

**Sustainable Food Policy Council**  
**Advisory #1: Food Producing Animals Ordinance**

**SECTION 1: ISSUE & BACKGROUND INFORMATION**

The City of Denver proposes ordinance changes to the Denver Zoning Code and the Animal Code (D.M.C., Chapter 8) to alter the current allowances for Food Producing Animals (FPAs). Food Producing Animals include fowl (chickens, ducks) that produce eggs, and dwarf goats that produce milk.

**Proposed Amendment to the Denver Zoning Code**

**Intent of Amendment:**

Promote the keeping of Food Producing Animals and concurrent food access and food security benefits, where most appropriate, while assuring compatibility with existing land uses and minimization of any adverse impacts on neighboring properties or neighborhood character.

**Purpose for Amendment:**

Denver currently allows FPAs in all zone districts as an accessory (secondary) use to a primary residential use. Before Denver residents may keep FPAs, they must submit an application to the city for a Zoning Permit with Informational Notice ("ZPIN"). The process for granting a ZPIN includes providing written notice to registered neighborhood organizations, as well as posting a sign on the subject property informing the public that a permit has been requested, and inviting comment. In addition to providing the standard ZPIN notice just described, an applicant wanting to keep Food Producing Animals must also notify abutting homeowners and request letters of support. The Denver Zoning Administrator considers the ZPIN application and all public comments, and decides whether to approve, approve with conditions, or deny the permit application.

The proposed Denver Zoning Code amendment would:

- 1) Change the zoning review process for keeping Food Producing Animals by allowing a set number and type of FPAs without a ZPIN process, similarly to how Denver allows its residents to keep dogs, cats, and domestic honeybees.
  - a) Keeping FPAs would, as with domestic honeybees, be subject to specific standards to avoid any potential impacts on neighboring properties.
  - b) Just as with keeping of other animals, if a resident does not follow the required zoning standards (typically discovered after a complaint is made to the city), the City can issue a notice of violation and work with the resident to correct any problems. If problems are not timely corrected, the City may take more formal action to abate the problem through municipal court.
- 2) Allow FPAs to be kept not only on residential properties, but also on properties occupied by civic or institutional users, such as schools or churches, or occupied by restaurants.

<b>Summary of Denver Zoning Code Text Amendments</b> Proposed changes are shown in Green	
<b>Allowed As Accessory to Residential and Nonresidential Uses</b>	Limited keeping of FPAs as accessory to both Primary Residential and Nonresidential Uses, subject to the following limits: <ol style="list-style-type: none"> <li>1. Maximum of 8 chickens/ducks (no roosters or drakes) per zone lot.</li> <li>2. Maximum 2 dwarf goats and any number of their offspring younger than 6 months, per zone lot. No intact male dwarf goat older than 6 weeks may be kept on the zone lot.</li> </ol> Male animals are prohibited primarily to minimize noise and odor impacts. "Dwarf goats" will be defined in the Animal Code to allow only Nigerian Dwarf or African Pygmy species (commonly raised for their milk).
<b>Where Allowed – Zone Districts</b>	Limited keeping of FPAs as described above is allowed in all zone districts
<b>Zoning Review Process</b>	For the limited keeping of FPAs as described above: <ol style="list-style-type: none"> <li>1. No zoning permit required</li> <li>2. No public notification required</li> </ol> Requests to keep more than the maximum allowed number of FPAs described above (e.g., 20 chickens), or to keep FPAs different than described above (e.g., cows), will be reviewed as follows: <ol style="list-style-type: none"> <li>1. When the requested use is accessory to a Primary Residential Use, review is according to the Zoning Permit Review with Informational Notice (ZPIN) procedure, which requires written and posted notice to the public.</li> <li>2. When the requested use is accessory to a Primary Nonresidential Use, review is according to the ZPIN process in (a) all Residential Zone Districts, (b) all MX/MS-2x Zone Districts, and (b) all other nonresidential zone districts when the subject property is adjacent to a Residential Zone District.</li> <li>3. In all other cases, the requested use is reviewed according to the Zoning Permit process (no notification required).</li> </ol>
<b>Use Limitations</b>	<ol style="list-style-type: none"> <li>1. Slaughtering is prohibited as part of the Keeping of FPAs except when keeping FPAs is accessory to a nonresidential use in an I-A or I-B zone district.</li> <li>2. Structures housing the FPAs must be located at least 10 feet from any structure containing a dwelling unit on abutting properties.</li> <li>3. As accessory to a primary residential use, FPA use must be maintained within the rear 50% of the zone lot.</li> </ol>
<b>Zoning Enforcement</b>	No Change. Neighborhood Inspection Services (NIS) will inspect after complaints; work with owner to correction violations; issue notice of violation orders; follow-up with more formal, court-ordered remedies as necessary.

