

**Riccardi, Richard**

**From:** Riccardi, Richard  
**Sent:** Wednesday, May 04, 2011 10:21 AM  
**To:** Cooper, David  
**Subject:** Farm Animals, Amended Ordinance, Use Permit Issue  
**Attachments:** Farm Animal, current & previous Ord.pdf

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                          Cooper, David      Delivered: 5/4/2011 10:21 AM      Read: 5/4/2011 10:22 AM

Regarding the Zoning Code Ordinance regulating the keeping of farm animals and bees, Section 347.02, I have attached a PDF comparing the previous ordinance with the current ordinance. Note that the previous ordinance, passed 2/4/09, in Section 347.02(i), required an application to the Department of Building and Housing **in all cases** where one desired to keep farm animals or bees, stating:

***“Anyone proposing to keep farm animals or bees on a property in the city of Cleveland or to expand such use shall apply for approval from the Department of Building and Housing which shall determine if the application is in compliance with regulations regarding construction and placement of enclosures, fences, cages, coops, beehives, flyway barriers, stables and other structures used in keeping of farm animals or bees and whether the property is occupied by a condemned building.”***

This provision was amended by Ordinance No. 29-10, passed 3/8/10, which is currently in effect, to: ***“A proposal for the keeping of farm animals and bees is subject to approval by the Department of Building and Housing only if a Building Permit is required by the regulations of division(i)(2) of this section.”*** Division (i)(2) simply states that a Building Permit is required for a installation of a fence or for construction of a structure, such as a stable, where a Building Permit would already be required: it states no requirement for a “use” permit.

The requirement for a “use” permit, or for any **permit review** of the regulations regarding number of animals, size of lot, setback requirements for the animals or cages, or any other regulations except for the construction of permanent, attached structures (which would require a permit anyway), was eliminated in the amended ordinance.

The Building and Housing Department, in Section 347.02(i), was granted specific authority for **enforcement** to determine compliance with all regulations of 347.02: this authority, however, is not at the permit review or issuance stage.

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- see 347.02(i)

NEW, CURRENT, AMENDED ORDINANCE - PASSED 3-8-11

**347.02 Restrictions on the Keeping of Farm Animals and Bees**

(a) *Purpose.* The regulations of this section are established to permit the keeping of farm animals and bees in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

(b) *Chickens, Ducks, Rabbits and Similar Animals.* The keeping of chickens, ducks, rabbits and similar farm animals, and cages, coops and enclosures for the keeping of such animals, shall be governed by the following regulations.

(1) *In Residential Districts.* In Residential Districts, the following regulations shall apply.

A. *Number.* No more than one such animal shall be kept on a parcel of land for each 800 square feet of parcel or lot area. For a standard residential lot of 4,800 square feet, this regulation would permit no more than a total of six (6) such animals.

B. *Setbacks.* The coops or cages housing such animals may not be located in front yard or side street yard areas and shall not be located within five (5) feet of a side yard line nor within eighteen (18) inches of a rear yard line, except where the rear lot line forms the side lot line or front lot line of an abutting property, in which case the setback from such rear lot line shall be five (5) feet. No animals shall be kept in required front yard or side street yard areas.

C. *Prohibitions.* No roosters, geese or turkeys may be kept in a Residential District except on a parcel that is at least one (1) acre in area and only if the coop or cage housing the bird(s) is at least one hundred (100) feet from all property lines. For parcels greater than one (1) acre in area, one (1) additional such bird may be kept for each 24,000 square feet in excess of one (1) acre. No predatory birds may be kept on any property under the regulations of this Section.

D. *Coops and Cages.* All animals shall be provided with a covered, predator-proof coop or cage or other shelter that is thoroughly ventilated, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the animals exclusive of areas used for storage of materials or vehicles. The total area of all coops or cages on a lot shall not be greater than thirty two (32) square feet for up to six (6) animals. Coops and cages, singly or in combination, shall not exceed fifteen (15) feet in height.

E. *Enclosures and Fences.* Chickens and other birds shall have access to an outdoor enclosure adequately fenced or otherwise bounded to contain the birds on the property and to prevent access by dogs and other predators and providing at least ten (10) square feet of area for each bird.

(2) *In Non-Residential Districts.* In zoning districts other than Residential Districts, all regulations applicable in Residential Districts shall apply except that the number of such animals shall be limited to one (1) animals for each four hundred (400) square feet of lot area.

(c) *Goats, Pigs, Sheep and Similar Animals.* The keeping of goats, pigs, sheep and similar farm animals, and stables and enclosures for the keeping of such animals, shall be governed by the following regulations.

(1) *In Residential Districts.* In Residential Districts, no goats, pigs, sheep or similar farm animals shall be kept on a parcel of land less than 24,000 square feet in area. For a parcel that is at least 24,000 square feet in area, a

maximum of two (2) such animals may be kept on the property, with one (1) additional animal permitted for each additional 2,400 square feet of area. Stables or other enclosures for such animals shall not be permitted in front yards or in side street yards and shall be set back at least forty (40) feet from any street and from any property other than a property located in an Industrial District and shall be set back at least one hundred (100) feet from a dwelling on another parcel or from the permitted placement of a dwelling on an adjoining vacant parcel.

(2) *In Non-Residential Districts.* In zoning districts other than Residential Districts, no goats, pigs, sheep or similar farm animals shall be kept on a parcel of land less than 14,400 square feet in area. For a parcel that is at least 14,400 square feet in area, a maximum of two (2) such animals may be kept on the property, with one (1) additional animal permitted for each additional 1,200 square feet of area. Stables or other enclosures for such animals shall be set back at least forty (40) feet from any street and from any property other than a property located in an Industrial District and shall be set back at least one hundred (100) feet from a dwelling on another parcel or from the permitted placement of a dwelling on an adjoining vacant parcel.

