

**Cuyahoga Falls City Council  
Minutes of the Planning & Zoning Committee**

**May 15, 2023**

**Members:** Susan Spinner, Chair  
Jerry James  
Adam Miller

Mrs. Spinner called the meeting to order at 7:48 p.m. All members were present.

The minutes of the April 17, 2023 Planning & Zoning Committee meeting and Public Hearing were approved as written.

**Legislation Discussed:**

Temp. Ord. B-35

**Discussion:**

**Temp. Ord. B-35**

An ordinance approving a regulatory text amendment to Section 1133.04(A)(5) to allow for the keeping of chickens in R-2, R-3 and R-4 Zoning Districts, and declaring an emergency.

Mr. Rob Kurtz, Planning Director, presented Temporary Ordinance B-35 to Council. Two members of City Council requested that the Planning Division draft text amendments for the Planning Commission's consideration that would allow residents to keep chickens on their properties in all single family residential districts. Currently, "Animal Services, Large" is an "allowed use" in NP-1 National Park and RR Rural Residential Districts and, as a "limited use" in R-1 Large Lot Residential Districts. The NP-1, RR, and R-1 Districts are generally characterized by large lots and are more rural in nature when compared to the remainder of the City.

The Planning staff does not support the change to allow chickens in all residential districts considering the following: Not adequate evidence provided to support amending the text of the Development Code; Given the smaller lots in R-2, R-3 and R-4 Districts, the potential negative impacts on adjacent properties are greater; Potential for increase in complaints/violations considering the smaller lot sizes and closer proximity of homes; The keeping of chickens is already permitted in NP-1, R-R & R-1 Districts.

At the April 4, 2023 Planning Commission meeting, the Commission members voted to recommend approval of TXT-22-00044 to allow for the keeping of chickens in R-2, R-3 and R-4 Districts by amending Section 1133.04(A)(5).

**Proposed Text Amendment**

Chapter 1133, Title 1, Part 11, Section 1133.04(A)(5) of the Codified Ordinances of the City of Cuyahoga Falls, is hereby amended to read as follows:

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5. Domestic Animals.

a. No more than 3 (three) adult dogs, six months or older are permitted in any residential district, except as specified in 1131-1: Zoning Districts and Uses.

b. Keeping of swine, goats, llamas, mink, geese, chickens, pigeons and other fowl, and other similar domesticated animals is not permitted in residential districts, as specified in subsections (c) and (d) below:

c. Keeping of chickens is an allowed use in NP-1 and R-R Districts and a limited use in R-1 Districts under the “Animal Services, Large” classification as specified in Table 1131-1: Zoning Districts and Uses, and further regulated in Section 1133.02 (G)(3).

d. Chickens, excluding roosters, may be permitted in R-2, R-3 and R-4 districts according to the following conditions:

(1) A total of 4 chickens are permitted in R-2, R-3 and R-4 zoning districts. Keeping of chickens is prohibited in any front yard or corner side yard.

(2) A minimum of lot width of 50 feet is required for the keeping of chickens.

(3) All chickens shall be provided with a covered, predator-proof coop 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. Such structures shall be set back a minimum of twenty (20) feet from all property lines.

(4) Chickens must be kept in a coop or coop run as specified in subsection 3 above, at all times.

(5) All coops and associated structures shall require a zoning certificate from the Planning Division. All coops and associated structures shall be constructed of quality, weather resistant materials including wood that is stained or painted or simulated wood products. Roofs for the coop or run should be angled to ensure rain and snow stay outside of the coop and run. The coop run shall utilize 19-gauge hardware cloth or a similar material.

(6) Any perimeter fencing shall comply with the standards specified in Section 1145.09. Any coop building shall be included in the

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calculation regarding the number and square footage of accessory structures permitted as specified in Table 1132-2.

(7) The maximum area for a coop is 60 square feet.

