

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
DECEMBER 4, 2012 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Discussion of Village Fowl Regulations	Resolution Ordinance Motion ✓ Discussion Only	David Fieldman Village Manager

SYNOPSIS

At the request of Commissioner Rheintgen, a report for discussion under New Business has been prepared regarding the Village's fowl regulations. Pursuant to Village Council policy, this topic shall be a discussion item only to allow for the Council to direct whether staff and legal counsel should further research the issue and prepare the appropriate form of action for consideration at a later date.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

RECOMMENDATION

N/A

BACKGROUND

Commissioner Rheintgen requested that the Council discuss potential changes to fowl regulations. The Village currently regulates fowl (see Chapter 5 of the Village Code). The following is a summary of the current fowl regulations:

- Fowl is defined as any domesticated bird, poultry, or water fowl, except for homing pigeons and caged birds kept as house pets.
- A maximum of four fowl aged 18 weeks or older and four fowl under the age of 18 weeks are permitted to be kept on residentially zoned properties.
- All fowl shall be entirely confined in a pen, coop, building, or other enclosure at all times.
- Pens, coops, buildings, and other enclosures used for the purpose of housing fowl shall be set back a minimum of 50 feet from any property line.
- All pens, coops, buildings, yards, or enclosures for fowl shall be kept clean, sanitary and free from all refuse. Such areas shall be thoroughly cleaned at least once every twenty-four hours and all refuse shall be disposed of in a clean and sanitary fashion.
- All feed for fowl shall be kept in rodent-proof containers.

Commissioner Rheintgen would like to discuss increasing the number of chickens permitted, decreasing the setback requirements, banning roosters and requiring a license or permit for keeping chickens.

The attached map indicates the properties that may keep fowl according to the current regulations (residentially zoned properties that are at least 110 feet wide and 110 feet deep).

Village staff has handled five fowl related code enforcement cases in 2012. All cases were prompted by resident complaints. There are two active enforcement cases pending.

The fowl regulations were last discussed by the Village Council in 1987 (see the attached minutes from the Village Council meeting and Community Maintenance Board).

The Village of Western Springs recently amended their regulations regarding fowl and prepared the attached comparison of chicken regulations.

ATTACHMENTS

Excerpt from Chapter 5 of the Municipal Code

Map of Properties that May Keep Fowl under Current Regulations

Minutes from the May 11, 1987 Village Council Meeting

Minutes from the April 27, 1987 Community Maintenance Board

Comparison of Chicken Regulations Prepared by Western Springs

Permissive Zoning for Urban Chicken Farming by Gail Meakins, Published on American Planning Association Website, 2012

Downers Grove Municipal Code

in order to maintain protection against rabies. (Ord. No. 579, § 1; Ord. No. 1793, § 3; Ord. No. 1854, §§ 3, 5; Ord. No. 2261, § 24.)

Section 5.17. Reserved.

Section 5.18. Fowl defined.

For the purposes of this chapter, fowl is defined as any domesticated bird, poultry, or water fowl, except for homing pigeons and caged birds kept as house pets. (Ord. No. 3060, § 3.)

Section 5.18ART. Article IV. Fowl

Section 5.19. Limit to number of fowl permitted.

Except for fowl associated with veterinary hospitals, animal shelters, and educational institutions, no person shall keep, in areas of the Village classified for residential use under the Comprehensive Zoning Ordinance of the Village, more than four fowl aged eighteen weeks or older and more than four fowl under the age of eighteen weeks. The presence of eggs with a female fowl shall create a presumption that that fowl is eighteen weeks of age or older. (Ord. No. 3060, § 3.)

Section 5.20. Fowl--Confinement.

All fowl kept in residential areas within the Village shall be entirely confined in a pen, coop, building, or other enclosure at all times. (Ord. No. 3060, § 3.)

Section 5.21. Structures--Location restricted.

No pen, coop, building, or other enclosure used for the purpose of housing fowl shall be erected or maintained within fifty feet of any property line of the property of the owner of such enclosure. (Ord. No. 3060, § 3.)

Section 5.22. Same--Maintenance of sanitary conditions.

