6</sup>

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.

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<sup>6</sup> 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, OR<sup>7</sup>

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:

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<sup>7</sup> 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, MT<sup>8</sup>*

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

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<sup>8</sup> 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.

## References

(References for 25 City Ordinances: See Appendix B)

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

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

Just Food. City Chicken Project. City Chicken Guide. Information available online at <http://www.justfood.org/cityfarms/chickens/>

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

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/>

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

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/](http://www.newwest.net/city/article/missoulas_urban_chicken_squabble/C8/L8/)

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



**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.

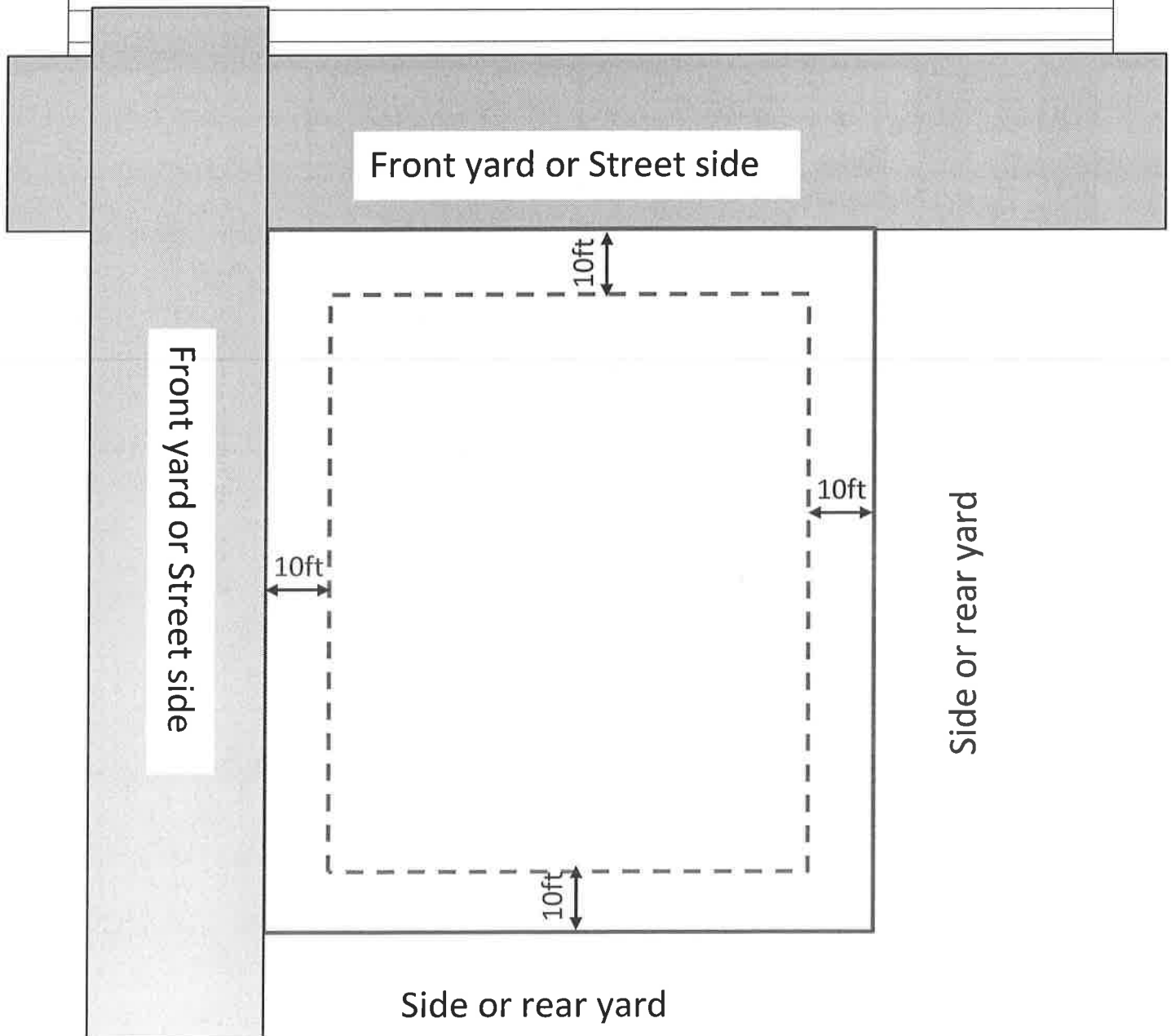
Section 3: The above Section 2 is not intended to apply to the 'ducks and geese in Lake Atalanta Park, nor to indoor birds kept as pets, such as, but not limited to, parrots or parakeets, nor to the lawful transportation of fowl through the corporate limits of the city. Neither shall it apply to poultry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