(8) Provision must be made for the storage of feed. A fully enclosed container equipped with a roof or lid shall cover all stored feed which shall be setback minimum of twenty (20) feet from all property lines.

(9) Provision must be made for the disposal of animal waste.

(10) The maximum height of a coop building shall be 7 feet.

(11) A solid privacy fence a minimum of 6 feet in height shall be required in order to screen the coop from view of adjacent properties.

(12) No slaughtering of chickens shall be permitted in any residential district.

(13) No commercial sales of eggs shall be permitted on any properties located in R-2, R-3, or R-4 districts.

Ms. Colavecchio spoke on the enforcement issues this ordinance would present. The Community Development Department led by her, as Director, is opposed to this legislation based on practical reasons. What they are here to do is enforce laws that are passed and, sometimes, that enforcement creates practical implications for the department that would be difficult. This should not be the sole factor when thinking about whether or not to pass it, but it should be considered, because, as a practical matter, even if there are only two chickens coops in the City, there are going to be two neighbors that are likely going to agree those should not be there. Ms. Colavecchio explained the Department's process of dealing with complaints whether made by e-mail, phone calls or through Council. The nature of those calls would be a violation of the stipulations listed in the ordinance.

Ms. Colavecchio stated that once complaint is received, the Senior Planner investigates the complaint. If the complaint is legitimate, he then issues a warning letter giving the property owner 14 days to correct the problem. If the situation has not been corrected after that 14-day period, another letter is sent informing the property owner of the Community Development Department's intention to forward the complaint to the Law Department. The property owner can request an appeal meeting, which can also delay the process. Their department does not have the authority today and never will have the authority to go out to homes and remove chickens and chicken coops. These issues will not be remediated or enforced for a long time. Based on her common experience in doing this job today and seeing what happens with fences, decks and pools, she absolutely expects that people will hear that chickens are allowed and will not abide by the process. This will have a negative impact. These are neighbor disputes and, as such, are referred to the Law Department and are difficult to work through.

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Ms. Janet Ciotola, Law Director, explained the procedure that is followed once an issue is referred to the Law Department by the Community Development Department.

Mrs. Spinner stated that that she is huge fan of everything the Community Development Department does. They always respond quickly and take action. She appreciates everything they do to make Council's job easier and to help them solve those problems for their constituents and neighbors. This process has been an amazing and worthwhile experience, having started from the ground up with a concern from a constituent and then chaired by many residents that gave them an opportunity to build something that could be presented and then worked with the Planning Commission, after three meetings of overcoming objections and correcting things to make it palatable and something that those folks thought could pass. Given the fact that the City was not for this ordinance and the process that brought it before Council tonight could be used as an example of how democracy works.

Mr. James stated that Planning Department staff does not support the amendment. The Planning Commission did recommend approval. If the ordinance does pass, it's going to be waking nightmare for the Community Development Department. They will have to hire more housing inspectors just to handle chicken complaints. Out of the 50 or more residents that have contacted him, two were in favor and the rest of the people were adamantly opposed. Sometimes a Councilperson has to make a decision that might not be good for some of his residents, but also has to look at the rest of his residents and the rest of the city. He does not think that this ordinance is particularly good right now. He was opposed to it when it was brought before the Planning Commission in 2014 and was glad it that failed in the Planning Commission at that time. He appreciates everybody that is here tonight and the e-mails and discussion, but he has to be honest with his fellow Council people and the Administration in stating that he is opposed to this ordinance and will be voting it down.

Ms. Loza stated that she home schooled her children during Covid. She also practices some basic homesteading. She has a garden. She actually wants chickens in her yard. Although the proposed amendment does not allow roosters, she has had several issues with roosters. Most of her ward is R-4 with some pockets of R-5. She has had no less than four rooster issues and has had an extremely hard time getting those under control. Her main concern is they already have an issue with roosters and have no way of truly enforcing how to get rid of roosters. Unless someone can tell her they have a contact somewhere, she is not comfortable because Tractor Supply will not take them back. Howe Avenue is very commercial. People come there and dump animals, and they are trying to deal with how to get rid of abandoned animals. Her concern is they will try to abandon the roosters. If the solution is that it will take months to handle these roosters and possibly legal action or the fact that departments of wildlife are not able to handle this situation, even though she desperately wants backyard chickens and her kids are very mad at her, she does not know if she could move forward with on this with the parameters that are in place.

