



**DEPARTMENT OF PLANNING, COMMUNITY & ECONOMIC
DEVELOPMENT**

DATE: June 1, 2010

TO: City Council

FROM: Libby Grage, Senior Planner *LBG*
Planning, Community & Economic Development (PCED)

SUBJECT: Keeping of Hens - ordinance

REQUIRED

ACTION: Approve the ordinance providing standards for the keeping of hens in residential zones

Briefing

The City receives multiple calls every year inquiring about the legality of keeping chickens within city limits. Over the past few years, interest in the keeping of chickens in urban environments has increased due to benefits associated with sustainability, finances and health. Therefore, many jurisdictions have implemented, or are considering implementing, regulations to address the issue. The current Anacortes municipal code regulations do not specifically address the keeping of chickens. The City Council Planning Subcommittee has suggested that staff research and provide possible options to address the issue of urban chicken keeping in the City of Anacortes. Staff has prepared the attached draft ordinance language to provide regulations for the keeping of chickens.

At their April 28, 2010 meeting, the Planning Commission reviewed the draft language regarding the keeping of chickens in residential zones; public testimony was also taken. The Commission recommended approval of the draft language, subject to several recommended changes, which are discussed in the 'Background' section of this memo.

Background

Ordinance 543, entitled "*An ordinance regulating the keeping of certain domestic fowls in the City of Anacortes, to prevent the same from running at large therein, and fixing a penalty for the violation thereof*" was approved in February 1913. This ordinance was repealed by Ord. 1717, approved in 1977, which was entitled "*An ordinance regulating the keeping of animals in the City of Anacortes, providing for the issuance of licenses for animals, setting fees, defining nuisances, providing penalties...*" Specific language relating to chickens or fowl has not existed in the AMC since Ord. 543 was repealed in 1977.

The City typically receives approximately one complaint per month regarding chickens; the primary complaint is chickens are running loose on the street or on private property which is not owned by the chicken owner. The second biggest complaint received is noise generated by the chickens (possibly roosters).

Alternatively, the City also typically receives approximately one to two inquiries per month expressing interest in keeping chickens within the City and inquiring about regulations.

Research Summary

A review of various jurisdictions' codes, as well as an internet search, found that the issue of whether or not to allow chicken keeping on residential lots has been dealt with recently by many cities across Washington and the United States. Many jurisdictions are attempting to balance a desire to accommodate those who find benefit in keeping chickens, while protecting surrounding neighbors from potential nuisances that may arise. The following list provides commonly cited pros and cons involved in the keeping of chickens:

Potential Pros:

- Hens provide a fresh, locally produced, and inexpensive source of food (eggs)
- Hens eat food scraps, dandelions, mice and insects and may contribute to reductions in the waste stream
- Hen droppings may be used as a natural fertilizer which may be used in backyard gardens.
- Hens are small and have minimal space requirements.

Potential Cons:

- Noise
- Odors and waste
- Rodents and other pests
- Attraction of wildlife predators

A comparison of several local jurisdictions' code requirements for urban chicken-keeping is included as an attachment to this document. Pervasive themes included in many ordinances are as follows:

- Prohibition of roosters.
- Limit on the number of hens permitted.
- Requirement for an enclosure.
- Setbacks from enclosure to property lines or adjacent residences.
- Nuisance clauses related to noise, odor and sanitary conditions.
- Permit requirements.

The following changes were suggested by the Planning Commission at their April 28, 2010 meeting. Staff comment is provided in *italics* following each recommended change:

1. Add a mechanism to ensure flexibility in the case of unique circumstances or proposals; possibly through an administrative variance process.

Staff comment: *Language has been added providing for an administrative modification process, which requires notification of adjacent property owners and a comment period.*

2. Address keeping of other ‘domestic fowl’.

Staff comment: Staff recommends retaining the language as presented. The definition of hen is “a female chicken, especially over a year old”. The definition of chicken is “the common domestic fowl (Gallus gallus) especially when young”. Based on these definitions, staff believes sufficient flexibility exists to potentially allow for other types of small fowl, as determined by the director to be consistent with the intent of the section.

3. Add language requiring the fortification of coops against predators.

Staff comment: This has been accomplished by adding language to Section 6.16.015(4).

4. Define hen as a ‘mature chicken’ to address issue regarding uncertainty of gender at young age.

Staff comment: The definition of hen is “a female chicken, especially over a year old”. Staff believes that this definition addresses this issue.

