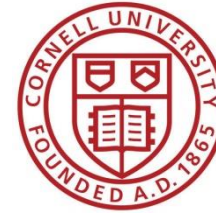




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PLLC



Cornell University  
Cooperative Extension

# PLANNING FOR SMALL FARM ANIMALS IN RESIDENTIAL COMMUNITIES

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&

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# Why consider small farm animals in residential areas?

- Food security
- Weed control
- Insect control
- Youth development
- Connection to agriculture
- Micro economy
- Community



# Products from small farm animals

- Eggs
- Meat
- Milk
- Soap
- Show
- Stock
- Genetics
- Honey
- Wax

# What are we talking about?



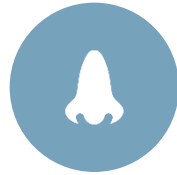
# What we are not talking about



# Potential Impacts Caused By Urban & Suburban Livestock & Farm Animals



NOISE



WASTE &  
ODOR



DISEASE



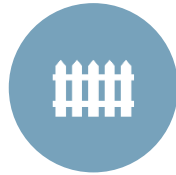
MORTALITY



DAMAGE TO  
VEGETATION



RODENTS



CONFINEMENT  
& PREDATORS



PROPERTY  
VALUES



PLANNING  
AND ZONING



# ANIMAL NOISE

- Clucking of hens and human conversation both register around 65 decibels.
- Chickens have an instinct to roost and sleep at night; they will typically return to their coop and fall asleep before or at sundown.
- A rooster's crow averages more than 130 decibels for 1-2 seconds.
- Continuous sounds of 85 decibels or higher are considered hazardous.
- Every 6-decibel increase doubles the sound level.
- Many "chicken" laws will prohibit roosters.

Jet airplane	140*
Pig squeals	130*
Chain saw	115
Loud rock music	115
Chickens (inside building)	105
Table saw	100
Shop vacuum	98
Garden tractor	92
Tractor wearing HPDs	85-95
Lawnmower	85
Electric drill	88
Quiet whisper	20
<b>Note: Each increase of 6 decibels doubles the noise level</b>	
<b>* Above 130 decibels causes pain.</b>	

# WASTE AND ODOR

- If farm animal waste and manure is not properly managed odor and negative environmental consequences may occur including the following chemicals and effects:
  - *Hydrogen-Sulfide – Odor of Rotten Eggs*
  - *Ammonia – Odor is Sharp and Pungent*
  - *Methane – Climate Change*
  - *Salmonella and other pathogens – Water Contamination*
  - *Arsenic – Water Contamination and Poisonous*
- Waste Management Plan
  - *In writing*
  - *Condition of approval*



# DISEASE

## CON:

- Many farm animals, including cattle, goats, sheep, swine, and poultry, can carry germs such as Salmonella or E. coli that can cause disease.

## PRO:

- Chickens are known to eat ticks and help fight against the spread of Lyme disease.
- Demographics more likely to contract a serious illness from exposure to farm animal disease:
  - *children under 5 years of age; and*
  - *adults 65 years of age or older; and*
  - *pregnant women; and*
  - *people with illnesses that weaken immune systems.*

# WHAT IS SALMONELLA ?

According to Mayo Clinic, salmonella infection is a common bacterial disease that affects the intestinal tract. Salmonella bacteria typically live in animal and human intestines and are shed through feces. Humans become infected most frequently through contaminated water or food.



## SYMPTOMS:

Appear between **8** and **72** hours

- **Nausea/Vomiting**
- **Abdominal Cramps**
- **Diarrhea**
- **Fever**
- **Chills**
- **Headache**
- **Blood in the Stool**



## WHO IS MOST LIKELY TO GET SALMONELLA?

- People with weakened immune system, the infection may be more severe and lead to serious complications including death.





MORTALITY



# PROPERTY VALUES

- New York courts have held that odor, noise pollution and proximity to properties that produce these nuisances may diminish property values.
- Animal feeding operations on a large scale generally negatively impact properties miles away.
- Is it reasonable to infer that small animal feeding operations would have a negative impact on adjoining properties?
  - *Expert Testimony.*



## PREDATORS & CONFINEMENT

- Inadequate fencing leaves farm animals and the community at risk of coyotes and foxes because they are skilled climbers, jumpers and diggers
- Residential areas provide year-round habitats for coyotes.