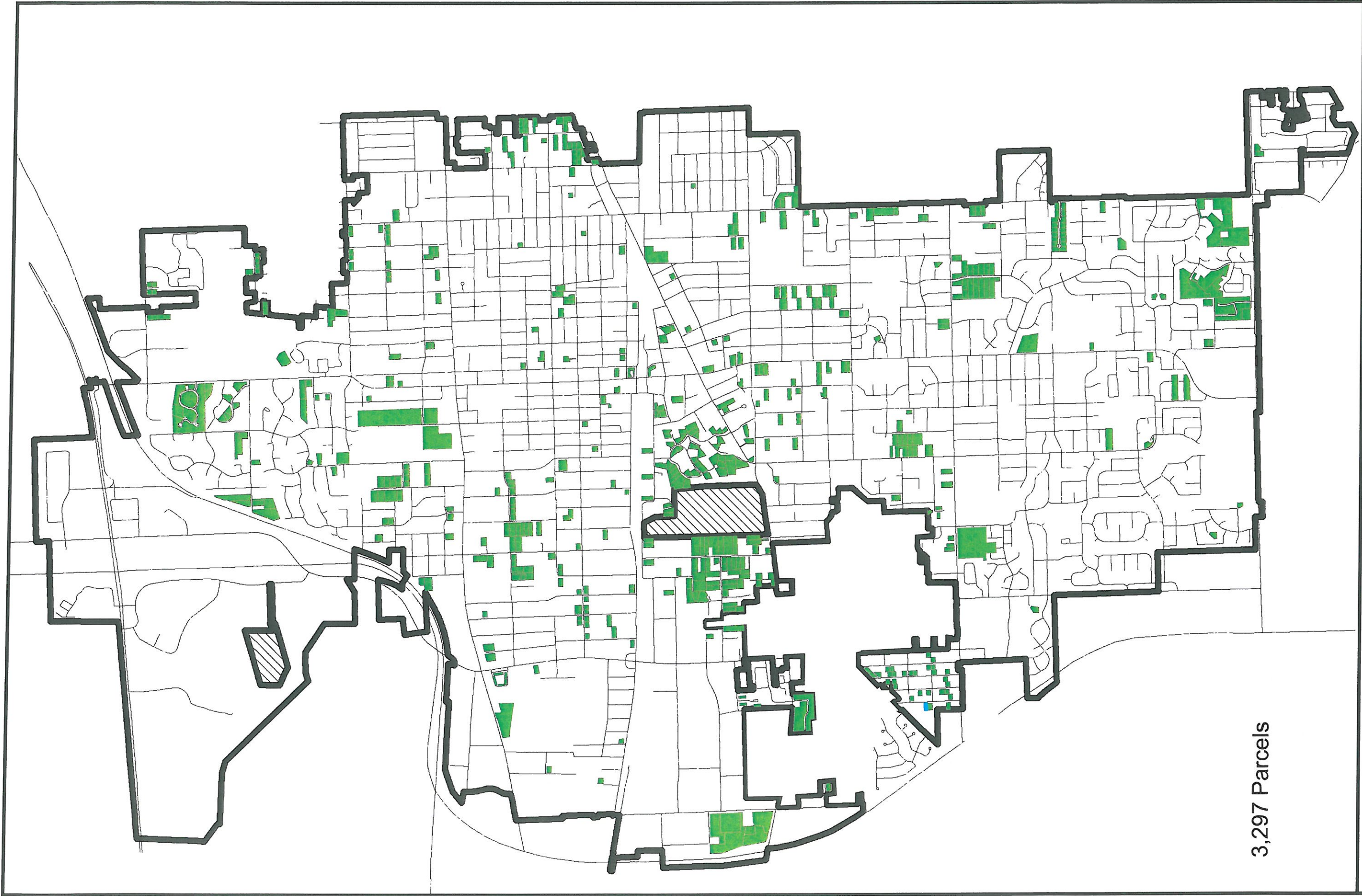
All pens, coops, buildings, yards, or enclosures for fowl shall be kept clean, sanitary and free from all refuse. Such areas shall be thoroughly cleaned at least once every twenty-four hours and all refuse shall be disposed of in a clean and sanitary fashion. (Ord. No. 3060, § 3.)

Section 5.23. Storage of food.

All feed for fowl shall be kept in rodent-proof containers. (Ord. No. 3060, § 3.)

Section 5.24. Appointment.

The Village Manager shall appoint an employee of the Village as animal control officer, who shall serve from time to time at the pleasure of the Village Manager. (Ord. No. 1793, § 5; Ord. No. 1854, § 5; Ord. No. 2261, § 25.)



3,297 Parcels



Residential Lots > 110 feet x 110 feet



its April 7, 1987 meeting and as modified by the legal department.

The Clerk read the proposed ordinance:

AN ORDINANCE REGULATING THE KEEPING OF FOWL
IN RESIDENTIAL AREAS IN THE VILLAGE, AND AMENDING
THE DOWNERS GROVE MUNICIPAL CODE WITH RESPECT THERETO

Ordinance No. 3060

Commissioner Kmetz moved to pass the ordinance as read. Commissioner Kopis seconded.

Commissioner Glas asked if the gentleman in the Workshop meeting this evening got an answer as to whether he can keep fowl on his property zoned B-3? The Manager said the ordinance just passed deals with keeping fowl in residential areas. Beyond that, it is a matter of interpreting the Zoning Ordinance as well as the nuisance code for a B Zoning District. He said that is the only answer he can give without additional research.

VOTE: YEA - Commissioners Kmetz, Kopis, Lange, Glas, Mayor Cheever
NAY - None

Mayor Cheever declared the motion carried.

Index: **POULTRY - KEEPING OF** x Ducks
DOMESTIC FOWL - KEEPING OF x Chickens

D. Ordinance: Conditional Use - Pumping and Metering Stations, Main and Summit. Mayor Cheever said the next three items are somewhat similar in that they were all the result of a public hearing before the Zoning Board of Appeals at its April 22nd meeting. They are petitions by the Village of Downers Grove for conditional uses for public utility facilities to prepare the Village for the acceptance of Lake Michigan water. This includes metering stations and pump houses on these sites.

The first ordinance has to do with a metering station and pump house at the water tank at the southwest corner of Main and Summit.

The Clerk read the proposed ordinance:

AN ORDINANCE AUTHORIZING A CONDITIONAL USE
OF CERTAIN PROPERTY FOR PUBLIC UTILITY FACILITIES

Ordinance No. 3061

Commissioner Kopis moved to pass the ordinance authorizing a conditional use for

ACTIVE AGENDA

A. Ordinance: . Parking Restrictions on Oxnard and Bolson. Mayor Cheever said this ordinance prohibits parking from 7:00 a.m. to 4:00 p.m., except weekends and holidays, on both sides of Oxnard from Stonewall to Bolson, and on both sides of Bolson from Oxnard to Stonewall, pursuant to a unanimous recommendation from the Parking and Traffic Commission at its April 7, 1987 meeting.

The Clerk read the proposed ordinance:

AN ORDINANCE REGULATING THE PARKING OF MOTOR VEHICLES
IN A CERTAIN PORTION OF THE VILLAGE OF DOWNERS GROVE AND
AMENDING THE DOWNERS GROVE MUNICIPAL CODE WITH RESPECT THERETO

Ordinance No. 3059

Commissioner Glas moved the ordinance just read be passed. Commissioner Kopis seconded. Commissioner Kmetz said he would abstain because he was involved with the residents in requesting the restrictions.