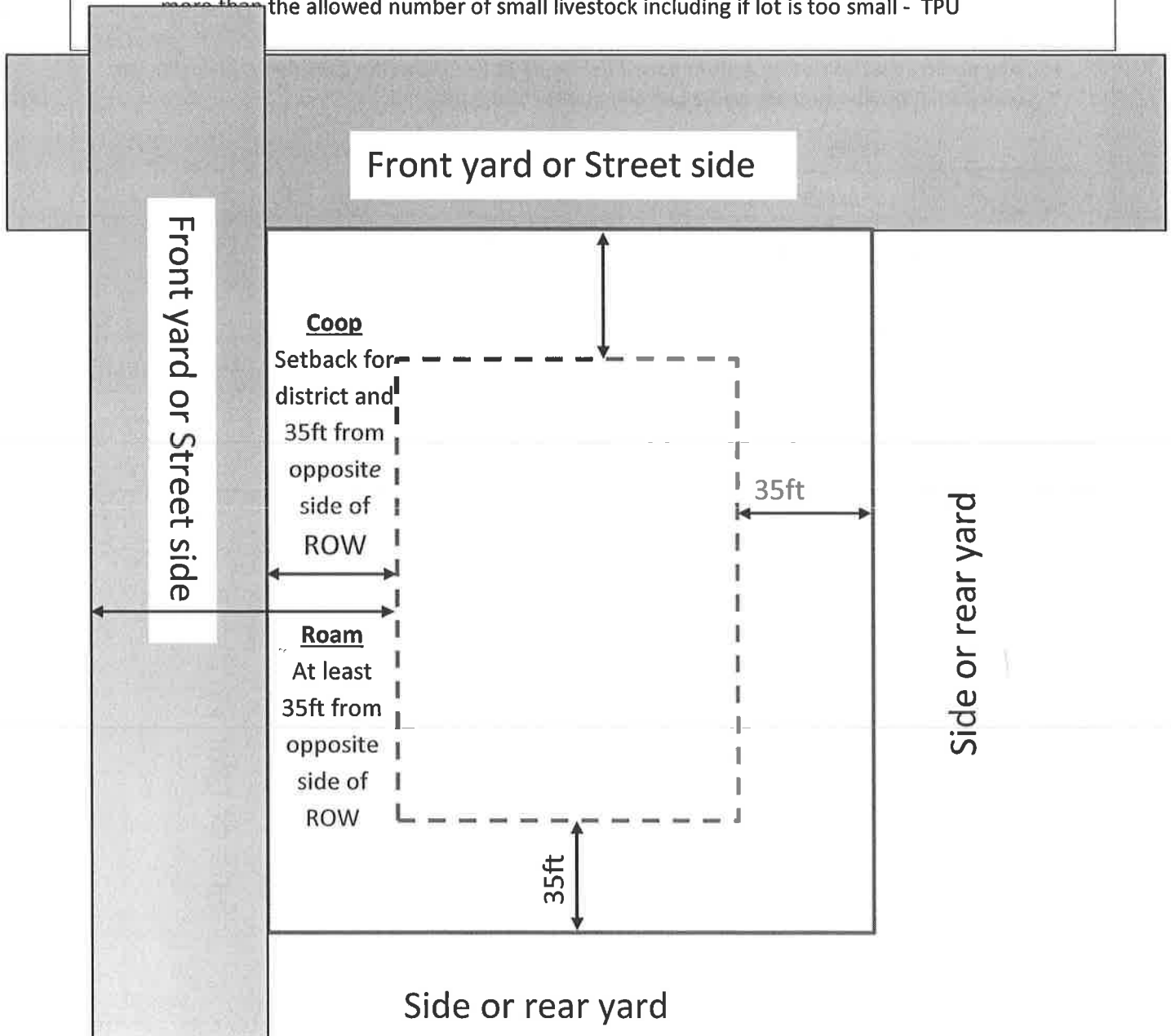
**Poultry and more than 4 rabbits (any less rabbits are not consider livestock)**

- Any lot size gets an allowance for three poultry or four rabbits.
- Four or less rabbits considered pets and not subject to livestock requirements but count as livestock when five or more of a combination of poultry or rabbits are present.
- One additional bird or rabbit for every 1000 sq ft of lot size.
- Maximum of 20 animals in this category before needing a Conditional Use permit regardless of lot size.
- Location of poultry coop and manure storage must be 10 ft from property line. 100ft from public waterbodies and wells
- A Conditional Use permit can be applied for if the buffer cannot be met or the owner would like more than the allowed number of poultry.
- Any poultry that do not lay eggs or sound like an adult (i.e. crow) are considered juvenile. For every adult poultry bird allowed a juvenile poultry bird is allowed.