Mr. Brillhart stated that he has had a surprising number of residents reach out to him and 100 percent have been opposed. He reached out to some residents in Ward 5 and, once again, they are opposed to this, and, therefore, he is a strong no vote on this.

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Mr. Stams asked what the cost of chickens are and what the annual cost would be to maintain them in accordance with the stipulations outlined in the amendment.

Ms. Loza stated that chickens are about \$5. When at Tractor Supply, most of the coops that comply with code are \$600 to \$800. The coops and runs were expensive, but, if willing to put the money forth, affordable.

Mr. Steven MacIntosh, 261 E 214<sup>th</sup> Street, Euclid, Ohio, stated that the cost all depends on type of feed and the type of bedding material used. The fear of roosters is certainly a valid concern. He would suggest that anybody that would be buying chickens should buy pullets, which are hens that are not laying hens. That is what they did for their school hens because they did not want to have roosters. Of the 13 hens they have, 50 pounds of feed is \$15.50, pine shavings for their bedding are about \$7 a bag, and they use nesting pads that are about \$3 each. They are not the cheapest thing. To argue it just for financial reasons might be a tough one especially factoring in the time.

Mr. James stated that a gentleman that spoke at the podium at the Public Hearing stated that most people are not talking because they are friendly and they do not want to make waves. If this ordinance were put on the ballot in order to have the entire City of Cuyahoga Falls vote on it, even the quiet people, he does not think it would do well, because then the rest of the residents would have a voice in it and they would making the decision, too. He does not think the vast majority of the residents would vote for it.

Mr. Balthis stated that it is difficult decision, because there are a lot of good arguments on both sides. They have to weigh the rights of the people to do what they like to do on their property with the rights of their neighbors and making sure they are not bothered. The concerns from the Community Development Department and the ability to enforce these rules are overly concerning. He also weighs it against concerns of other cities, and it sounds like what they have heard from others that is not always the case. The real balance is a judgment call. Are they going to have more people that will comply and do what they are supposed to do or is nobody is going to bother following the stipulations and there are going to be a rush of problems. There is no clear answer. He thanked everybody who shared their thoughts and reached out. It helps Council get a sense of what is best for the community as a whole. He will be calling a few other communities in the next week and asking them about their experiences.

Mr. Ashton asked if they have a solution for the rooster issue. Ms. Colavecchio stated that they do not. They also have no real control as to how people acquire chickens. They are not all going to wait until they are 12 weeks old to make sure they are hens. They are in unchartered territory and there are a lot of restrictions. Other communities may not be reporting issues. It may have something to do with their lot sizes being larger or that it is more rural in those areas so people do not complain. She does know what their experience has been here in urban areas, which is considered primarily the east side of the city, and the type of complaints that they get. The nature of their calls right now are primarily issues related to improperly-built fences, wrong materials, wrong setback, improperly-built decks and violations related to signage. They have, in the past, gotten complaints about particular homes that were attracting an inordinate number of skunks. They do have a skunk policy and will reimburse a resident the price of trapping. Once something

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drops something on a lawn, they can get involved with trash and debris. It raises concerns about whether people will maintain their chicken feed and keep it in the containers, or when falls on the ground and becomes debris and trash and starts to smell, they will have to get involved. Hoarding issues and mental health issues occur with folks and they harbor too many cats, too many dogs, too many chickens, with waste unkept, not picked up and then cleanliness become an issue. They are in unchartered territory. In their experience in this city, with the proximity of folks living as close to other homes as they do and the kind of calls they receive now, she has to err on the side of predicting that they would get complaints. She cannot dictate how many, but it will have an impact and it would have a negative impact.