5. Add mechanism to allow for more hens if property is of a substantial size both in the R1 zone and other zones.

Staff comment: This has been accomplished by adding provision for an administrative modification process, which requires notification of adjacent property owners.

Recommendation

Staff recommends that the City Council approve the attached ordinance providing standards for the keeping of hens in residential zones.

Financial Implications

None.

Impacts if Action Not Taken

As is the case currently, the Municipal Code would continue to not address the keeping of hens.

Attachments

1. Table with info on other jurisdictions’ regulations
2. Ordinance
3. Attachment A – proposed regulations

City	# of birds permitted	Rooster allowed?	Enclosure required?	Setbacks	Lot size restrictions?
Seattle	3	Not clear	Not clear	For enclosures with 4 or more animals, must be at least 10' from any other lot.	1 additional domestic fowl may be kept per 1,000 SF over min. lot size
Everett	5, without permit. a facility license permit is required for more.	No	Yes.	Not clear.	No.
Blaine	6 per each piece of land with contiguous property ownership	No	Yes. Hens shall be contained within a fully enclosed fence, pen or coop (max. 120 SF) at all times.	If enclosure is 6' or less, it shall have a minimum setback of 4' from any side yard property line	None
Mill Creek	6	No	No, but only one shelter is permitted per lot.	No	7,200 SF min.
Aberdeen	3	No	Not clear	10' from a residence; 25' from any other residence	
Woodinville	20 (max. limited to one per 1 SF of structure used to house; up to max of 2,000 SF)	Not clear	Not clear	Covered structure shall be min. of 35' to any property line	If more than 3, minimum site area is ½ acre.
Bellingham	No max.	Not clear	Yes. (stable or other building; or an enclosure surrounded by a secure, well-built fence of sufficient height and strength to confine such animal therein).	Not clear	Not clear
Burlington	6	Not clear	No, but not allowed to run at large, either.	No specific.	No
Portland	3. A special animal facility permit is required for 4 or more.	No	Yes.	If 4 or more, 15' from any building used or capable of being used for human habitation.	No
Mount Vernon	No max.	Not clear.	Not clear, but building used for housing of fowl shall not exceed 36 SF when located on a minimum lot and neither the building or fenced area for roaming shall be closer than 25' to a property line, except by recorded agreement of adjacent owners.	Not clear, but building used for housing of fowl shall not exceed 36 SF when located on a minimum lot and neither the building or fenced area for roaming shall be closer than 25' to a property line, except by recorded agreement of adjacent owners.	No.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 6 OF THE
ANACORTES MUNICIPAL CODE
TO PROVIDE STANDARDS FOR THE KEEPING OF HENS
IN RESIDENTIAL ZONES.**

**THE CITY COUNCIL OF THE CITY OF ANACORTES DOES HEREBY
ORDAIN AS FOLLOWS:**

WHEREAS, the Planning, Community and Economic Development Department (PCED) has drafted revisions to the Anacortes Municipal Code to allow the keeping of hens in residential zoning districts in the City; and

WHEREAS, on April 28, 2010, after posting legal notice, and publication of legal notice in a newspaper of general circulation, the Planning Commission conducted a public hearing on the proposed amendment to the Anacortes Municipal Code; and

WHEREAS, on April 28, 2010, the Planning Commission, after considering the recommendations of staff and carefully reviewing all information, the Planning Commission unanimously voted to recommend approval of the revised text amendment; and

WHEREAS, on June 7, 2010, the City Council held a public meeting to further review and discuss the record and, subsequently voted to approve the proposed amendment;

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF
THE CITY OF ANACORTES** as follows:

SECTION 1: The following **Findings of Fact** are hereby adopted:

1. The Planning, Community and Economic Development Department has received a number of requests from the citizens of Anacortes inquiring about the keeping of chickens.
2. There is an increasing awareness of food supply impacts to the environment due to long distance shipping and the methods of industrial agriculture farming techniques.
3. There is an increasing desire by some members of the public to have a greater control over food quality and production.
4. The keeping of hens should not have a measureable negative impact on the citizens of Anacortes or the land uses in the residential districts where allowed.
5. If hens or coops become a nuisance, the City will have the authority to remove the chickens or require the nuisance be corrected.
6. The keeping of hens will have a positive effect upon the residents of Anacortes by allowing for the limited production of fresh eggs and organic fertilizer.

SECTION 2: The Anacortes Municipal Code is hereby amended as stipulated in:

Exhibit A – Amendment to Title 6 of the Anacortes Municipal Code.

SECTION 3: Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect from and after five (5) days after its passage and publication as required by law.