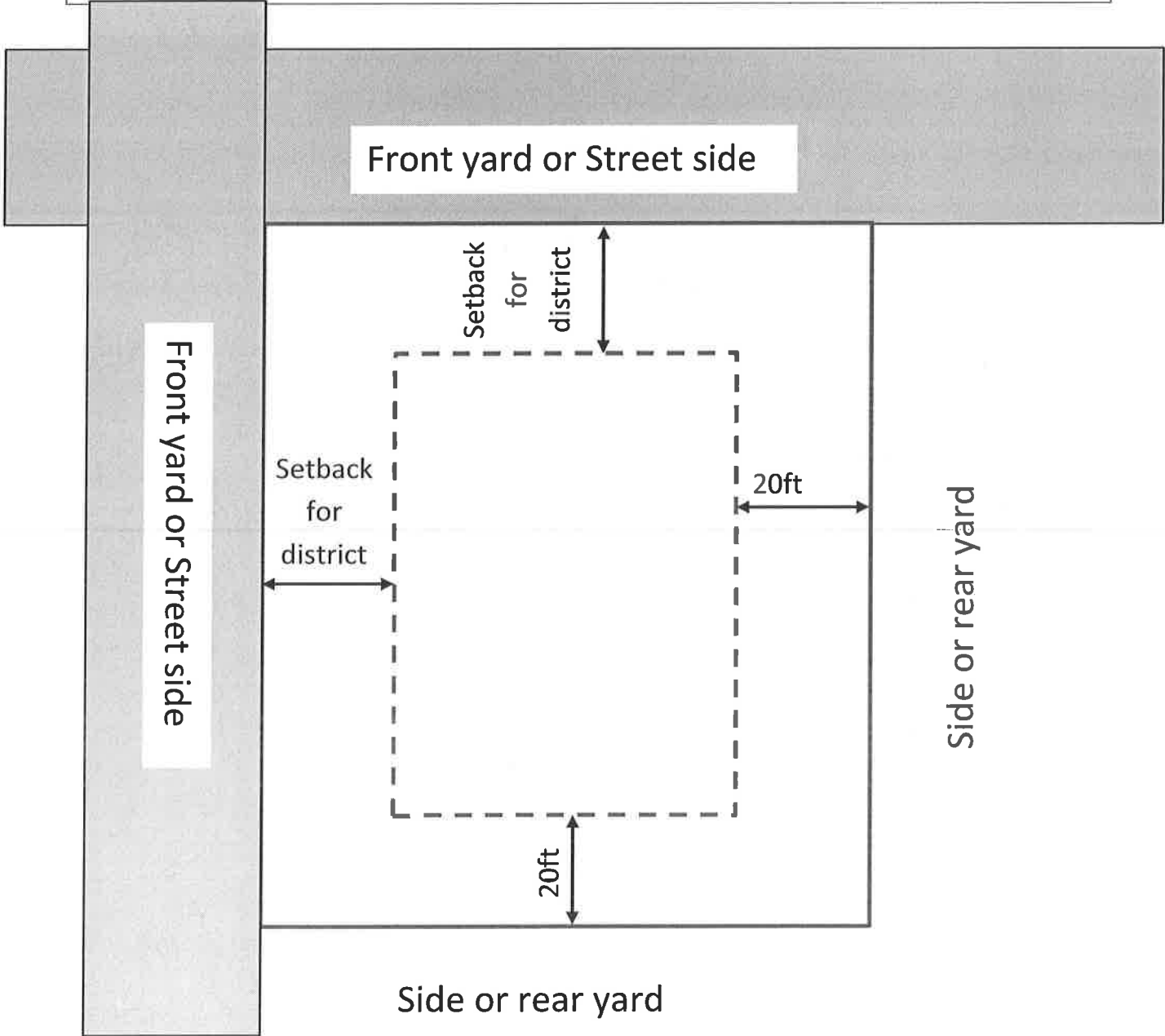


### Roosters

- Rooster is anything that can be determined as non-juvenile male because it crows and looks like a male
- Lots under 20,000 sq ft get one rooster in **D1 and D3**. **RR and I** allowed rooster if minor development (less than 15,000 sq ft building size or using less than 1 acre) AND if buffers can be met.
- One additional rooster for every 20,000 sq ft of lot size.
- Location of coop and manure storage must be 35 ft from rear or side property line, and required front/street side setback for zoning district . 100ft from public waterbodies and wells
- A Conditional Use permit can be applied for if the buffer cannot be met or the owner would like more than the allowed number of small livestock including if lot is too small - TPU