## DISEASE

- People may contract disease from animals by touch or exposure in the areas where animals live and roam.
  - *Typically not an issue in residential districts; Unintended Consequence of farm animals returning to urban and suburban areas.*
- Animal Slaughter – Cleanliness and disease concerns are what drove prohibitions against farm animals in residential districts.



# Considerations



- Space, space, space, space
  - Type of critters, square foot requirement per critter.
- Waste management (controlled by number of animals)
- Feed management
- Noise management
- Roaming management
- Processing and disposal
- Annual permit or licensing
- Slaughter and processing
- Animal sex
- Structures



# How to incorporate into planning

- New zoning?
- Start small then make amendments
- Work in the affirmative (which animals are allowed)
- Plan on structure set backs.
- Use a matrix of number of animal type per square feet

Animal	Square feet of open space per animal (or hive)	Set back from property line
Chickens (hens only)	200	10
Goats (female Nubian or )	10,000	10
Rabbits	100	10
Bee hive	50	30



## Urban Livestock

- The movement toward bringing agricultural practices into residential communities has continued to expand during the last decade.
- Many suburban and urban farmers are raising chickens, goats, bees and other smaller animals.

# History: Farm Animals Dispatched to the Countryside

- Concerns with:
  - *manure;*
  - *odor;*
  - *sanitation problems;*
  - *noise complaints;*
  - *zoonotic disease;*
  - *deadstock.*





# CASE STUDIES: FARM ANIMALS IN RESIDENTIAL COMMUNITIES



# Town of Atlantic Beach v. Young (Supreme Court of North Carolina – 1983)



- (1) under ordinance prohibiting the keeping of animals, livestock and poultry within town limits, defendant was prohibited from keeping her two goats and one small pony regardless of whether they were house pets;
- (2) ordinance prohibiting keeping of animals, livestock and poultry within town limits was not unconstitutionally vague with respect to keeping of goats and a pony;
- (3) ordinance did not violate equal protection rights guaranteed under State and Federal Constitutions.

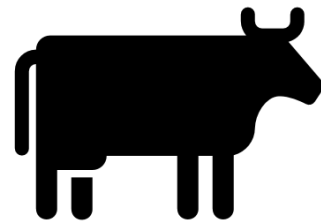
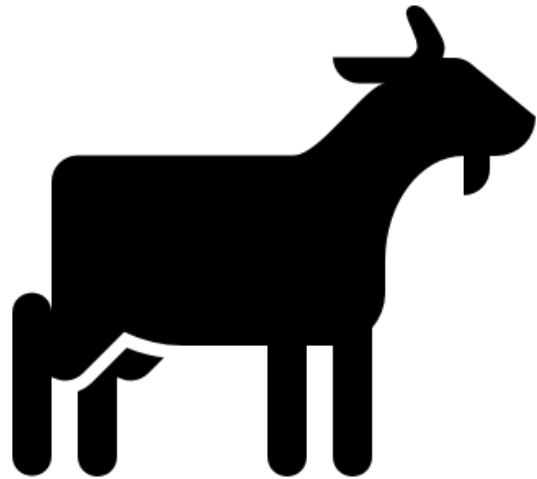
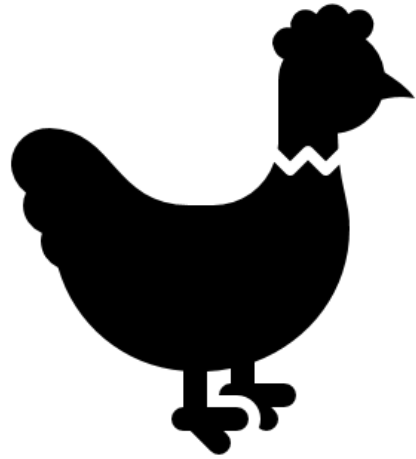
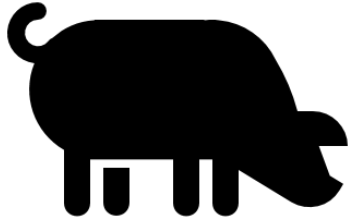


Town of  
**WILTON**  
New York

## Chase v. Zoning Bd. of Appeals of Town of Wilton (NY 3rd Dept. – 1999)

Property owners who had been advised by town code zoning officer that property on which they were keeping two sheep and several chickens did not meet lot size requirement for keeping farm animals established by zoning code sought area variance. After town zoning board of appeals denied variance, owners brought Article 78 proceeding seeking review. The 3<sup>rd</sup> Department held that the denial of area variance had a rational basis and was supported by evidence.

