

Food Producing Animals in the City of Denver

Proposed Ordinance Changes

DRAFT ordinances have been prepared by Community Planning and Development Department, Department of Environmental Health, and the City Attorney's Office for Councilmember Chris Nevitt and the Mayor's Sustainable Food Policy Council. This document summarizes the draft ordinances as presented to the Denver City Council's Land Use, Transportation and Infrastructure Committee meeting on March 22, 2011. The LUTI Committee will meet again to review the draft on April 5, 2011, and determine whether the ordinances should be forwarded to the whole City Council for final action. The City Council will hold a public hearing and take public testimony prior to taking final action.

What?

Proposed ordinance changes to the Denver Zoning Code and the Animal Code (D.M.C., Chapter 8) to change 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 other nonresidential uses, such as food markets or restaurants.

Summary of Denver Zoning Code Amendment

Summary of Denver Zoning Code Text Amendments Proposed changes are shown in Green	
Allowed As Accessory to Residential and Nonresidential Uses	<p>Limited keeping of FPAs as accessory to both Primary Residential and Nonresidential Uses, subject to the following limits:</p> <ol style="list-style-type: none"> 1. Maximum of 8 chickens/ducks (no roosters or drakes) per zone lot. 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. <p>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).</p>
Where Allowed – Zone Districts	Limited keeping of FPAs as described above is allowed in all zone districts
Zoning Review Process	<p>For the limited keeping of FPAs as described above:</p> <ol style="list-style-type: none"> 1. No zoning permit required 2. No public notification required <p>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:</p> <ol style="list-style-type: none"> 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. 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. 3. In all other cases, the requested use is reviewed according to the Zoning Permit process (no notification required).
Use Limitations	<ol style="list-style-type: none"> 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. 2. Structures housing the FPAs must be located at least 10 feet from any structure containing a dwelling unit on abutting properties. 3. As accessory to a primary residential use, FPA use must be maintained within the rear 50% of the zone lot.
Zoning Enforcement	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 "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.
3. 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.

Summary of Animal Code Amendment:

	Proposed change in green
Allowed or Not Allowed	No change
Process (Permits, Licensing, Public Notice)	<p>For the specific types and maximum number of FPAs allowed in the Denver Zoning Code:</p> <ol style="list-style-type: none"> 1. No livestock or fowl permit is required <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>
Limitations	<p>Require the following:</p> <ol style="list-style-type: none"> 1. <u>Fowl</u>: 10 sq. ft. of permeable land area per chicken or duck, plus at least 1 sq. ft. of shelter space per fowl. 2. <u>Goats</u>: 130 sq. ft. of permeable land per goat, plus at least 15 sq. ft. of shelter space per goat 3. <u>All FPAs</u>: <ol style="list-style-type: none"> a. Adequate shelter/enclosure must be provided to protect the animals from the elements and to prevent wildlife or other predators from gaining entry. b. Adequate fencing shall be provided to contain the animals to prevent escape. c. Animal noise will be controlled similar to how barking dogs are controlled. d. FPAs will be subject to the Denver leash law. <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>
Enforcement	No change