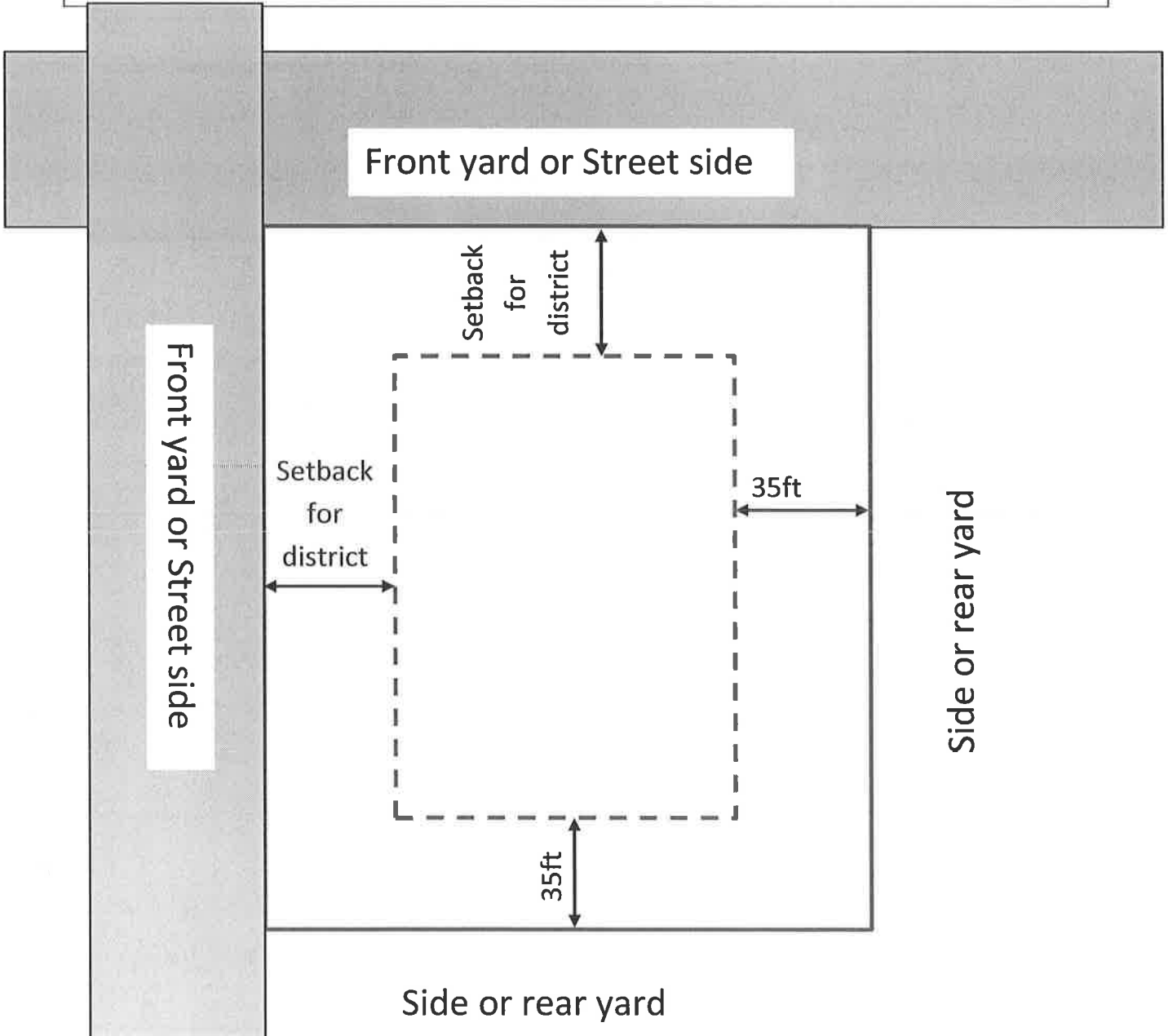


Small livestock
<ul style="list-style-type: none"><li>• Small livestock is any livestock not poultry and under 150lb</li><li>• Lots over 10,000 sq ft get three small livestock. Lots under 10,000 sq ft get none.</li><li>• One additional animal for every 5000 sq ft of lot size.</li><li>• Location of stable and manure storage must be 20 ft from rear or side property line, or required front/street side setback for zoning district . 100ft from public waterbodies and wells</li><li>• A Conditional Use permit can be applied for if the buffer cannot be met or the owner would like more than the allowed number of small livestock including if lot is too small</li></ul>

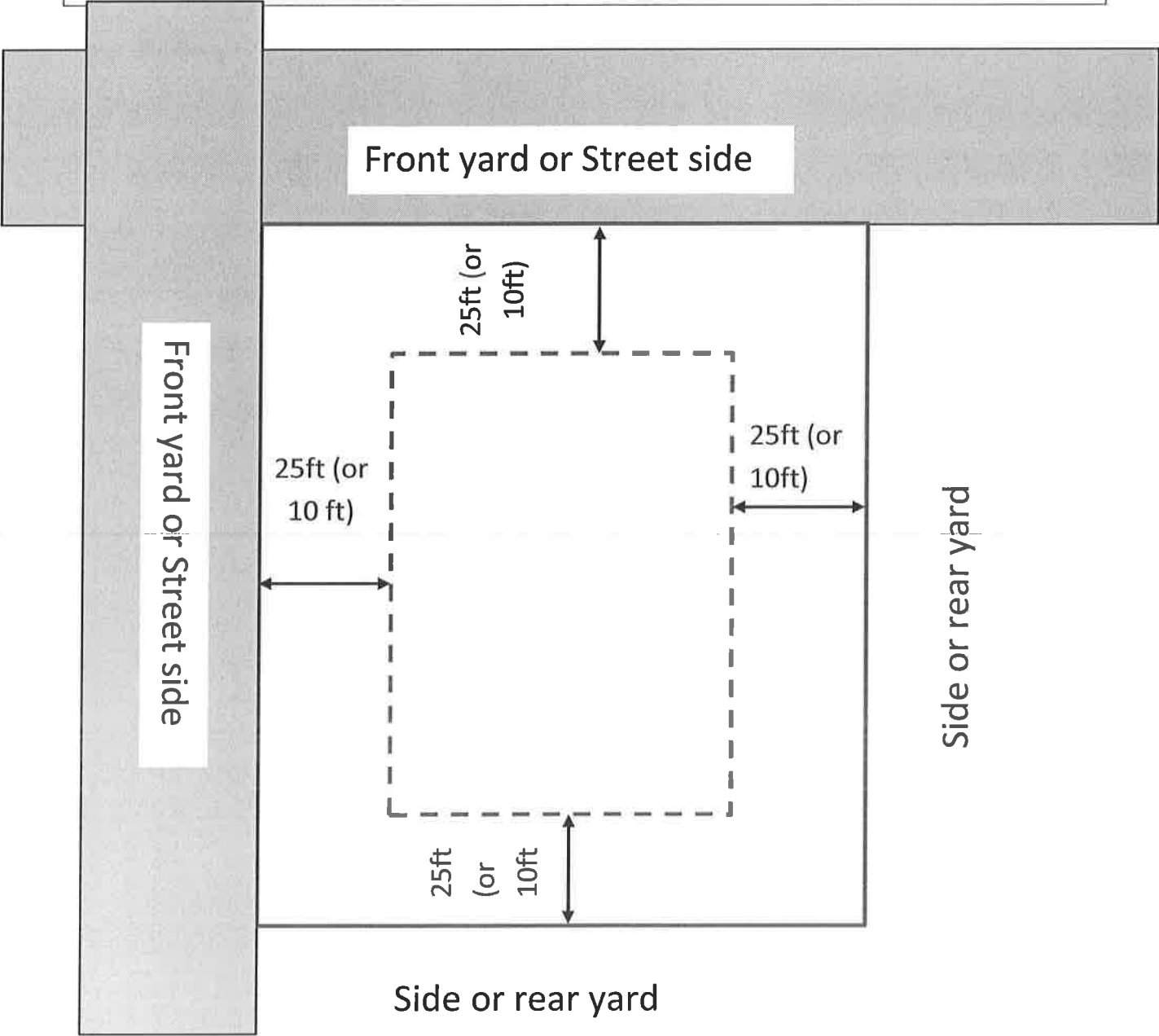


### Large livestock

- Large livestock is any livestock not small livestock or poultry
- Lots over 20,000 sq ft get three large livestock
- One additional animal for every 20,000 sq ft of lot size.
- Location of stable and manure storage must be 35 ft from rear or side property line, or required front/street side setback for zoning district . 100ft from public waterbodies and wells
- A Conditional Use permit can be applied for if the buffer cannot be met or the owner would like more than the allowed number of large livestock



