



MEMORANDUM TO MUNICIPAL COUNCIL

DATE: November 2, 2021
FROM: Mike DeSimone, Director
SUBJECT: Grandfathering - Ordinance #21-22 (LDC Amendments – Urban Agriculture)

This is a follow-up to the October 19, 2021 Council discussion regarding the proposed Ordinance #21-22 (Urban Agriculture).

Background

Ordinance 21-22 is a proposed amendment to the Land Development Code (LDC) redefining the City's definition of "Agriculture", defining minimum standards for keeping chickens, domestic fowl, bees, and livestock on residential properties, and establishing in the Land Use Tables where the different categories of agriculture are permitted. As we have discussed, there is a disconnect between the Logan Municipal Code (6A.06.030) and the Land Development Code regarding how and where agricultural uses (Animals for Family Food Production) are permitted. Urban Agriculture is the proposed mechanism to address minimum standards for raising Animals for Family Food Production in residential areas.

Public Notice & Public Review Process

These proposed code amendments were discussed by the Planning Commission on September 9th and September 23rd. In terms of public notification, we sent out the PC agenda and packets to the neighborhood council chairs on 9/3/21 for the 9/9/21 PC hearing and again on 9/16/21 for the 9/23/21 PC hearing. Legal notices were published in the Herald Journal on 8/28/21, posted on the City's website and the Utah Public Meeting website on 8/30/21, and noticed in a quarter page ad (Herald Journal) on 8/21/21. This topic was also reported on by KSL in September.

Following the first Planning Commission hearing, I reached out to a number of local beekeepers and other communities for assistance with the beekeeping standards. Input received was included in a revised draft. I also included suggestions made during the original PC hearing and public comment period into the revised draft that was eventually passed by the PC on 9/23/21.

Council Direction

The direction from Council was to look for the "science" on backyard animals. In reviewing the various Agricultural Extension services for Utah State University, Idaho State U, Colorado State U, University of California at Davis, University of Nevada Reno, Montana State U, Washington State U, and Oregon State U, it is clear there is not really any "science" behind the keeping or raising of backyard animals. Rather, it comes down to the basic premise that if a jurisdiction, as a matter of policy, wants to permit animals in a residential setting, residents should follow Best Management Practices for keeping animals. Best Management Practices center around the appropriate numbers of animals as determined by the jurisdiction, enclosures & square footage per bird, sanitation, nuisance control, feed, water, location, setbacks from adjoining residential dwellings and/or properties, and disease and

vector control, all of which are addressed in the proposed code amendments. Many of these extension services address backyard chickens, but none address keeping other types of livestock in a residential setting. All extension services are oriented more to large scale agricultural operations.

I have attached a guide to raising chickens from Oregon State University Extension Services that provides general information and is used as a reference by other Universities. This pamphlet provides information for people wanting to raise chickens in their backyard while also making sure they are aware that (1) not all cities allow chickens in residential areas, and (2) while someone may consider their chickens their pets, not everyone loves living next door to non-traditional animals.

Consideration of Multiple Species on a Single Residential Lot

I have put together a tentative approach patterned after North Logan, Hyde Park, Smithfield and Hyrum that uses a system of Animal Equivalent Units (AEU) in determining the total number of animals that could go on a residential lot. This approach is used in range management or herd management to quantify how many animals can be assigned to a piece of property without overgrazing or damaging the underlying land. Under the AEU methodology, a carrying capacity is assigned to a specific piece of property based on property size and the species of animals. The larger the animal, the greater the potential impact, the greater the need for more physical space to accommodate their needs, and the fewer number of animals per acre. Vice versa for smaller animals. It is generally a simple mathematical exercise to determine how many fowl, or small, medium or large animals are appropriate for a certain size lot. While it is not 100% accurate because most backyard owners aren't grazing animals, it at least sets a baseline to work from. This methodology is included under Section 17.37.120 in the attached updated draft code language.