VOTE: YEA - Commissioners Glas, Kopis, Lange, Mayor Cheever
NAY - None
ABSTAIN - Commissioner Kmetz

Mayor Cheever declared the motion carried.

Index: **NO PARKING - OXNARD, BOLSON TO STONEWALL**
NO PARKING - BOLSON, OXNARD TO STONEWALL

B. Motion: Sidewalk Waiver - 6210 Janes. Mayor Cheever said at its April 14, 1987 meeting the Plan Commission unanimously recommended a sidewalk variation for property located at 6210 Janes Avenue.

Commissioner Glas moved to grant a variation from public improvement requirements for a sidewalk at 6210 Janes Avenue. Commissioner Kmetz seconded.

VOTE: YEA - Commissioners Glas, Kmetz, Lange, Kopis, Mayor Cheever
NAY - None

Mayor Cheever declared the motion carried.

Index: **MUNICIPAL CODE - SEC. 19-14 - 6210 JANES**

C. Ordinance: Amend Chapter 5 of Municipal Code re Keeping of Domestic Fowl. Mayor Cheever said this ordinance regulates the keeping of fowl in residential areas in the Village, pursuant to a unanimous recommendation by the Community Maintenance Board at

3. Community Maintenance Board Recommendation re Keeping of Fowl. The Manager explained this recommendation is the outgrowth of review of nuisance ordinances. The Board recommended additional provisions creating more specific regulations, including limitation on the number of mature specimens, enclosures no closer than 50 feet to any property line. He noted this requires a substantially sized lot. There are also standards for daily cleaning, for the structural integrity of pens, and for the keeping of feed. The presumption is that a nuisance exists if these criteria are not met. These are minimum standards for keeping fowl.

Commissioner Glas asked if this permits keeping any number of immature fowl? Mayor Cheever commented the maturity of a chicken is pretty rapid.

Commissioner Kopis pointed out a typographical error at the end of the Board minutes, that it should read the meeting ended at 8:12 p.m. not a.m.

Commissioner Fulgaro asked if rabbits are prohibited? The Manager said no, that a nuisance needs to be shown. There is no problem there. Commissioner Fulgaro said he liked the recommendation. He asked what happens when eggs start hatching?

Commissioner Kmetz asked if there is a provision for grandfathering? The Manager said no. Mayor Cheever said the regulations would be in effect at once.

Commissioner Fulgaro commented on the chickens at the southeast corner of 39th and Main.

Mayor Cheever said Council should place the recommendation on file and set a date for consideration of an ordinance.

4. Liquor Commission Recommendation re Recreational Facilities. The Commission recommended technical restrictions on B-1 licenses for recreational facilities: a) access must be through the main part of the facility, not from the outside to the area where food and alcohol is served; b) the hours of alcohol service should be limited to one hour after the closing of the recreational facility. These restrictions are aimed at making liquor accessory to the main use. There will be no separate hours and entrance for liquor.

The Commission also recommended amending the Liquor Ordinance to require floor plans be submitted with any liquor application. This has been the practice for two years but this would put it in the Code.

Commissioner Kmetz asked if the golf course would come under these requirements? The Manager said yes.

Commissioner Kopis asked if a facility would be grandfathered in? The Manager said no, that the facility would obtain compliance by locking the door.

Commissioner Kmetz asked about the Fire Code. The Manager said it applies to exits. Attorney Gosselar explained that a outside door could be an exit but not an entrance.

COMMUNITY MAINTENANCE BOARD

APRIL 7, 1987

Chairman McJoynt called the Community Maintenance Board meeting to order on April 7, 1987, at 7:12 P.M.

ROLL CALL:

PRESENT: Chairman Timothy McJoynt, Mrs. Virginia Holiday, Mr. Donald Sutton.

ABSENT: Mrs. Mary Anda and Mr. Emil Rusnak.

ALSO PRESENT: Messrs. Michael Little, Director of Code Enforcement, Chuck Banks, Code Enforcement Officer, Mrs. Barbara Harton, Mr. Ralph Moeller, Mr. Fredette, Concerned Citizens.

Chairman McJoynt introduced himself as the new Chairman of the Community Maintenance Board and stated that the Community Maintenance Board was established by the Mayor and Village Council that the duties charged to the Board upon request of the Village Manager and Village Council are to conduct public meetings regarding modifications or changes to Village Codes and Ordinances and to then make recommendations, if necessary, to the Village Council. We are also charged with the responsibility of hearing appeals from people who are adversely effected by certain building code decisions that relate to maintenance problems, and also if requested investigate community maintenance problems.

Records are being kept of this meeting and are available upon request at the Village Hall. This meeting is being held tonight pursuant to earlier publication in the Downers Grove Reporter Village Corner, evidence of publication is also available at the Village Hall during business hours. The meeting may be adjourned from time to time without further publication notice.

There are no specific rules of procedure with regard to this Board so I am going to lay out some ground rules as to how I would like to proceed tonight. We are first going to hear from the Staff. We will then accept questions from the floor. After everyone has had an opportunity to be heard the Board Members will then have their discussion, and at that point in time the Chairman would entertain any motions with regards to recommendations or modifications of the Ordinance.

Are there any questions as to regard to this procedures?

Mr. Banks would you please indicate the issue for tonights hearing.

Mr. Banks: The issue of tonight's hearing is to the keeping of poultry or fowl in residential areas. The Village staff surveyed a number of neighboring communities in DuPage County, including DuPage County itself, and upon that survey has prepared a draft amendment to Chapter 13, of the Village's Municipal Code on the keeping of fowl.

Mr. Banks read from the draft amendment as follows:

We define fowl as any domesticated birds, poultry, or water fowl except for homing pigeons and except for house pets which are caged, such as canaries, parakeets, cockatoos, etc. (the State Statutes supersedes any local regulations regarding the keeping and training of homing pigeons.)