Bees
<ul style="list-style-type: none"><li>• All lots get four beehives</li><li>• 20,000 sq ft to 60,000 sq ft an additional one hive.</li><li>• Maximum of 15 hives if over 60,000 sq ft</li><li>• Hives must be 25 ft from all property lines, or 10 ft if raised 8ft above ground or are behind 6 ft high fence running 25ft either side of hive.</li><li>• A Conditional Use permit can be applied for if owner would like more than the allowed number of hives</li></ul>







(907) 586-0715  
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www.juneau.org/CDD  
155 S. Seward Street • Juneau, AK 99801

**October 11, 2018**

**MEMO**

**To:** Nathaniel Dye, Chair Title 49 Committee

**From:** Jill Maclean, AICP, Director of Community Development

**RE:** Proposed Revisions to Common Walls – Residential and Mixed-Use

A handwritten signature in black ink, appearing to read "Jill Maclean", is written over the "From:" line of the memo.

**Please refer to the memo and attachments dated September 14, 2018.**

**Thank you.**





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**September 14, 2018**

**MEMO**

**To:** Nathaniel Dye, Chair Title 49 Committee

**From:** Jill Maclean, AICP, Director of Community Development

**RE:** Proposed Revisions to Common Walls – Residential and Mixed-Use

**Update**

At the end of last Title 49 committee meeting held on August 27, 2018, the committee briefly discussed and agreed to eliminate the use of common walls (residential) from MU2, LC and GC. This topic came up at the end of the meeting, and I am recommending that the committee take up this discussion in more detail, as the impacts may be greater than anticipated, including creating non-conforming situations, which should be avoided if possible.

One potential solution is to concurrently review and recommend for approval two separate ordinances for residential and mixed-use/commercial zoning districts. Accordingly, I have attached updated draft language for “common wall residential development” and “common wall mixed-use development” (attached). For ease of reading, the track changes and the redundant sections (i.e. redundancy of having language in the table of dimensional standards and in 49.65) have been deleted from these drafts.

I have also amended the table of permissible uses and table of dimensional standards to reflect this option (attached).

The purposes of the original revision still pertain to this discussion and include:

- Make consistent the sections of Code relevant to common walls;
- Clarify/revise the common wall section (49.65.700);
- Clarify/make consistent the Table of Permissible Uses (49.25.300 with 49.65.750);
- Clarify/revise the Table of Dimensional Standards (49.25.400);
- Revise the Definition of dwelling, common wall (49.80);
- Make consistent the Special Density of Code with any revisions proposed (49.25.510).

As a reminder, the T49 committee agreed that common wall units should not be allowed in the MU zoning district due to the higher density that is desired in the MU district.

Recommendations:

Staff recommends that the Code is amended to clarify, make consistent, and update the common wall sections of Title 49.

Attachments:

Common Wall Residential Development draft ordinance

Common Wall Mixed-Use Development draft ordinance

Draft Table of Permissible Uses Revisions

Table of Dimensional Standards and Definitions V2

V1

# ARTICLE VII. - COMMON WALL RESIDENTIAL DEVELOPMENT

## 49.65.700 - Purpose.

The purpose of this article is to allow, in certain zoning districts, the development of common wall structures where each dwelling and underlying property is held under separate ownership.

The use of each common wall lot shall be limited to a single-family dwelling and accessory uses.

**Comment [JM1]:** If this wording is changed, make sure it's consistent w/49.65.725 below.

## 49.65.705 - Procedure.

The development of a common wall subdivision involves a two-step approval process: the approval of a development permit and the approval of a common wall subdivision permit.

**Comment [JM2]:** Recommend changing the procedure now to simplify the subdivision process for major and minor subdivisions

## 49.65.710 - Development permits.

(a) The development permits required for construction of common wall development are either department review, or planning commission review under the conditional use permit process. The particular permit is determined by which zoning district within which the project is located, and the proposed number of units, in accordance with the CBJ table of permissible uses.

### (1) *Department review.*

(A) *Application submittals.* The following submittals are required with an application for department approval:

- (i) Building plans that meet the requirements of this chapter and Title 19.
- (ii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include information necessary to demonstrate that the proposed common wall development will be able to comply with all the dimensional standards of this article after the parcel and structure have been divided.
- (iii) A draft set of common wall agreements and homeowner agreements which set forth the rights and obligations of the owners for all common elements of the development.

(B) *Application review.* The application shall be reviewed by the director in accordance with CBJ 49.15.310.

### (2) *Planning commission review.*

(A) *Application submittals.* The following submittals shall be required with the conditional use permit application:

- (i) Building plans that include a detailed site plan and elevations of the proposed structures. Plans suitable for a building permit application are not required at this time.
- (ii) A draft set of common wall agreements and homeowner's agreements which set forth the rights and obligations of the owners for all common elements of the development.
- (iii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include that information necessary to demonstrate that the proposed common wall development will comply with all the dimensional standards of this article after the parcel and structure have been divided.