Mr. Balthis asked if he could receive info via e-mail of what the average lot width is within the R-3 zoning district. There are a lot of homes where the lot size alone would probably restrict keeping chickens. He also asked about how many chickens are in a coop, how often it is cleaned and if they have issues with smell.

Mr. Kurtz stated he will be will happy to get that information.

Mr. McIntosh stated that they have three hens. The inside of their coop is about 30 square feet and their general enclosure space where they can roam free is about 1100 or 1200 square feet. They make a complete change of their bedding in the coops every two weeks. Every day, because they poop all night long, they will go in and turn it over a little bit and throw some shavings on top to keep it nice and dry and keep it smelling good. Because of the enclosure, they walk around and poop all day long, so they clean it every single day because they do not want smells and issues. That poop goes right into their compost, so that is how they dispose of it.

Mrs. Penta stated that it is wonderful people have spoken and e-mailed, but please note that she has had conversations with residents in Ward 3 and are pretty much against this text amendment. She is listening to what has been said tonight and appreciates the input we have gotten in all avenues.

Mr. Stams stated that he has gotten 10 e-mails a little more in favor of the chickens than not. He didn't realize that there are chickens in his ward, because they must be quiet and he does not smell anything.

Mrs. Spinner stated that she knows for a fact that, in Ward 2, there are residents with chickens. She has never received a complaint from any of their neighbors about their chickens. She knows they exist and feel that they must exist harmoniously.

Laura Abood, 2306 Frederick Drive, Cuyahoga Falls, stated that bees are allowed to be in the city, and she did take up beekeeping and has had hives on her property for years. They have never had issues with the neighbors. She does not think property values have decreased. Chickens are the same in the sense as raising livestock on their property.

Ms. Colavechio stated that she does not remember exactly what year the bee ordinance was passed. It was prior to her arrival a little over four years ago. In their department, they have not had complaints related to bees or beehives.

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Mr. Stams asked if there was data on how many complaints their department gets for the various ordinance or structures or dog complaints. He assumes that they would handle the chicken complaints the same as those complaints, so he would not necessarily see a difference in staffing needs in how you would handle the complaint.

Ms. Colavecchio stated that even if this ordinance passes, they are in a holding pattern to determine staffing needs. They are not assuming anything until they see how it would go. If Council passes this ordinance, they are going to enforce it the best they can and make the best efforts to enforce it with the existing staff. They keep track of citations that are issued. They are in the process of having their software vendor detail by code the nature of those citation violations, so they can generate the kind of the report Mr. Stams is asking for. They do not have it today.

Steven Spengler, 817 Chestnut Boulevard, Cuyahoga Falls, stated that he would like to see the data from the other communities that allow the keeping of chickens. When considering the minimum width of lots starting at 50 feet, he does not see that anyone can comply. Mrs. Spinner stated that the limitations would mean that not everybody would be able to get chickens because not everybody would qualify.

Mr. Spengler stated that if the average lot in the City is less than 50 feet, and the vast majority cannot qualify, then that ward should be shut down for having it. Mrs. Spinner stated that they cannot do it by ward. They are going to do it for the whole city. Mr. Spengler stated that the minimum size should be a quarter to a half-acre to have chickens.

Ms. Christin Boozer, 1658 14<sup>th</sup> Street, Cuyahoga Falls, stated that the whole point of being restrictive is that there are not chickens that are up to the neighbor's property line. She thinks they have met a happy medium where some of them can have chickens and be respectful.

Mr. Spengler asked if there are any records made when the ordinance prohibiting chickens was passed. Mrs. Spinner stated that chickens have never been allowed in the part of the city that they are discussing now.

Mr. Miller moved to bring out Temp. Ord. B-35 with a favorable recommendation, second by Mr. James. Motion passed (3-0).

The meeting adjourned at 8:51 p.m.