PASSED AND APPROVED the ____ day of _____, 2010.

CITY OF ANACORTES:

H. Dean Maxwell, Mayor

ATTEST:

Steve Hoglund, City Clerk

APPROVED AS TO FORM:

Bradford E. Furlong, WSBA #12924
City Attorney

EXHIBIT A - Amendment to Title 6 of the Anacortes Municipal Code.

Definitions:

6.08.063 "Chicken" means the common domestic fowl.

6.08.125 "Hen" means a female chicken, especially over a year old.

6.08.225 "Rooster" means a male chicken of any age.

6.16.015 – Keeping of Hens

- A. The keeping of hens shall be permitted on properties used for single-family and duplex residential purposes only in the R1, R2, R3 and R4 zoning districts under the following conditions:
1. Keeping of roosters shall be prohibited;
 2. Hens may be kept, as provided in this section, by the owner or tenant of any single-family or duplex residence, provided that the hens are kept on the same premises where the owner of the hens resides;
 3. One (1) hen is allowed for each 1,500 square feet of lot area up to a maximum of six (6) hens on any lot or contiguous property under the same ownership;
 - a. In the R1 zone only, up to twelve (12) hens may be allowed on lots of one-half (1/2) acre or more, provided that if there are more than six (6) hens, the shelter and fenced yard area shall be a minimum of 40-feet from any habitable residential building on an adjacent property.
 4. Hens shall be contained at all times within a fully enclosed fence, pen or coop which is constructed to prevent dogs, coyotes, cats, raccoons, rats, and other predators and pests from accessing the hens.
 - a. Except in the R1 zone, pens, coops or other enclosed shelters shall be less than 120 square feet in area; in the R1 zone, coops or other enclosed shelters shall be less than 240 square feet in area;
 - b. For each hen, a fenced open yard area of at least 20 square feet and an enclosed shelter of at least four (4) square feet shall be provided;

- c. Fenced open yard areas and enclosed shelters shall be a minimum of twenty (20) feet from any habitable residential building on an adjacent property;
- d. Hen enclosures and fenced open yard areas shall be kept in a good working and sanitary condition, shall not cause odor or noise nuisances, and shall not be deemed to be unsightly from any public right-of-way, as determined by the Administrator;
- e. Coops and hen enclosures shall not be located in the front yard of a lot nor in a side yard which abuts a street.
- f. Two or more people may cooperative own and care for hens by means of a portable coop that may be moved from one property to another, provided that all requirements of this code are met on each of the properties to which the coop is moved.

B. Administrative modifications. The Director of Planning, Community and Economic Development (“administrator”), or designee, shall have the authority to grant or deny modifications, as listed below, to the standards of this section.

1. The following modifications may be allowed (only one modification is allowed per property):
 - a. An increase of up to 150% of the allowable number of hens.
 - b. Two people owning or renting a house or duplex within 300’ of each other may consolidate each property’s allotted number of hens on one parcel. At least one of the owners of the hens must reside on the parcel where the hens are kept.
 - c. The required enclosure setback to a habitable building on an adjacent property may be reduced to not less than 10 feet, with the adjacent property owner’s written approval.
2. Applications for modifications to this section shall be made to the administrator and shall include materials deemed necessary by the administrator.
 - a. Upon receipt of an application the administrator shall require notification by mail to adjacent properties. This notice shall describe the location and modification proposed by the applicant.
 - b. Two calendar weeks after notification the administrator may either grant or deny the application. If granted, conditions of the permit (if any) shall be attached and a copy sent to the adjacent property owners.
 - c. Any aggrieved party shall have five working days from the date of the decision to appeal the decision of the administrator to the city council. The appeal shall be in

writing and is to be filed with the city clerk. The permit shall not become valid until expiration of the five days. An appeal stays the validity of the permit until a decision is made by the city council.

- d. If after approval of the modification, the property owner violates any of the conditions upon the permit, or if the modification is found to be having a detrimental effect upon the surrounding neighborhood, the administrator, upon thirty days notice, shall have the authority to revoke or place additional restrictions on the permit. This decision may be appealed to the city council by the party owning the chickens within thirty days of the mailing of the administrator's decision.

C. Violations.

1. The owner of any property in violation of this section, as determined by the Administrator, shall be subject to the infraction penalties defined in AMC 6.32.
2. Within seven (7) days of the notice of violation the property owner shall correct the cause of violation. If the violation has not been corrected in this time, the City, with cause, may seek legal entry to the property to remove the hens. The property owner will be responsible for any costs incurred by the city to insure the nuisance is removed.