“In deciding whether to grant an area variance, Town Law § 267–b (3) requires, inter alia, that a zoning board “engage in a balancing test, weighing ‘the benefit to the applicant’ against ‘the detriment to the health, safety and welfare of the neighborhood or community’” (*Matter of Sasso v. Osgood*, 86 N.Y.2d 374, 384, 633 N.Y.S.2d 259, 657 N.E.2d 254, quoting Town Law § 267–b [3][b]).”



# Municipal Control Devices Planning and Zoning

## a. Municipal Code –

*Zoning, Animal Prohibitions, Site Level  
Restrictions*

## b. Individual Practices -

*Permitting, Technical Specifications  
Administrative Oversight*

# Farm Animals Prohibition City Of Cortland New York

§ 74-20(a)(13) – Prohibits the keeping of “any number of horses, cattle, pigeons, fowl, reptiles, sheep, goats, pigs, or other domestic or wild animals...”





# Acreage Restrictions

## Town of Cazenovia New York

### § 165-82.2 -Keeping of animals on residential properties.

(a) The minimum amount of land required for keeping large animals shall be no less than three acres for a single **large livestock unit (LLU)** or fractions thereof.

One cow or bison shall be considered one LLU...

The following shall be considered fractional LLUs (however, in all cases, such animals shall require a minimum lot area of three acres):

[1] Pig: 1/2 LLU.

[2] Sheep: 1/4 LLU.

[3] Goat: 1/6 LLU.

(b) Any additional animals sought to be kept on such a lot of three or more acres shall require the granting of a **special use permit** from the Zoning Board of Appeals as set forth herein. For lots smaller than three acres, the keeping of a large animal shall require the granting of an **area variance**.



# Acreage Restrictions

## Town of Cazenovia New York

### § 165-82.3 - Keeping of chickens.

- **Keeping of chickens on residential properties.** Notwithstanding anything in this chapter to the contrary, keeping of chickens (not as part of a farm as such terms are defined in this chapter) shall be allowed in any district in the Town only upon approval by the Codes Enforcement Officer (through the issuance of a certificate of compliance), **subject to the following requirements:**

#### A. General requirements.

(1) No person shall have, own, permit or otherwise possess a **rooster** on their property.

(2) The **killing or slaughter** of chickens is limited to killings or slaughters undertaken for private use by the occupants of the premises and is prohibited outside of enclosed buildings. Waste materials from the slaughter of such animals shall be disposed of immediately in a clean and sanitary manner.

(3) Unless as part of a farm, as defined in this chapter, the use and consumption of such chickens and their **eggs** is limited to the occupants of the premises and **shall not be sold.**

(4) Keeping of chickens shall be considered an **accessory use** and is permitted only as incidental to lots on which the principal use is residential.

(5) The provisions of this section shall not apply to raising chickens on farms.

#### B. Lot size and density restrictions.

(1) **Raising chickens is not permitted on lots smaller than three acres unless the property owner obtains an area variance from the Zoning Board of Appeals...**



# Site Level Restrictions

## Town of Cazenovia New York

**C. Location restrictions and planning.** In reviewing an application for a certificate of compliance, the Codes Enforcement Officer must find that **the proposed use meets all of the following requirements:**

- (1) Any premises used for keeping of chickens shall include a **manure management** plan so as to ensure that chickens are kept only in conditions that effectively limit odors and noises, while also avoiding attraction of insects and rodents, so as not to cause a nuisance to occupants of nearby buildings or properties and so as not to cause health hazards.
- (2) All chickens shall be **provided with a covered, predator-proof coop, pen, 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 chickens, exclusive of areas used for storage of materials or vehicles. Chickens shall not be allowed to roam the premises outside of such shelters. Any mobile structure or shelter used for rotational use of a property for the keeping of chickens shall be deemed a structure under this chapter.
- (3) The total area of all coops or cages on a lot shall **not be greater than 10% of the parcel.**
- (4) Any coop, pen, cage, fence or other shelter used for keeping of chickens shall be located in such a manner as **to observe the applicable required yard setbacks** for the zone in which it is located and shall be prohibited in a front yard.
- (5) No chickens, coops, pens, cages, fences or other shelters are permitted on a lot **within 100 feet of any lake, pond, river or stream**, unless such body of water is wholly contained on the same lot.
- (6) The coop, pen, cage or other shelter must be **placed on a location on the lot so as not to harm adjoining properties** or environmentally sensitive areas.



