

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
MARCH 18, 2014**

SUBJECT:	TYPE:	SUBMITTED BY:
Consideration of Amendments to Chapter 5 of the Municipal Code	Resolution Ordinance Motion ✓ Discussion Only	David Fieldman Village Manager

SYNOPSIS

Staff prepared this report to provide further information regarding options for allowing more residential properties to become eligible to keep chickens.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 identified *Exceptional Municipal Services. Consider Amendments to Fowl Regulations* is a Medium-Priority action item. *Zoning Ordinance Update* is a High-Priority action item.

FISCAL IMPACT

N/A

RECOMMENDATION

Further action at the direction of the Village Council

BACKGROUND & ANALYSIS

On January 14, the Village Council met in a workshop meeting to discuss potential amendments to Chapter 5 of the Municipal Code that would allow more residents to keep chickens on their property than what is currently allowed in the code.

Direction Provided at January 14, 2014 Meeting

The Council provided direction as follows:

- Regulations should be amended to be more permissive
- Owners/Occupants of all or most single family detached houses should be eligible to keep hens
- Only hens will be permitted - all other fowl should be prohibited

Any ordinance presented for Council consideration will include the concepts above.

Further Policy Direction Needed

Further policy direction is needed prior to preparing an ordinance for Council consideration. Specifically, staff requests Council direction to prepare an ordinance that will reflect either the concept of neighbor consent or neighbor notification.

The Council asked several questions during the January 14 meeting regarding specific aspects of both options. The responses below should assist the Council in providing further direction; however, it is not necessary to provide specific direction on these items at this time.

General Regulations

Required Setbacks

What would the required setback of chicken coops be?

There are several options for determining the required setback for chicken coops, based on the Village's municipal code or regulations approved in other communities.

- Accessory Structure in Zoning District - This varies by zoning district
- Specific setback from the property line the same for all properties - An example would be the requirements for an outdoor pool, which is required to be at least seven feet from the property line.
- Setback from adjacent houses or structures - Some municipalities have required chicken coops to be located at least 25 feet from an occupied residential structure other than the owner's.

Neighbor Notification Questions

In this option, residents wishing to keep chickens would be required to notify neighboring properties prior to receiving a building permit.

Who would be required to be notified?

There are several options for determining who should be considered a neighbor and be notified of a resident's application to keep chickens:

- Owner of Record - The owner of record is available from the County Recorder of Deeds. This could be one or more individuals, a bank or trust.
- Taxpayer of Record - The taxpayer of record
- Occupant/Tenant - The neighbor may not be the owner if the home is rented or if the applicant lives next to an apartment building.
- Combination of the Above

What types of neighboring properties should be required to be notified?

There are several types of properties that could potentially need notification under this option.

- All property types (single family detached, single family attached, multiple family, commercial, industrial, institutional, governmental)
- Residential Only - Some eligible residential properties may be located next to non-residential uses (commercial uses), even in residential zoning district (schools or churches)
- Any combination of the above
- Properties within the Village only - Neighbor notification could be limited to those properties that fall within the Village (excluding unincorporated parcels or borders with other villages)
- All Properties in the Village and outside of the Village

Which properties would be required to be notified?

Neighboring properties can be defined in several ways, as described below.

- Adjacent to the subject property - This includes all surrounding properties, including properties that may not be adjacent to the subject yard, where the coop would be located, and properties that have point-to-point (diagonal) connections
- Adjacent to the subject yard - In this case, it would be properties that are adjacent to the yard where the coop would be located
- Properties within a specified distance from the subject property - Applicant would be required to notify all properties within a certain distance (for example, 250 feet)

Who would provide the notification?

The party responsible for notifying the neighbors can be the applicant or the Village.

- Applicant - In this case, the applicant would be responsible for ensuring all neighboring properties are notified
- Village - The Village could send notification to all neighboring properties

How would the notification be provided?

If the Village requires the applicant to notify neighboring properties, there are several options for this process.

- Mail with proof of service - The Village could require notification to be mailed via certified mail.
- Affidavit of notification - Applicant submits affidavit stating that neighboring properties have been provided written notification
- Sign posted on the property - This would be similar to signage required for public hearings, which is posted by the Village.

How often would notification be required?

Based on a survey of other communities, staff identified two options for the frequency of notifying neighboring properties.

- Once prior to the issuance of a permit - Notification would be a one-time process
- At regular intervals specified by the Village - The Village could require the resident to renew the permit at specified intervals and repeat the notification process (for example, every five years)

Neighbor Consent Questions

Residents wishing to keep chickens would be required to seek and obtain the consent of their neighbors prior to receiving a permit to keep chickens. In general, staff recommends defining neighbor in a way that is consistent and verifiable.