We have recommended that no person shall keep more than 4 mature specimen of fowl in any area of the Village. Exceptions, veterinary hospitals, animal shelters, and educational institutions.

No pen, coop building or other enclosure used for the purpose of housing fowl shall be erected or maintained within 50 feet of any occupied residence other than that of the owner.

Every person maintaining a pen, coop, building, yard, or enclosure for fowl shall keep such area clean, sanitary and free from all refuse. Such areas shall be thoroughly cleaned at least once every 24 hours and the refuse shall be disposed of in a clean and sanitary fashion.

All fowl shall be kept within a pen, coop, building or other enclosure sufficient in size and strength to confine all fowl on the owner's property.

All feed for fowl shall be kept in containers that are rodent proof.

The remainder of Chapter 13, section 13.7 sub-paragraph 1-10 stay as is.

Chairman McJoynt then opened up the meeting to questions, he asked for those in the audience to give their name and address for the record.

Mrs. Barbara Harton of 4915 Stonewall, Downers Grove: By this recommendation your allowing the keeping of fowl within the Village. When I first encountered this problem I was upset that as a taxpayer of this Village I had less protection than somebody living in the unincorporated sections of DuPage County. The County ordinance gives a setback requirement that would at least define a minimum property size wherein you could keep other fowl and livestock. I also believe that our ordinance should not be limited to fowl but to any farm animal. The County ordinance says that such a structure that these animals must be kept in, has to

be no less than 250' from the front lot line, and 100' from either side or rear lot line.

Mrs. Harton went on to say that as a taxpayer that she is entitled to at least as much protection from having noisy, smelly animals next to her than somebody that lives in the County, and only pays County taxes, and not Village taxes for services that are less than what the County provides. I have been living with this problem for five years.

Chairman McJoynt asked Mr. Banks if the present status to our Ordinance, with regards to nuisances, does not address farm animals or fowl in any fashion.

Mr. Banks answered no; it says animals that are either offensive or detrimental.

Chairman Mc Joynt: A standard nuisance definition which is loose at best. So the attempt of the Staff is to tighten it up at least as to these issues. Was there any other discussion from the Staff to other farm animals.

Mr. Banks: No just to domesticated birds, we have had no problems with livestock, and the Council asked us to identify the problem only with fowl, at this time.

Mrs. Holiday: Do you have a copy of the County Ordinance?

Mr. Banks: No, but what Mrs. Harton said is correct. With those types of setbacks it just about rules out every piece of property in Downers Grove because the average lot size is 75 feet wide, 150 feet deep.

Mrs. Harton: In regard to the present procedure for handling such nuisances, my husband and I filed a complaint last year. I was required to complain only as to a specific day, time, date and when we went to field court I was only allowed to testify as to events on that specific day and those specific times and one day does not make a nuisance

The fact that this has going on for five years I think is a relevant issue, and I have been complaining of it for all that time and that was not taken into account. In going to court I felt like a fool. It is not an adequate way to handle these problems.

Mrs. Harton went on to say that she had called eight surrounding communities and talked to them and when she asked what their regulations were the reaction she got most commonly was just shock that there would not be regulations pertaining to this in our Village and she concurred with that.

Most of the village's she talked to said they would not allow it, and several said they define certain setback requirements, the

only village she talked to that treated the situation the same as Downers Grove was Darien.

Mrs. Harton went on to say; if other Villages are finding it necessary to make rules on this type of thing they must be doing it for some reason, and I don't think that this particular rule that we are proposing here. "no more than 50 feet," from a resident is acceptable. Fif^{ty} feet from a resident is still very close. In my case I have a chicken coop three feet from my lot line which means when I go into my yard I am right next to those birds, and I do not find that very pleasant. I do not think people who move into a residential area are expecting to be subject to this. I think this is strictly for a farm area. I would like to see this prohibited; but I would be satisfied if we at least adopted the County regulations.

Chairman McJoynt: County regulations, is there a number regulation or just the setback?

Mr. Banks: Just a setback.

Mrs. Holiday: Is that for buildings or just the animals themselves?

Mr. Banks: Just buildings.

Mr. Sutton asked Mrs. Harton how many birds are presently in the chicken coop? None at this time, she answered. It is the first time in five years. Mr. Sutton asked if the people used them as pets or for food. Mrs. Harton replied, when we initially complained of the problem, five years ago, I was told they described them as pets; but as far as I know they used them for the eggs. Mrs. Harton was asked how many chickens there were and she replied that last year there were 8-10.

Mr. McJoynt: Are there any more questions?

Ralph Moeller of 4618 Downers Drive, agreed with everything that Mrs. Harton said, and he presently had a problem that was completely unacceptable to him.

Four months ago he had a neighbor move in at 1620 Chicago Avenue, and put up a poultry pen that is 90' long and 25' wide and 6' from his lot line. Mr. Moeller said that it is odorous, and he considered it a health hazard. The man raises six South African Geese that weigh 20-25 lbs. like the size of a large turkey. I understand that he is raising them to sell.

He has a lot that is 100 to 150 feet deep and backs up to his lot and he has put them at the extreme end of the lot, and if I have to live there and put up with this, in view of how the Village is looking at this, I am absolutely shocked and amazed.

Mr. Moeller went on to say that the pen is not near the house of the people who own the birds, but is 6 feet from his lot line and

less than 50 feet from his house. No matter what, he should not be allowed to do this, and I feel the Village has an obligation to look into this.

Mrs. Harton: One other comment I would like to make is that if we allow this problem to continue we are destroying the property values of these properties surrounding such areas. I feel if I put my property on the market, when the birds were there, I would not have been able to sell it at a reasonable price.

Mr. Moeller: What would you do if you lived next to a situation like this? You would be very unhappy about it. You could go to the neighbor and he can say there is no ordinance against this, and that is not right.