# Setback Restrictions

## Town of Gorham New York



§ 31.7.20(D) – buildings used for animal husbandry must be located a minimum of 60 feet from all lot lines, 120 feet from all residential buildings on adjacent property and 120 feet from all residences and wells used for potable water supply both on the property and adjacent property.

# Special Use Permits Town of Cazenovia New York

§ 165-82.3(b)(2) - The number of chickens on any lot (three acres or larger) shall not exceed 16 unless a special use permit is granted by the Zoning Board of Appeals.





# Miscellaneous Requirements

## City of Buffalo New York

Excerpts from § 341-11.1. [Terms and Conditions to Receive License to Keep Chickens in Residential Districts]

B. No chicken hens shall be allowed in multifamily complexes, including duplexes, without the expressed written consent of the owner of the building and all tenants residing in the building other than the applicant

C. No chicken hens shall be allowed without the express written consent of all residents residing on property adjacent to that of the applicant

F. Chicken hens shall be kept as pets and for personal use only; no person shall sell eggs or meat or engage in chicken breeding or fertilizer production for commercial purposes

G. Persons wishing to keep chicken hens within the City of Buffalo must obtain a license from the Office of the City Clerk after payment of an annual fee of \$25, and after inspection and approval of the coop and cage that chicken hens are to be kept in by an Animal Control Officer



# Model Chicken Ordinance

(a) **Purpose.** The following regulations will govern the keeping of chickens and are designed to prevent nuisances and prevent conditions that are unsanitary or unsafe. No person shall keep chickens unless the following regulations are followed:

- a. **Number.** No more than six (6) hens shall be allowed for each single-family dwelling.
- b. **Setbacks.** Coops or cages housing chickens shall be kept at least twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the owner's dwelling. Coops and cages shall not be located within five (5) feet of a side-yard lot line, nor within eighteen (18) inches of a rear-yard lot line. Coops and cages shall not be located in the front yard.
- c. **Enclosure.** Hens shall be provided with a covered, predator-proof coop or cage that is well-ventilated and designed to be easily accessed for cleaning. The coop shall allow at least two square feet per hen. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the property and to prevent predators from access to the birds. Hens shall not be allowed out of these enclosures unless a responsible individual, over 18 years of age, is directly monitoring the hens and able to immediately return the hens to the cage or coop if necessary.
- d. **Sanitation.** The coop and outdoor enclosure must be kept in a sanitary condition and free from offensive odors. The coop and outdoor enclosure must be cleaned on a regular basis to prevent the accumulation of waste.
- e. **Slaughtering.** There shall be no outdoor slaughtering of chickens.
- f. **Roosters.** It is unlawful for any person to keep roosters.

(b) **Permit.** A permit shall not be required if the above regulations are followed. If a person wishes to keep more than the maximum allowed number of hens, wishes to keep hens within the setback required, wishes to keep hens in a multi-family dwelling, wishes to keep hens on a parcel of land that is unconnected to a dwelling, or wishes to keep a rooster, a permit will be required. An application for a permit must contain the following items:

- a. The name, phone number, and address of the applicant.
- b. The size and location of the subject property.
- c. A proposal containing the following information.
  - i. The number of hens the applicant seeks to keep on the property.
  - ii. A description of any coops or cages or outdoor enclosures providing precise dimensions and the precise location of these enclosures in relation to property lines and adjacent properties.
  - iii. The number of roosters the applicant seeks to keep on the property.
- d. If the applicant proposes to keep chickens in the yard of a multi-family dwelling, the applicant must present a signed statement from any and all owners or tenants of the multi-family dwelling consenting to the applicant's proposal for keeping chickens on the premises.

e. If the applicant proposes to keep more chickens than allowed in the above ordinance or wishes to keep a rooster, the applicant must present a signed statement from all residents of property adjacent to or within 50 feet of the applicant's property consenting to the applicant's proposal for keeping chickens on the premises. If the applicant proposes to keep chickens within a required setback, the applicant must present a signed statement from all residents of the property affected by that setback.