(B) *Application review.* The commission will review and approve the application in accordance with CBJ 49.15.330.

V1

49.65.720 - Common wall subdivision.

- (a) The applicant shall submit an application to subdivide the common wall development into individual dwellings and lots in accordance with 49.15.401, 49.15.402, CBJ 49.65 article VII, and the following additional requirements:
  - (1) *Preliminary plat.* The following additional items will be submitted with the preliminary plat:
    - (A) An as-built survey that includes all structures and the location of the common walls in relation to the proposed common property lines.
    - (B) Framing inspections that document substantial construction of all units in accordance with the preliminary plans approved by the director or the commission through the department approval, or the conditional use process, respectively.
    - (C) Final common wall agreements and/or homeowners' agreements suitable for recording.
- (b) *Final plat.* After review and approval of the final plat, in accordance with CBJ 49.15.412, the plat and the common wall agreement documents may be recorded by the department at the state recorder's office at Juneau at the applicant's expense, after issuance of final occupancy permits.

49.65.725 - Uses.

The use of each common wall lot shall be limited to a single-family dwelling and accessory uses.

49.65.730 - Separate utilities.

All common wall dwellings must be served by individual public water and sewer services unless otherwise authorized by CBJ Title 75.

49.65.735 - Parking and access.

- (a) Common wall development shall meet the parking requirements for single-family dwellings in accordance with CBJ 49.40.
- (b) For common wall structures of three or more dwellings, access to public rights-of-way shall be restricted to common driveways unless the director determines that it would be impractical to do so.
- (c) The commission can consider alternative parking and access proposals, such as common parking areas, under the conditional use permitting process.
- (d) All common parking and access arrangements shall include appropriate easements and homeowners' agreements.

49.65.745 - Zoning districts.

Common wall development is allowed in the D-3 within the Urban Service Area, D-5, D-10 SF, D-10, D-15 and D-18, residential districts, except that no common wall development of three or more adjoining units is allowed in the D-3, D-5 or the D-10 SF residential district.

49.65.755 - Architectural features.

Architectural features other than roof eaves, authorized to project into required yard setbacks under chapter 49.25, article IV, may not project into required side yard setbacks required under this article. No architectural features may project into the neighboring lots.

**Comment [JM3]:** Refer to Law for appropriate wording.

**Comment [JMM4]:** \*\*Recommend revising the definition for Lot Width in 49.80 Definitions. If not revised, then add a specific Lot Width definition for common walls.

**Comment [JMM5]:** \*\*Recommend adding a note in 49.25.430 Yard Setbacks to cross-reference this section to ensure it is upheld.

**Comment [JMM6R5]:**

**Comment [JMM7]:** \*\*Recommend adding a note to the Table of Dimensional Standards requiring "common wall length".

**Comment [JM8]:** Reference 49.25.510 (Bonnie Brae special density clause).

**Comment [JM9]:** Recommend allowing common walls in the D3 zoning district if within the USA due to the requirement of water and sewer

**Comment [JM10]:** Is this intended to mean the shared lot line between the common walls? Otherwise, encroaching onto another property is not permitted per the Code and this language is redundant and unnecessary.

V1 09-13-18

**COMMON WALL MIXED-USE DEVELOPMENT****49.65.XXX - Purpose.**

The purpose of this article is to allow, in certain zoning districts, the development of mixed-use common wall units where each mixed-use structure and underlying property is held under separate ownership.

Mixed-use common wall units located in LC, GC, or MU2 shall contain non-residential uses within the common wall unit and accessory uses, but may not have additional principal uses located on the lot.

**Comment [JMM1]:** Recommend moving common walls to 49.15

**Comment [JMM2]:** New numbering throughout

**49.65.705 - Procedure.**

The development of a common wall subdivision involves a two-step approval process: the approval of a development permit and the approval of a common wall subdivision permit.

**49.65.710 - Development permits.**

(a) The development permits required for construction of common wall development are either department review, or planning commission review under the conditional use permit process. The particular permit is determined by which zoning district within which the project is located, and the proposed number of units, in accordance with the CBJ table of permissible uses.

**(1) Department review.**

(A) *Application submittals.* The following submittals are required with an application for department approval:

- (i) Building plans that meet the requirements of this chapter and Title 19.
- (ii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include information necessary to demonstrate that the proposed common wall development will be able to comply with all the dimensional standards of this article after the parcel and structure have been divided.
- (iii) A draft set of common wall agreements and homeowner agreements which set forth the rights and obligations of the owners for all common elements of the development.

(B) *Application review.* The application shall be reviewed by the director in accordance with CBJ 49.15.310.

**(2) Planning commission review.**

(A) *Application submittals.* The following submittals shall be required with the conditional use permit application:

- (i) Building plans that include a detailed site plan and elevations of the proposed structures. Plans suitable for a building permit application are not required at this time.
- (ii) A draft set of common wall agreements and homeowner's agreements which set forth the rights and obligations of the owners for all common elements of the development.
- (iii) A sketch plat in accordance with CBJ 49.15.410. The sketch plat must include that information necessary to demonstrate that the proposed common wall development will comply with all the dimensional standards of this article after the parcel and structure have been divided.

(B) *Application review.* The commission will review and approve the application in accordance with CBJ 49.15.330.