Chuck Banks: In the six years I have been in this position, with the Village, we only received three complaints, two of them Mrs. Harton signed. There was another party that signed also, but we had not heard from Mr. Moeller with any complaint. So we tried to weigh that in our thinking. We receive thousands of complaints about other problems but only three on this subject.

Chairman McJoynt: Any other questions or comments?

Mr. Ken Fredette, 4911 Stonewall, the recipient of the two complaints signed by Mrs. Harton. I disagree with both people as to what was said, I feel that people should be allowed to raise fowl on their property, if it is a large enough size lot. My coop and pen are 75' behind all houses and five' from the lot line. I raise any where from 5-8 chickens a year, I collect the eggs, I am a vegetarian, and I enjoy eating them. I don't eat the chickens. The coop is smelly usually after a rain, however, after the sun comes out it dries out and the odor goes away.

I have a yard party every year which is within 50' of the coop and nobody notices I have chickens, I have a swing set next to it, my children play with them. Over three different sets of neighbors have helped me raise them. I cannot help it if some people do not like chickens.

They do cluck when they lay eggs which is a normal type of behavior for chickens. This usually occurs from about 10:00 a.m. to noon. They do not make noise at night because I close up the pen.

Mrs. Harton: What Mr. Fredette says is true, he does take good care of the chickens he keeps, however, I do not think no matter what good care you take of farm animals, they do not belong in a residential area.

Chickens cluck when they lay eggs up to an hour at a time. I have to sleep with my windows closed on pleasant summer evenings so I won't wake up in the morning and hear them.

Even though a number of neighbors have indeed helped the

Fredette's with their chickens, they still chose to build the coop close to my lot line rather than other neighbors, so it was closer to me than to the people who were involved in the raising of the chickens. All I have to say on that is I have to admire the industry of my neighbors but I cannot admire their judgment.

Chairman Mr. Joynt: Any other comments?

Mr. Moeller: I disagree with you completely (Mr. Fredette) that it dries up and doesn't smell.

Mr. Fredette: I have had the Village people out I have had the County Health Department out.

Mr. Moeller: Than I intend to make a complaint to the Health Dept. because I consider my situation untenable. Either I am going to live in a metropolitan community or I am going to live in a farm community and I am under the impression that this is a metropolitan community.

Now you admit that you only had three complaints, I don't care if you only had one. My complaint, I feel, is serious enough that it should be acted upon and should be dealt with, and if you had an ordinance that would prohibit the raising of farm animals you wouldn't have any complaints.

Chairman McJoynt gave everyone an opportunity to make a last comment and advised he would then close the comments and would restrict it to the Board to indicate any questions or comments that they might have as a Board and then consider any motions with regards to recommendations that the Board may wish or not wish to make to the Manager and Village Council.

Mr. Little asked Mrs. Harton and Mr. Moeller if the distance from the lot line that coops must be, would resolve their problem?

Mrs. Harton asked if the proposed distance if from the residence or from the lot line?

Mr. Banks: Its 50' from any residence, any occupied residence other than that of the owner.

Mrs. Harton: That would not do me a bit of good.

Mrs. Holiday: I think the distance should be from the lot line.

Mrs. Harton: I think so too.

Mrs. Little: Would that be of help?

Mrs. Harton and Mr. Moeller agreed that it would.

Mr. Sutton: The problem there being that 50' from the lot line would mean from any lot line.

Mr. Banks: That would eliminate most of the lots in town.

Mr. Sutton: I am glad we have people from both sides here. I have raised a number of rabbits on my property and never had any complaints on them. Mr. Sutton stated he would hate to see rabbits included in this ammendment, and felt it was a very touchy subject.

Mrs. Harton stated that she felt that this should only apply to farm animals, not rabbits, dogs, cats or domestic animals.

She also felt that farm animals did not fit into an urban development.

Chairman McJoynt: So this ammendment would put the structure housing the fowl almost in the middle of most zoning lots.

Chairman McJoynt: Asked if there were any other questions.

Mrs. Harton: I feel that the only appropriate ordinance would be one which provided a setback from the lot line not from the residence.

Mr. Fredette: I feel if a lot is deep enough it should be allowed as long as the lots adjoining and behind it are as deep.

Mr. Fredette went on to discuss the different types of animals and he felt that no matter what happen not everyone would be happy.

Chairman McJoynt: Closed comments from the public, and opened the matter for discussion by the board what action they should take.

Mrs. Holiday began by saying that she would not like it if she had a chicken coop next to her yard because of the smell. She felt the ordinance should be from the lot line not from the residence.

Mr. Sutton: Felt that this was a difficult situation because of the fact that he is an animal lover, but on the other hand he would not want a chicken or duck coop next to his yard, because of the smell. Possibly if the distance was from the lot line, and far enough away to eliminate the smell and the noise to adjoining lots, this may be acceptable.

Chairman McJoynt indicated that he had a couple of comments about the present ordinance setup and prosecutions by the Village for nuisances, he felt the Village has the ability to do so, at this time. The one prosecution we discussed failed perhaps because of some technical courtroom reason which was not to say that Mr. Moeller's problem could not be successfully prosecuted by the Village under the present ordinance, I think it could from what I heard. I think the ordinance could be more specific, to this problem. My opinion is that Downers Grove is a metropolitan community not a farm community and there are so few parts of this

community that could properly house such farm animals, and the effect on the masses must be considered by the Board. If it was up to me they should be barred period, but I am not suggesting that or making a motion because I am attending the meeting in the spirit of compromise, and do not want to step on anybody's toes, but as was said earlier in the meeting, somebody is going to go away from the meeting unhappy.

Chairman McJoynt felt there were three alternative facing the Board:

1. Vote in favor of the proposed draft ordinance as it is.
2. Do not adopt the ordinance, which would leave the existing ordinance as is.
3. Amend the proposed draft ordinance, which creates a problem of determining a middle ground because of the lot sizes in this community.