(3) *Prohibitions.* No horses, cows, alpacas, llamas or similar animals shall be kept on a property except in areas specifically designated for the keeping of such animals.

(d) *Bees.* The keeping of bees, and associated beehives, shall be governed by the following regulations.

(1) *In Residential Districts.* In Residential Districts, the following regulations shall apply.

A. *Number.* No more than one (1) beehive shall be kept for each 2,400 square feet of lot area, and no beehive shall be kept on a lot less than 2,400 square feet in area.

B. *Location and Setbacks.* No beehive shall be kept closer than five (5) feet to any lot line and ten (10) feet to a dwelling or the permitted placement of a dwelling on another parcel, and no beehive shall be kept in a required front yard or side street yard. The front of any beehive shall face away from the property line of the Residential property closest to the beehive.

C. *Fences and Shrubs.* A solid fence or dense hedge, known as a "flyway barrier," at least six (6) feet in height shall be placed along the side of the beehive that contains the entrance to the hive, and shall be located within five (5) feet of the hive and shall extend at least two (2) feet on either side of the hive. No such flyway barrier shall be required if all beehives are located at least twenty-five (25) feet from all property lines and for beehives that are located on porches or balconies at least ten (10) feet above grade, except if such porch or balcony is located less than five (5) feet from a property line.

D. *Water Supply.* A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

E. *Prohibitions.* No Africanized bees may be kept on a property under the regulations of this Section.

(2) *In Non-Residential Districts.* In zoning districts other than Residential Districts, all regulations applicable in Residential Districts shall apply except that the number of beehives shall be limited to one (1) for each 1,000 square feet of lot area.

(e) *Lots Without a Residence.* Notwithstanding the provisions of Section 337.23 regarding Accessory Uses, farm animals or bees may be kept on a lot that is vacant or has no occupied residence but only if the applicant for such activity submits written documentation to the Director of Public Health, in accordance with the provisions of Section 205.04, demonstrating that the use will be managed in a manner that prevents the creation of nuisances or unsanitary or unsafe conditions.

(f) *Sanitation and Nuisances.* Farm animals shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to occupants of nearby buildings or properties and not to cause health hazards. Furthermore, farm animals shall not be kept in a manner that is injurious or unhealthful to the animals being kept on the property.

(g) *Animal or Bird Noise.* It shall be unlawful for any person or other party operating or occupying any building or premises to keep or allow to be kept any animal or bird that makes noise so as to habitually disturb the peace and quiet of any person in the vicinity of the premises.

(h) *Slaughtering of Animals.* Chickens, ducks, rabbits and similar small animals may be slaughtered on site only if for consumption by the occupants of the premises. No other farm animal may be slaughtered on site.

(i) *Application to Building and Housing Department.* A proposal for the keeping of farm animals or bees is subject to approval by the Department of Building and Housing only if a Building Permit is required by the regulations of division (i)(2) of this section.

(1) *Contents of Application.* The application shall include the information required by the provisions of division (a) of Section 205.04.

(2) *Building Permits.* A Building Permit shall be required for installation of a fence or for construction of a stable or other structure routinely requiring such permit, except that no Building Permit shall be required for cages, coops or beehives that are not permanently attached to the ground or to another structure and do not exceed thirty two (32) square feet in area nor eight (8) feet in height. No Building Permit shall be required for the barrier constituting a required enclosure if such barrier is not permanently attached to the ground and does not exceed three (3) feet in height; and no permit shall be required for a "flyway" barrier not exceeding six (6) feet in height and six (6) feet in length.

(j) *Application to Public Health Department.* In accordance with the provisions of Section 205.04, anyone proposing to keep farm animals or bees on a property in the City of Cleveland shall apply for a two-year license from the City of Cleveland through its Department of Public Health on a form provided by that office.

(k) *Building Conditions.* The keeping of farm animals or bees shall not be permitted on a property occupied by a building that has been condemned by the Department of Building and Housing.

(l) *Enforcement.* The Director of the Department of Building and Housing or the Director's designee shall have the authority to inspect any property to determine compliance with the regulations of this Section regarding the construction and permitted placement of enclosures, fences, cages, coops, beehives, stables and other structures used in the keeping of farm animals or bees and shall have the authority to enforce the regulations of this Section as they apply to such matters. The Department of Public Health shall have the authority to enforce regulations of this Section in accordance with the provisions of Section 205.04.

(m) *Variances*. The Board of Zoning Appeals may vary the regulations of this section as they apply to a particular property if it determines that such variance will be consistent with the stated purpose of this Section.

(n) *Definitions*. Terms used in this Section shall have the meanings assigned to them in the following definitions.

(1) *Farm Animal*. "Farm animal" means any domestic species of animal that is kept and raised for use as food or in the production of food or in the operation of a farm and is not an "exotic animal" as defined in Section 603A.02 and is not a house pet such as a dog, cat or similar animal.

(2) *Coop and Cage*. "Coop" and "cage" mean a structure, not necessarily attached to the ground, with a top and sides and designed to provide shelter and protection for small animals or birds.

(3) *Enclosure*. "Enclosure" means a set of walls or fences designed to confine animals or birds to a space that is large enough to permit the animals and birds to roam relatively freely in an open yard area.

(4) *Predatory Bird*. "Predatory bird" means an owl, hawk, falcon, eagle or similar bird that feeds principally by catching living prey.

(5) *Similar Animal*. Any farm animal that is similar to other animals listed in a particular category of permitted animals with respect to impacts on nearby properties, including noise, odors, safety hazards or other nuisances.

(Ord. No. 29-10, Passed 3-8-10, eff. 3-11-10)