**Comment [JM3]:** Recommend changing the procedure now to simplify the subdivision process for major and minor subdivisions

V1 09-13-18

**49.65.720 - Common wall subdivision.**

- (a) The applicant shall submit an application to subdivide the common wall development into individual dwellings and lots in accordance with 49.15.401, 49.15.402, CBJ 49.65 article VII, and the following additional requirements:
  - (1) *Preliminary plat.* The following additional items will be submitted with the preliminary plat:
    - (A) An as-built survey that includes all structures and the location of the common walls in relation to the proposed common property lines.
    - (B) Framing inspections that document substantial construction of all units in accordance with the preliminary plans approved by the director or the commission through the department approval, or the conditional use process, respectively.
    - (C) Final common wall agreements and/or homeowners' agreements suitable for recording.
  - (b) *Final plat.* After review and approval of the final plat, in accordance with CBJ 49.15.412, the plat and the common wall agreement documents may be recorded by the department at the state recorder's office at Juneau at the applicant's expense, after issuance of final occupancy permits.

**49.65.725 - Uses.**

The use of each common wall lot shall be limited to shall contain non-residential uses within the common wall unit and accessory uses, but may not have additional principal uses located on the lot.

**49.65.730 - Separate utilities.**

All common wall dwellings must be served by individual public water and sewer services unless otherwise authorized by CBJ Title 75.

**49.65.735 - Parking and access.**

- (a) Common wall development shall meet the parking requirements for mixed-use units in accordance with CBJ 49.40.
- (b) For common wall structures of three or more units, access to public rights-of-way shall be restricted to common driveways unless the director determines that it would be impractical to do so.
- (c) The commission can consider alternative parking and access proposals, such as common parking areas, under the conditional use permitting process.
- (d) All common parking and access arrangements shall include appropriate easements and homeowners' agreements.

**Comment [JMM4]:** Require a new parking standard?

**Comment [JM5]:** Refer to Law for appropriate wording.

**49.65.745 - Zoning districts.**

Mixed-use common wall development is allowed in the MU2 mixed use district, and the LC and GC zoning districts.

**Comment [JMM6]:** \*\*Recommend revising the definition for Lot Width in 49.80 Definitions. If not revised, then add a specific Lot Width definition for common walls.

\*\*Recommend adding a note to the Table of Dimensional Standards requiring "common wall length".

**49.65.755 - Architectural features.**

**Comment [JM7]:** \*\*Recommend adding a note in 49.25.430 Yard Setbacks to cross-reference this section to ensure it is upheld.

V1 09-13-18

Architectural features other than roof eaves, authorized to project into required yard setbacks under chapter 49.25, article IV, may not project into required side yard setbacks required under this article. No architectural features may project into the neighboring lots.

**Comment [JM8]:** Is this intended to mean the shared lot line between the common walls? Otherwise, encroaching onto another property is not permitted per the Code and this language is redundant and unnecessary.

	Use Description		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU2
1.000														
1.100	SINGLE-FAMILY DWELLINGS													
	1.110	Single-family detached, one dwelling per lot	1	1	1	1	1	1	1	1	1	1	1	1
	1.120	Single-family detached, two dwellings per lot	1	1	1									
	1.130	Single-family detached, accessory apartments <sup>x</sup>	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3	1, 3
	1.140	Single-family detached, two dwelling per lot, accessory apartment <sup>x</sup>	1, 3	1, 3	1, 3									
	1.150	Common wall residential development, two dwelling units (pairs) <sup>AD</sup>			1, 3 <sup>AE</sup>	1, 3	1, 3	1, 3	1, 3	1, 3				
	1.160	Common wall residential development, three or more dwelling units (triplex, four-plex,...) <sup>AD</sup>				1, 3	1, 3	1, 3	1, 3	1, 3				
	1.170	Common wall residential development, two dwelling units (pairs), accessory apartments <sup>AD</sup>			1, 3 <sup>AE, X</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>				
	1.180	Common wall d residential development, three or more dwelling units, accessory apartments <sup>AD</sup>				1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>	1, 3 <sup>x</sup>				
1.900		Common wall mixed-use development												
	1.910	Common wall mixed-use development, two dwelling units (pairs)									1, 3	1, 3		1, 3

Comment [JM1]: New Note AD referencing 49.65.700

Comment [JM2]: New Note AE referencing special density section 49.25.510(h) (replaces line item 1.930 below)

Comment [JMM3]: New section 1.900 common wall mixed-use to differentiate from common wall residential



		Use Description	RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	LC	GC	MU	MU2
	1.911	Common wall mixed-use development, three or more dwelling units (triplex, four-plex,...)									1, 3	1, 3		1, 3
	1.920	Common wall mixed-use development, two dwelling units (pairs), accessory apartments									1, 3 <sup>x</sup>	1, 3 <sup>x</sup>		1, 3 <sup>x</sup>
	1.921	Common wall mixed-use development, three or more dwelling units, accessory apartments									1, 3 <sup>x</sup>	1, 3 <sup>x</sup>		1, 3 <sup>x</sup>

**Comment [JMM4]:** Insert superscript and associated note referring user to 49.65.700 or new section if moved

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:

A. A single-family residence is allowed as an owner or caretaker residence that is accessory to an existing permitted use in the industrial zone.

*(Notes removed for this purpose only)*

X. Special requirements apply to accessory apartment applications. See CBJ § 49.25.510(k).

*(Notes removed for this purpose only)*

AD. Special requirements apply to commonwall developments. See CBJ 49.65.700.

AE. Special requirements may apply to building a two unit common wall structure. See CBJ 49.25.510(h).

49.25.400 - Minimum dimensional standards.