Chairman McJoynt asked the Board to determine which of the three alternatives they should pursue and discuss.

Mrs. Holiday advised she liked the third alternative.

Chairman McJoynt suggested that the meeting be adjourned to give the Staff a chance to come up with a workable solution to alternate three.

Mr. Sutton disagreed and felt that the Board should proceed with the meeting and try to come up with a workable solution. It was decided to proceed.

Chairman McJoynt: There are a couple of restrictions, 1. is would a limit of four animals be satisfactory to everyone, and 2. is there some way to make the 50' yard from the occupied residence to x feet from the lot line. Anything more than 25 feet is going to put the chicken coop right in the middle of the property.

Mrs. Holiday: If they want to have chickens, then they have to have a large lot.

Discussion went on as to lot configurations and how to tailor this to fit the ordinance.

Chairman McJoynt: The present draft ordinance as its drafted limits people to the keeping of no more than four animals 50' from any residence.

Mrs. Holiday: The ammendment says 50' from the residence and I would like to see it from the lot line.

Chairman McJoynt: Your motion is to pass the draft ordinance with that ammendment?

Mrs. Holiday: Yes .

Chairman McJoynt seconded Mrs. Holiday's motion to recommend this motion to the Village Council and the Village Manager.

Chairman McJoynt: Called for a vote on the motion:

Mrs. Holiday: Yes

Mr. Sutton: Yes

Chairman McJoynt: Yes

The motion was passed unanimously to recommend to the Village Manager and the Village Council the passage of this proposed ordinance subject to the change to that no pen, coop, building, or other enclosure used for the purpose of housing fowl shall be erected or maintained within 50' of any property line of the property of the owner of such fowl.

The meeting was adjourned at 8:12 ^P A.M.

Comparison of regulations related to chickens/hens

February 2012

Municipality	Does your community allow homeowners to raise poultry?	Is a minimum lot size required to raise/keep chickens?	Are minimum setbacks required?	Is a chicken coop required?	Is there a restriction on the number of chickens allowed?
Brookfield	Yes	No	No	Yes	Maximum of 3
Evanston	Yes	No	No	Yes	Not less than 2 and no more than 6
Batavia	Yes	No	Yes (Min. of 30ft from a residential structure on an adjacent lot and not less than the required setback for a shed).	Yes	Maximum of 8
Madison, WI	Yes	No	Yes (Min. of 25ft from a residential structure on an adjacent lot)	Yes	Maximum of 4
Downers Grove	Yes	No	Yes (Minimum 50 foot setback from all property lines).	Yes	Maximum of 4
Naperville	Yes	No	Yes (Min. of 200 ft. from a residential structure on an adjacent lot)	Yes	None
Westchester	Yes	No	Yes (Min. of 100 ft. from owners home & 2,000 ft. from nearby residence or lot).	No	None
Schaumburg	Yes (Requires a special use permit)	No	Yes (Min. 5 ft. setback from side lot line/coop allowed only in rear yard).	Yes	Maximum of 20



American Planning Association Making Great Communities Happen

Planning Essentials

Permissive Zoning for Urban Chicken Farming

By Gail Meakins

Across the country, urban dwellers are asking their city leaders to let them become active members of a "new" yet "old" movement — farming. The cultivation of crops doesn't raise much concern even in urban areas, but the raising of chickens is another matter altogether. If they have not already been asked to do so, planners soon will be asked to provide for or further regulate the raising of chickens in urban areas.

I contend that urban agriculture is a worthy and necessary activity in towns and cities throughout America and the world. Urban dwellers should be authorized to participate in the production of their own food. Specifically, I maintain that raising chickens for egg production is a viable and rewarding practice within the urban setting.

I selected a number of cities across the United States, with some emphasis on the intermountain west region, in order to determine the nature and scope of local regulations with respect to urban chickens. The regulatory analysis presented here should be useful to planners in cities that are reconsidering their restrictions on urban chicken farming. I also highlight some recent municipal innovations that show a positive trend toward allowing and even encouraging urban chicken farming. Before presenting the regulatory review, I offer a brief historical perspective of the evolution of the human race as an agrarian society.

HISTORICAL CONTEXT

Raising livestock has been a part of urban settlements since ancient times. Early villages and towns were agricultural in nature and dependent on the land that surrounded them for substance (Mumford 1956). For most of human history, people have been defined by their agrarian culture, which is strongly connected to food production and agriculture. Medieval Europe's social and economic structure was dictated by its agrarian feudal society. This strong cultural link between people and the land slowly began to weaken as advances in agricultural practices occurred. Increased agricultural efficiency and the ability to transport food to distant places resulted in a population shift, as people moved from farms to cities to take advantage of the growing employment opportunities provided by the industrial revolution.

Even though it was not so long ago that sheep were grazing on Capitol Hill and pigs were foraging in neighborhood parks, agriculture began to be viewed as a rural activity not suitable for the refined culture of the city and then as a potential threat to the health and safety of the city population. City farming in many places has become illegal or highly regulated (Halweil and Nierenberg 2007). Since World War II, the assumption had been made that city dwellers will buy their food, not grow it. In recent years while there has been a resurgence of interest in urban agriculture both as a viable livelihood and as a means of providing additional resources, politicians, businesses, and planners continue to view urban agriculture as a rural issue (Deelstra and Girardet 2005, p. 47; Halweil and Nierenberg 2007 p. 49, 60).