## **Proposed Amendment to the Denver Animal Code**

### **Intent:**

Assure the long-term care, health and welfare of Food Producing Animals; prevent the spread of disease; prevent cruelty and neglect to animals; and protect adjacent properties from adverse impacts due to animal escape or to improper care or treatment of animals or their waste.

### **Purpose for Amendment:**

Keeping of Food Producing Animals currently requires either fowl or livestock permits issued by the Denver Department of Environmental Health (DEH). The DEH permit process includes a pre-permit inspection and an annual inspection/renewal of the permit. In addition to permit requirements, Denver's animal control laws (D.M.C., Chapter 8) include generally applicable standards that control an owner's treatment or management of domestic animals, including prohibitions on herding or grazing, proper handling of animal waste, prohibition on damages to public or other private property, and prevention of cruelty and neglect to animals. These generally applicable standards would apply equally to FPAs, without any need for amendment, except as specifically listed below.

The proposed amendment to the Denver Animal Code (D.M.C., Chapter 8) would:

- 1) Change the DEH process for keeping Food Producing Animals by allowing a set number and type of FPAs without requiring a DEH livestock or fowl permit or annual permit renewal, similar to how Denver allows its residents to keep dogs, cats, honeybees, and other domestic animals. Keeping of different types of FPAs other than chicken, ducks or goats, or keeping more than the maximum allowed number of FPAs as set by the Denver Zoning Code, would still required a livestock or fowl permit.
  - a) Keeping a limited number of FPAs would, as with dogs and cats, be subject to specific standards under the Animal Code to assure the long-term health and welfare of the animals and to protect neighboring properties from any potential adverse impacts due to the improper care or management of the animals.
  - b) Just as with keeping of other animals, if an owner does not follow the required animal control standards (typically discovered after a complaint is made to DEH's animal control division), DEH will work with the animal owner to correct the problem and, if necessary, issue a citation or summons. If problems are not timely corrected, the City may take more formal action to abate the problem through the Denver County court.
- 2) Expand the current animal licensing laws to require licensing for dwarf goats to facilitate return of the animal to its owner should the animal escape. [This provision is still under review by DEH/Animal Control.]
- 3) Expand the current "leash law," which now applies only to dogs, to also apply to goats, such that it would be unlawful for goats to run "off leash" when not contained on the owner's private property.
- 4) Expand the current "barking dog nuisance" ordinance to include protection from FPA animal noise. As with dogs, the city may not issue a summons against a FPA owner unless there are at least two or more complaining witnesses from separate households.