(c) **Permit Renewal.** Permits will be granted on an annual basis. If the city receives no complaints regarding the permit holder's keeping of chickens, the permit will be presumptively renewed and the applicant may continue to keep chickens under the terms and condition of the initial permit. The city may revoke the permit at any time if the permittee does not follow the terms of the permit, if the city receives complaints regarding the permit holder's keeping of chickens, or the city finds that the permit holder has not maintained the chickens, coops, or outdoor enclosures in a clean and sanitary condition.

\* "Illegal Fowl: A Survey of Municipal Laws Relating to Backyard Poultry and a Model Ordinance for Regulating City Chickens," 42 Environmental Law Reporter 10888 (Sept. 2012)

# “Emotional Support” Animals & Zoning



**CHECK THIS OUT**

**EMOTIONAL SUPPORT ALLIGATOR HELPING OTHERS**





# CLINTON HILL MAN REGISTERS BEER AS EMOTIONAL SUPPORT ANIMAL



By Colin Mixson

1 Posted on January 21, 2020



Floyd Hayes shows off his certificate for his emotional support beer, which he hopes to bring on public transit.

Photo by Caroline Ourso



## Woman brings mini-service horse onto plane, into first class



# Emotional Support Animals

An emotional support animal is a type of assistance animal that is recognized as a "reasonable accommodation" for a person with a disability under the federal **Fair Housing Act**



# Federal Fair Housing Act Typical Rule and Analysis

- Even if a lease says, “no pets” or restricts pets, landlords are required to make what is called a “reasonable accommodation” to allow pets who serve as assistance animals which includes animals who provide emotional support.
- The two questions a housing provider must consider when reviewing a request for an assistance animal as a reasonable accommodation:
  - (1) Does the person seeking to use and live with the animal have a disability — i.e., a physical or mental impairment that substantially limits one or more major life activities?
  - (2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, aid, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person’s existing disability?

# “Reasonable Accommodation”

- To determine whether an accommodation under the Fair Housing Act (FHA) is reasonable, the inquiry is highly fact specific, requires balancing the needs of the parties, and involves assessing both financial and administrative costs and burdens.



# CASE STUDIES: EMOTIONAL SUPPORT ANIMALS



# Emotional Support Farm Animals and Land Use

**WATERTOWN DAILY TIMES**



*Serving the Watertown, Wisconsin area since 1895*

## Emotional support goat appeal denied

By Jody Fletcher Kibler for the Daily Times Mar 1, 2018 0



Sara Manzke makes her plea to the Ixonia planning commission Wednesday to allow her to keep her emotional support goats and geese on her property.

JODY FLETCHER KIBLER/Daily Times

# Manzke v. Jefferson County (US Western Dist. – Wisconsin – 2018)

- Plaintiff's letters from her doctor and therapist stating that she benefitted from the goats and geese were found to lack "... any particular detail or analysis about how the animals benefit plaintiff's specific disabilities or provides any reason why plaintiff's medical support animals must be farm animals rather than domesticated animals (such as dogs and cats), which are allowed in her zoning classification."
- "Without more, plaintiff has failed to show the required causal connection between the treatment she requires for her disability and her requested accommodation."



## Wilkison v City of Arapahoe (Nebraska Supreme Court – 2019)

Plaintiff did show that they had a disability and had used service dogs in the past, however they failed to show that the accommodation of a Pitbull was necessary. Even when accommodating the disability would not fundamentally alter the ordinance or diminish the municipalities ability to limit dangerous animals, the necessary element requires that the accommodation be indispensable or essential.



# “Emotional Support” Animal Accommodations ZBA/PB Considerations

Applicant must produce a mental health professional and medical doctor's opinion affirming that the requested accommodation is necessary

*The letters must state why the requested accommodation is necessary and a more reasonable alternative is not available*

If the request is unnecessary and other more reasonable alternatives are available, the requested variances may be denied



If the request is necessary and evidence produced to support that finding, the requested variance must be approved



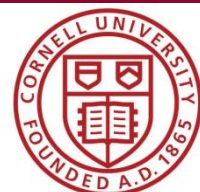
# Questions?



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