However, the historic reluctance to allow farming practices in urban areas is giving way to a new agrarianism. "With no fanfare, and indeed with hardly much public notice, agrarianism is on the rise" (Freyfogle 2001). Agrarianism is a term used to explain a relationship with or connection to the land. In the past it was strongly associated with a rural lifestyle and community. In today's interpretation the term bears an extended

meaning related to the intrinsic virtues inherent in an agrarian existence. The virtues (Inge 1969) of self-reliance, independence, a strong sense of identity and place, the power of cooperation, and the self-satisfaction of hard work and individual productivity are teamed with a number of more concrete concepts to explain the renewed interest in agriculture and the desire of individuals (both rural and urban) to partake of the experience. Among these additional factors are: food security; environmental stewardship; greater nutritional awareness; improved physical and mental health; and recognition of social customs and values (Bellows, Brown, and Smit 2003).

The benefits of sustainable urban agriculture are beginning to be well-recognized in the literature. The renewed interest in urban food systems has even been termed a revolution or major movement (Kimbrell 2002, p. 359). Yet, in many cities there remain some significant barriers to the adoption of policies that more completely embrace the scope of possibilities and opportunity.

RESISTANCE TO CHICKENS NEXT DOOR

Urban agriculture provokes resistance and heated public discourse. There are several reasons for this, including differences in value systems, misconceptions, and valid concerns related to nuisances and public health (Schiere, Rischkowsky et al. 2006).

As communities become more diverse, their residents bring with them a variety of value systems. Whether these differences stem from cultural dissimilarities, life experiences, or differences in philosophical ideologies, they will continue to present the most significant challenges to local jurisdictions. For some it is the view that agriculture in any form reflects a return to a less sophisticated, unrefined past. For others, it is a misunderstanding of cultures that are different from our own. For still others, it is a fear of the economic impacts that might be associated with agricultural uses in urban areas (Schiere, Rischkowsky et al. 2006).

A principal objection to raising chickens in urban areas is the potential nuisance characteristics. Noise and smell are strongly associated with the presence of livestock, and it is very difficult to get beyond the image of the "barn" yard to visualize a much different experience in an "urban" yard. There are also very real concerns regarding the health and safety keeping livestock in urban areas. There is the threat of contraction or transmittal of diseases between the avian species (avian influenza) and fowls to humans. There are the additional concerns of attracting rodents from uneaten food sources and natural predators that may anticipate an easy meal. Each of these negatives poses challenges to public officials as they are pressured from both sides of the issue to enact regulations for urban chicken farming.

REGULATORY PRACTICES

I reviewed regulations pertaining to urban chicken farming in several municipalities (see Table 1). Some cities have enacted and maintained a ban on the raising of livestock within city limits, such as Billings, Montana. Others allow chickens without any restrictions other than nuisance limitations, such as Chicago and Santa Fe, New Mexico. Yet others allow the "keeping" of chickens with a variety of common regulatory techniques. The variation in regulations suggests that there are no scientifically accepted minimum standards that will mitigate any and all concerns.

Table 1. Jurisdictions Reviewed and Characteristics

City	Population	Land Area (sq. mi.)	Housing Units	Regulatory Overview
Albuquerque, New Mexico	448,607	181.28	198,465	Unrestricted
Austin, Texas	656,562	251	276,842	Restricted
Billings, Montana	89,847	33.7	39,293	Prohibited

Bozeman, Montana	27,509	12	11,577	Restricted
Chicago, Illinois	2,896,016	227.1	1,152,868	Unrestricted
Cleveland, Ohio	478,403	77.6	215,856	Restricted
Denver, Colorado	554,636	153.4	251,435	Restricted
Fort Collins, Colorado	118,652	46	47,755	Restricted
Provo, Utah	105,166	39	30,374	Restricted
Salt Lake City, Utah	181,743	109.1	77,054	Restricted
Santa Fe, New Mexico	62,203	37	33,533	Unrestricted

Source: U.S. Bureau of Census. www.census.gov

To mitigate any impacts on adjacent property owners, regulations may include any combination of the following items.

Number of Birds Allowed

The number of chickens that a city allows varies significantly from none in Billings to an unlimited number in Chicago. In between these extremes, Fort Collins, Colorado, allows six birds and Bozeman, Montana, allows up to 15 hens. The limitations may be arbitrary or based on lot size. Depending on the breed, chickens can be expected to lay at least one egg a day. Because chickens are social animals, it is frequently recommended to allow more than one (Willis and Ludlow 2009).

Allowance Based on Lot Size

Some communities base the total number of birds allowed on the amount of lot area. Cleveland, which has experienced a serious decline in population, is now making a commitment to urban agriculture through new ordinances that allow a greater number of residents to raise both produce and farm animals including chickens. Cleveland has established a regulation of one bird per 800 square feet of parcel or lot area. Incidentally, Cleveland appears to be unique in that it also allows farm animals or bees to be kept on a lot that is vacant or has no occupied residence.

Regulation of Roosters

Roosters are prone to crowing, which raises concerns about nuisances (noise) in the urban context. Roosters are not necessary for the production of eggs, so restrictions prohibiting roosters will not affect egg production. Roosters are necessary for fertilization and the production of live chicks. Chicago and Austin, Texas, allow an unlimited number of roosters subject to nuisance regulations. Albuquerque, New Mexico, allows one rooster per household, subject to nuisance regulations. Cleveland allows roosters only on a parcel of one acre or more, and they must be kept 100 feet from all property lines.

Permits/Registration/Fees

Requiring a permit for chickens is very similar to licensing requirements for cats and dogs. The fee should be reasonable so that it keeps the production of eggs affordable. Fees may be necessary to cover associated costs for enforcing regulations. In Fort Collins, a \$30 registration fee is

required. Missoula, Montana, requires a \$15 permit fee. No registration or permits are required in Austin and Chicago.

Coops, Runs, and Enclosure Standards

Many cities require that chickens be enclosed to alleviate unwanted wandering and to protect the chickens from predators. Enclosures are usually required to be predator-proof, and feed containers are required to be rodent-proof. It is unnecessarily restrictive and unhealthy for birds to be confined at all times, so some cities may include regulations that allow chickens to roam in the owner's own yard.