<b>Summary of Animal Code Amendment: Proposed change in green</b>	
<b>Allowed or Not Allowed</b>	No change
<b>Process (Permits, Licensing, Public Notice)</b>	<p>For the specific types and maximum number of FPAs allowed in the Denver Zoning Code:</p> <ol style="list-style-type: none"> <li>1. No livestock or fowl permit is required</li> <li>2. Animal license required for goats only [this provision is still being reviewed by DEH]</li> </ol> <p>For all other FPA types and/or for more than the allowed number, a DEH livestock/fowl permit from DEH will still be required.</p>
<b>Limitations</b>	<p>Require the following:</p> <ol style="list-style-type: none"> <li>1. <u>Fowl</u>: 10sq. ft. of permeable land area per chicken or duck.</li> <li>2. <u>Goats</u>: 130 sq. ft. of permeable land per goat, plus at least 15 sq. ft. of shelter space per goat</li> <li>3. <u>All FPAs</u>: <ol style="list-style-type: none"> <li>a. Adequate shelter/enclosure must be provided to protect the animals from the elements and to prevent wildlife or other predators from gaining entry.</li> <li>b. Adequate fencing shall be provided to contain the animals to prevent escape.</li> <li>c. Animal noise will be controlled similar to how barking dogs are controlled.</li> <li>d. FPAs will be subject to the Denver leash law.</li> </ol> </li> </ol> <p>Generally applicable standards controlling cruelty to animals, proper handling of waste, prevention of damage to public or private property, and control of other animal nuisances will continue to apply to FPAs as they do today.</p>
<b>Enforcement</b>	No change

## **SECTION 2: STATEMENT OF PROS**

- 1) The proposed changes alleviate unnecessary procedural barriers and excessive costs while incorporating standards to protect human and animal health, safety and welfare.
- 2) The proposed changes are consistent with food producing animal regulations in other major US and Front Range cities.
- 3) The proposed changes make it easier to keep food producing animals that provide dairy and eggs. Thus, the proposed changes give eaters greater control over their food's safety, the environmental impact of their food choices and their family food budgets.
- 4) Eliminates the Zoning Permit with Informational Notice provision of the current process and thus limits the ability of neighbors to object to the keeping of food producing animals on adjacent properties without cause, prior to the keeping of the animals. Neighbors maintain the right to object if the keeping of food producing animals causes a problem with noise, odor, or another type of nuisance..

## **SECTION 3: STATEMENT OF CONS**

- 1) Eliminates the Zoning Permit with Informational Notice provision of the current process and thus limits the ability of neighbors to object to the keeping of food producing animals on adjacent properties prior to the arrival of the animals.
- 2) Reduces permitting fees collected by the city.
- 3) Since the proposed changes remove procedural barriers and excessive costs, it creates concerns that there will be a large increase in the number of people keeping food producing animals. Thus, the proposed changes generate fear that there will be increasing numbers of predators in neighborhoods, decreased property values and increased administrative burden on the city due to noise, odor and other nuisance complaints.

## **SECTION 4: EVALUATION OF PROS & CONS – RELATIONSHIP TO THE CITY'S FOOD SYSTEM PRINCIPLES (EXHIBIT A)**

The proposed changes alleviate constraints such as time, complexity and expense created by the existing permitting process for food producing animals and thus the proposed changes:

- Support micro-farming efforts to produce eggs and dairy on a small scale, for personal consumption, in the city,
- Bring city dwellers closer to the food system and empower eaters to produce their own food,
- Ensure equitable and just access to nutritious sources of protein (eggs and dairy)
- Promote sustainability and food system resilience through resident self-sufficiency and choice.

The proposed changes incorporate rules to protect human and animal health, safety and welfare. Benefits of keeping food producing animals include access to eggs and dairy, as well as compostable manure that helps regenerate nutrients in depleted soils. Owners of food producing animals save money on dairy and eggs and have greater control over the safety of their food.

The proposed changes eliminate the Zoning Permit with Informational Notice provision. However, the animals are not yet on-site when the RNOs are notified, and so there is no way for the RNO to reasonably predict problems as to how the animals will be kept. Under both the current rules and the proposed new rules, if FPAs present a problem with odor, noise, or

nuisance, then neighbors have recourse through Neighborhood Inspection Services and Animal Control.

Concerns that FPAs will negatively impact property values are not supported by any evidence. Some of the cities with the highest property values in the country – like New York City, Seattle, and Portland – allow the keeping of FPAs. It is true that any animal that is not being properly kept – whether it’s a dog, a chicken, or a dwarf goat – will negatively impact the neighborhood. Therefore, all animals in Denver are subject to laws regarding noise, odor, nuisance, and cruelty/abuse.