There are other approaches to limiting the total number of animals. Some jurisdictions only permit chickens and bees on residential lots, some jurisdictions only permit chickens, bees and miniature animals on residential lots less than 20,000 square feet, while others only permit large livestock on lots larger than one acre. For example, the City of Denver permits up to 8 chickens or ducks and 2 dwarf goats on any residential lot in the City. The City of Eugene, Oregon limits properties under 20,000 square feet to any two of four categories: 6 fowl, 6 rabbits, 3 miniature goats, 1 miniature pig, while the city of Flagstaff, AZ has a system based on acreage, namely only chickens, ducks, rabbits & miniature goats on lots less than an acre in size with larger livestock permitted on lots greater than an acre.

Council Changes

At the 10/19/21 hearing, the Council made the following changes to the number of chickens based on lot size (17.37.080.B.2):

Lot Size	Maximum Permitted
Less than 6,000 square feet	Went from 5 - Six (6)
6,000 – 10,000 square feet	Went from 6 - Twelve (12)
10,001 – 12,000 square feet	Went from 8 - Fifteen (15)
12,001 – 20,000 square feet	Went from 10 - Twenty (20)
20,001 square feet or greater	Went from 15 - Twenty-Five (25)

The Council also agreed to prohibit animal slaughtering.

Recent Comments

The Council has received a number of recent comments, namely from residents in Hillcrest, who do not want livestock in their neighborhood. These comments are contrary to the written and verbal comments received during the Planning Commission process from residents expressing an interest in maintaining livestock on their properties with minimal government oversight.

We did receive a suggestion that we consider regulating animals using a context based approach, with the recommendation that we consider only permitting livestock in the historic areas of the city originally platted under the “Plat of Zion” and generally tied to an early date, e.g., 1900, 1910, or 1920. The premise is that because the historic areas of Logan originally platted under the Plat of Zion concept were developed in a manner with the house being placed on the front on the lot and the rear of the lot was to be used for gardens, fruit trees, and animals, residents should be more accepting and comfortable with having livestock around them. We evaluated this approach and concluded that too many of the historic blocks & lots have been subsequently subdivided to such an extent that the integrity of the original Plat of Zion is not wholly intact. It would be almost impossible to manage a regulatory system based on original block plat date, just as it would be to manage a system based on neighborhood boundaries.

In response to recent concerns about livestock in more densely populated areas, one suggestion could be to increase the setbacks for livestock shelter & pens from 50' to 75' or even 100' from adjoining homes. This would limit the locations where livestock could go in the City based on the underlying amount of acreage someone had as well as the overall lot layout. In a residential neighborhood like Hillcrest, this standard would be difficult to meet whereas in the older neighborhoods with the long, deep lots, the standard would not be that difficult to meet.

Grandfathering (Non-conformities)

Grandfathering is a term we use to authorize or permit the continuation of a legally existing, non-conforming use or structure. Chapter 17.52 in the Land Development Code governs how we make decisions to authorize a non-conformity while the policies stated under 17.52.030 governs the City's approach to non-conformities:

- A. Legally existing nonconforming uses shall be permitted to continue operating in the same way the use operated at the time the zoning regulations were enacted, revised, or amended which rendered the use nonconforming.
- E. A use or structure which becomes legally existing nonconforming upon the adoption, revision, or amendment of applicable regulations may continue. However, if the structure or use is vacated for 12 or more months following the modifications to the ordinance that rendered it nonconforming, it shall lose its legally existing status and shall be brought into conformance with appropriate codes prior to subsequent use.

If someone has legally established an agriculture use on their property at a time when it was permitted, and even if the rules have subsequently changed, that person is legally able to continue with their established use. As was previously discussed, the City adopted Ordinances 00-34 & 00-62 in 2000 eliminating references to keeping animals for personal use from the Zoning Code. The definition of Agriculture that was adopted in 2000 is the same definition found in the current LDC. In 2013, the City adopted Ordinance 13-70 where agriculture was re-established as a permitted use in the NR-2 and NR-4 zones. If someone has an ongoing agricultural practice established after 2013 and currently located in an area zoned NR-2 or NR-4, then they would fall under the grandfathering provisions. Similarly, if a property owner has an ongoing agricultural practice established prior to 2000 and currently located in areas that were zoned for agriculture, then they would also fall under the grandfathering provisions.

If you have any questions, please let me know.

Attachments

Updated 17.37 Code Language

Oregon State University Extension Publication