TABLE 49.25.400  
TABLE OF DIMENSIONAL STANDARDS

Zoning Regulations		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	MU	MU2	LC	GC	WC	WI	I
Minimum Lot Size <sup>1</sup>																
	Permissible Uses	36,000	36,000	12,000	7,000	3,600 <sup>10</sup>	6,000	5,000	5,000	4,000	4,000	2,000	2,000	2,000	2,000	2,000
	Bungalow <sup>9</sup>		18,000	6,000	3,500	2,500	3,000	3,000	2,500							
	Duplex	54,000	54,000	18,000	10,500											
	Common Wall Residential / Mixed-Use Dwelling			5,000 <sup>7a</sup>	6,000	3,600 <sup>10</sup>	4,500 <sup>7b</sup>	3,000 <sup>7b</sup>	2,500 <sup>7b</sup>		2,500 <sup>7b</sup>	2,000	2,000			
	Single-family detached, two dwellings per lot	72,000	72,000	24,000												
Minimum lot width		150'	150'	100'	70'	40'	50'	50'	50'	50'	50'	20'	20'	20'	20'	20'
	Bungalow <sup>9</sup>		75'	50'	35'	25'	25'	25'	25'							
	Common wall dwelling				60'	40'	40'	30'	20'		20'	20'	20'			
Minimum lot depth		150'	150'	100'	85'	85' <sup>10</sup>	85'	80'	80'	80'	80'	80'	60'	60'	60'	60'
Maximum lot coverage																

Comment [JMM1]: Recommend adding  
“residential / mixed-use”

Zoning Regulations		RR	D-1	D-3	D-5	D-10 SF	D-10	D-15	D-18	MU	MU2	LC	GC	WC	WI	I
	Permissible uses	10%	10%	35%	50%	50%	50%	50%	50%	None	80%	None	None	None	None	None
	Conditional uses	20%	20%	35%	50%	50%	50%	50%	50%	None	80%	None	None	None	None	None
	Maximum height permissible uses	45'	35'	35'	35'	35'	35'	35'	35'	None	45' <sup>4</sup>	45'	55'	35' <sup>4</sup>	45' <sup>4</sup>	None
	Accessory	45'	25'	25'	25'	25'	25'	25'	25'	None	35'	35'	45'	35' <sup>4</sup>	45' <sup>4</sup>	None
	Bungalow <sup>9</sup>		25'	25'	25'	25'	25'	25'	25'							
	Minimum front yard setback <sup>3</sup>	25'	25'	25'	20'	20' <sup>10</sup>	20'	20'	20'	0'	5' <sup>5,8</sup>	25'	10'	10'	10'	10'
	Minimum street side yard setback	17'	17'	17'	13'	10'	13'	13'	13'	0'	5'	17'	10'	10'	10'	10'
	Minimum rear yard setback <sup>3</sup>	25' <sup>2</sup>	25'	25'	20'	10'	20'	15'	10'	0'	5'	10'	10'	10'	10'	10'
	Minimum side yard setback <sup>3</sup>	15' <sup>2</sup>	15'	10'	5'	3'	5'	5'	5'	0'	5'	10'	10'	10'	10'	0'
	Common wall dwelling, residential / mixed-use				10' <sup>6a</sup>	3' <sup>6b</sup>	5' <sup>7 6c</sup>	5' <sup>7 6c</sup>	5' <sup>7 6c</sup>		5' <sup>7 6c</sup>	10' <sup>6d</sup>	10' <sup>6a</sup>			

**Comment [JM2]:** Recommend adding a superscript Note referencing 49.65.755 - Architectural features

Recommend adding “residential / mixed-use”

Notes:

- 1. Minimum lot size is existing lot or area shown on chart in square feet.
- 2. Sixty feet between nonresidential and designated or actual residential site; 80 feet between industrial, extractive and other uses.
- 3. Where one district abuts another the greater of the two setbacks is required for both uses on the common property line.
- 4. (Height Bonus) Reserved.
- 5. (Pedestrian Amenities Bonus) Reserved.
- 6. Zero-foot setback for the portion of the dwelling **or accessory uses** with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, **and a** ~~and ten-foot setback for the remaining side yards of the lot.~~
  - (a) **ten-foot setback for the remaining side yards of the lot.**
  - (b) **three-foot setback for the remaining side yards of the lot.**
  - (c) **five-foot setback for the remaining side yards of the lot.**
- 7. ~~(a) Reference 49.65.750(1). Zero-foot setback for the portion of the dwelling with a common wall, five-foot setback or five-foot wide easement for the portion of the dwelling at the common lot line without a common wall, and five-foot setback for the remaining side yards of the lot.~~
- 8. On corner lots, buildings shall be set back 15 feet from a street intersection. The area in which buildings shall be prohibited shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 15 feet, then connecting the points.
- 9. Special restrictions apply to construction on bungalow lots. See special use provisions 49.65.600.
- 10. For lots adjacent to an alley, the following reductions to the dimensional standards apply:
  - (a) Minimal lot area includes 50% of adjacent alley (see graphic).

**49.80 Definition:** Dwelling, *residential common wall*, means a ~~single-family dwelling~~ **common wall unit** attached by a common wall to **at least** one other ~~single-family dwelling~~ **common wall unit** on a separate lot.

*Dwelling, mixed-use common wall, means a...*

**Comment [JM3]:** Recommend updating language, as a common wall may be attached to more than one other common wall...i.e. multiple contiguous units (a row of townhouses). The language “common wall unit” matches the proposed language in the purpose statement in Common wall revisions to Article VII.

Should “dwelling, common wall” be updated to “dwelling, residential common wall” and add a new definition for “dwelling, mixed-use common wall”