The proposed changes raise concerns that there will be an increase in small mammal predators. Predators are a fact of life in Denver. Outdoor cats, squirrels, birds, and (most especially) our garbage all ensure that predators will continue to be attracted to our neighborhoods. In fact, with our city’s trash system, there are probably several dead chickens right now on every block in Denver. They’re in the dumpsters – the chicken carcasses that people throw away after dinner, or grocery store rotisseries throw out whole if they don’t sell by the end of the day. This isn’t to say that if you put a live chicken in front of a fox then the fox won’t eat it, but it’s not correct to think that a few chickens would impact the predator population when there is already such a vast abundance of available food to eat.

There are multiple cities throughout the country that have enacted FPA ordinances. One can reasonably assume that if FPA ordinances resulted in an increase in urban predators or a decrease in residents’ quality of life (with a corresponding decrease in property values), then cities which passed FPA ordinances would be taking steps to repeal their ordinance as soon as possible. Instead, the opposite is true. Fort Collins and Longmont both had sunset provisions written into their initial FPA ordinances, which would have allowed them to easily revoke the ordinance after one year. Neither city chose to invoke the sunset when the first year was over, thereby leaving their FPA ordinances intact. Seattle has recently taken steps to expand its FPA ordinance, going from 3 hens and 3 dwarf goats up to 8 hens and 3 dwarf goats.

#### **SECTION 5: THE COUNCIL’S OPINION ON THE ISSUE**

The Sustainable Food Policy Council finds that the proposed Food Producing Animals Ordinance:

1. Aligns with the City’s Food System Principles.
2. Streamlines procedures and reduces unnecessary permitting costs associated with the existing system.
3. Protects human and animal health, safety and welfare.

Therefore the Sustainable Food Policy Council recommends adoption of the Food Producing Animals Ordinance.

#### **SECTION 6: A LIST OF ISSUES FOR FURTHER CONSIDERATION**

1. The SFPC would like to see further consideration of a low-cost, blanket FPA license for up to 8 fowl and 2 goats administered by Animal Control. The purpose of the license would be two-fold. First, it would allow the City to maintain a database of individuals keeping FPAs. Second, it would provide an opportunity for the City to give information to FPA owners regarding best practices for keeping FPAs in the urban environment.

**SECTION 7 (OPTIONAL): STATEMENT OF THE MINORITY OPINION**

The SFPC Advisory was approved unanimously on March 16, 2011. No minority opinion.

## Exhibit A: City of Denver Food System Principles

### **HEALTH-PROMOTING**

- Supports the physical and mental health of all farmers, workers and eaters
- Accounts for the public health impacts across the entire lifecycle of how food is produced, processed, packaged, labeled, distributed, marketed, consumed and disposed

### **SUSTAINABLE**

- Conserves, protects, and regenerates natural resources, landscapes and biodiversity
- Meets our current food and nutrition needs without compromising the ability of the system to meet the needs of future generations

### **RESILIENT**

- Thrives in the face of challenges, such as unpredictable climate, increased pest resistance, and declining, increasingly expensive water and energy supplies

### **DIVERSE IN**

- Size and scale—includes a diverse range of food production, transformation, distribution, marketing, consumption, and disposal practices, occurring at diverse scales, from local and regional, to national and global
- Geography—considers geographic differences in natural resources, climate, customs, and heritage
- Culture—appreciates and supports a diversity of cultures, socio-demographics, and lifestyles
- Choice—provides a variety of health-promoting food choices for all

### **FAIR**

- Supports fair and just communities and conditions for all farmers, workers and eaters
- Provides equitable physical access to affordable food that is health promoting and culturally appropriate

### **ECONOMICALLY BALANCED**

- Provides economic opportunities that are balanced across geographic regions of the country and at different scales of activity, from local to global, for a diverse range of food system stakeholders
- Affords farmers and workers in all sectors of the system a living wage

### **TRANSPARENT**

- Provides opportunities for farmers, workers and eaters to gain the knowledge necessary to understand how food is produced, transformed, distributed, marketed, consumed and disposed
- Empowers farmers, workers and eaters to actively participate in decision-making in all sectors of the system