Regulations typically establish a minimum area per bird. In Atlanta, coops must have two square feet per bird, whereas in Provo the standard is six square feet per bird and in Cleveland the standard is 10 square feet of outside space per bird. Cleveland specifically requires a covered, predator-proof coop or cage with sufficient space to permit free movement; it sets a total coop size of 32 square feet for up to six animals and establishes a maximum height limit of 15 feet.

Setbacks from Dwellings and Property Lines

A major concern is the proximity of both coops and runs to residential dwellings and property lines. Cities can require adequate buffer zones to mitigate any nuisance or health impacts. This is approached in a number of ways, including minimum lot sizes, rear yard restrictions, distance requirements from residential dwellings, and distance requirements from property lines.

There does not appear to be any distance that is more favorable than another, so there is extensive variation. The distances required from property lines can range from 10 to 90 feet, and the distance from residences from 20 to 50 feet. Cleveland prohibits chickens in the front yard or required side street yard and establishes setbacks of 5 feet from side property lines and 18 inches from rear property lines. Fort Collins does not allow a chicken house or enclosure closer than 15 feet from a property line and requires written consent of the neighboring property owner. Bozeman does not allow chicken houses to be located any closer than 20 feet to any structure inhabited by someone other than the chicken owner, custodian, or keeper, and not closer than 5 feet to any property line.

Nuisance Clause

The most common reported impacts of chicken husbandry are those of noise and smell. These may be addressed in general nuisance regulations regarding noise and odors, or they may be directly addressed in specific standards for maintenance and cleanliness. These are most commonly enforced through a complaint-based system with associated fines. In Chicago, it is unlawful for an animal to create noise that disturbs the peace of any other person in the vicinity of the owner that exceeds 10 minutes in duration and can be heard over average conversational level at a distance of 100 feet or more. The fine for such a nuisance can range from \$50 to \$250 per offense. In Bozeman, no chicken shall be kept in a manner so as to create noxious odors or noise of a loud, persistent, and habitual nature. Albuquerque does not have such nuisance regulations. Denver has an interesting provision that allows for the zoning administrator to grant exceptions permitting the keeping of animals in connection with the operation of a single-unit dwelling or a dwelling unit in a multiple unit-dwelling. Criteria for granting such exceptions include owner occupancy of the residence, notification to abutting property owners, assurance that the activity will not substantially or permanently injure the appropriate use of the adjacent conforming property, and a provision for investigations after complaints are received.

Slaughtering Restrictions

Chickens have limited egg production cycles and life spans. Many cities have enacted restrictions on slaughtering animals in general (or chickens specifically) within the city limits. While restrictions on slaughtering may alleviate the fears of meat production and perceived negative impacts associated with it, opponents point out that it prevents poultry owners from participating in the complete cycle of food production. This connection is considered by some to be a critical part of animal husbandry. In Provo, no slaughtering is permitted. Bozeman prohibits

slaughtering in the public view. Cleveland allows on-premises slaughtering of chickens, ducks, rabbits, and similar small animals for the owner's consumption.

A CASE STUDY IN REFORM: SALT LAKE CITY

Salt Lake City adopted a new ordinance in December 2009 (published January 2010) that relaxes some of the restrictions for raising chickens in residential districts (see Table 2). While the proposed ordinance relaxes restrictions on distance from dwellings and relates the number of chickens to lot size, it still will not allow for chickens in the older, more housing-dense areas of the city with very small residential lots due to the distance requirements. This has resulted in criticism from individual residents and community gardening organizations.

Table 2. Comparison of Current and Proposed Urban Chicken Regulations, Salt Lake City, Utah

Regulation	Prior Code	Recently Adopted Regulation
Number of birds permitted	25 chickens	Hens only, 15 per residential lot
Distance and yard requirements	50 foot setback from any structure used for human habitation	Rear yard, at least 25 feet from any dwelling on an adjacent lot.
Regulation of roosters	No specific restrictions	No roosters permitted
Enclosure/run standards	None	Covered, ventilated, and predator/rodent resistant; minimum floor area of at least 2 square feet per chicken (increases to 6 square feet if chickens are not allowed to roam within an enclosed area outside the coop)

Source: Salt Lake City Code

CONCLUSION

As this review of local regulations shows, there are varying degrees of both tolerance and acceptance with respect to urban chicken farming. It appears the justification for many current regulations relies on pre-existing biases and misconceptions, unfamiliarity with farming practices, and uncertainty related to quality of life and housing values. Cultural values greatly influence the decision-making process.

As the global community struggles to deal with the issues related to urbanization and sustainability, there is a very clear case for the benefits and values associated with urban agriculture and urban husbandry. Once the principles of urban agriculture are more clearly understood and the misconceptions and fears are alleviated, our urban land and its residents might realize their full potential as participants in and contributors to a sustainable tomorrow.

As the interest in urban agriculture continues to increase, there will be an increasing need for analytical research to support specific restrictions and regulations while carefully documenting impacts and benefits. More research is needed to investigate how many residents actually take advantage of the opportunity, whether there are adverse impacts, and whether agriculture has the potential to become a staple activity of urban life.

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- Austin, Texas: Sec. 3-2-16, "Enclosure of fowl."
- Billings, Montana: Sec. 27-607, "Livestock and fowl."
- Bozeman, Montana: Ordinance 1767.
- Cleveland, Ohio: Chapter 347, "Specific uses regulated."
- Denver, Colorado: Ordinance 495, Section 59-41(b) and 59-38(a) (12) e., "Keeping of animals."
- Fort Collins, Colorado: Sec. 4-117, "Sale of chickens and ducklings; quantity restricted; Keeping of chickens."
- Provo, Utah: Provo City Code, Title 8, Sec. 8.02.190.
- Salt Lake City, Utah: Chapter 8.08, "Keeping animals, livestock, and poultry."

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