Who would be required to provide consent?

Neighbor can be defined in several ways, as described above:

- Owner of Record
- Taxpayer of Record
- Occupant/Tenant
- Combination of the Above

What types of neighboring properties should be required to provide consent?

As described above:

- All property types (single family detached, single family attached, multiple family, commercial, industrial, institutional, governmental)
- Residential Only
- Any combination of the above
- Properties within the Village only
- All Properties in the Village and outside of the Village

Which properties would be required to provide consent?

There are several options for determining which neighboring properties should be required to provide consent:

- Adjacent to the subject property - Properties that are located adjacent or contiguous to the property, including point-to-point (diagonal) connections
- Adjacent to the subject yard - Properties located adjacent to the rear yard
- Properties within a specified distance from the subject property - Properties that are located within a certain distance of the property
- 100% of the of the properties noted above
- A specified percentage less than 100% of the properties noted above

How would consent be provided?

In researching the consent option, staff found two ways of providing consent:

- Physical signature on forms provided by Village
- Consent of out-of-state owners could be provided electronically

How often would consent be required?

There are two options for the duration of the consent given by the neighboring properties.

- Once prior to the issuance of a permit - This option would mean that new neighbors would not have an opportunity to object
- At regular intervals specified by the Village (for example: every five years) - Under this option, the Village could require the permit to be renewed at a certain interval, requiring neighbor consent for renewal.

Do other municipalities require neighbor consent?

Staff contacted five communities that have implemented the neighbor-consent model. A summary of the practices is attached. In general the communities shared the following:

- The municipality provides the document which neighbors sign
- Owners on record in assessor's office must sign
- The process is not a significant burden for staff
- There have been few violations or complaints after the application is approved

Next Step

Based on Council direction, staff will prepare an ordinance reflecting either the neighbor consent model or the neighbor notification model. The ordinance will be placed on a future First Reading agenda.

ATTACHMENT

Survey of Communities with Neighbor Consent Requirements

Survey of Communities with Neighbor Consent Requirements

Community Name	Summary of Regulations	If rented, do you look for tenant approval also?	How do you verify the actual owners and/or tenants?	Do you require all owners of record to sign off on the consent form?	What has been the experience? Is it an additional burden for staff? Do neighbors complain to staff/elected officials?	How many permits have you issued?	Has the neighbor consent prevented some from getting a license?	If new neighbors move in do they have any standing to file a complaint?	Additional Notes
Iowa City, IA	City issues permit, point-to-point properties included, permit does not run with land, five feet from property line, 25 feet from habitable structure on other property, tenant allowed with landlord permission	Only property owner due to high tenant turnover.	The assessor's office.	Yes. As a college community, there is a lot of rental property. Also a lot of out-of-state property owners. Out-of-state consent is invited to come in via email.	No additional burden on staff yet. All applications have gone very smoothly. Only one was denied based on previous violations.	5 since passed last fall.	It has never prevented consent. Iowa City staff has personally called every property owner and all have happily confirmed they were fine with it.	No.	Suggested determining what to do if an adjoining property is public property or if a home is in a trust as one potential applicant is waiting to submit their application for this reason.
Ann Arbor, MI	Permit required, Only if owners of all adjacent residentially zoned properties consent, ten feet from property line, 40 feet from residential structures, unless waived; five years for a permit, entire process repeated after five years (including consent), allowed on single family or two-family (with permission of other owner)	Only property owner.	The assessor's office.	Yes. Physical signature is required.	No additional burden on staff as it is just like any other permit. After five years of the policy, there are rarely any calls about it.	97 since passed in 2011.	To the best of their knowledge, no. But a resident would not bring in their application if they did not have all their signatures.	They can file a complaint but affect permit unless resident is violating their permit. But permits are reissued every five years. Residents have to get neighbor's approval every five years.	Can only recall one chicken related complaint in her three years at Ann Arbor. Chickens were loose and running up and down the street. A citation was issued, but nothing more.
Oshkosh, WI	License required, rear yard accessory-structure setbacks, registration as livestock premises required, permission from owner of neighboring property, if two family residence, requires consent from all occupants	Both property owner and tenant.	No set process.	Yes. All adjacent properties. Two-family residences require consent from all occupants.	It has been like any other permit. Relatively little staff time. It was a hot topic when it was passed in March 2011, but has cooled down.	26 total. 4 in 2011, 9 in 2012, 13 in 2013.	Not aware of any situations	They do not have standing to make a complaint. The permit is renewed annually and requires neighbor consent annually. A new neighbor would not have to wait long to decline renewing a permit, but this has not been an issue yet.	Used Madison's policy as an example
Maplewood, MN	License required, 100% neighbor consent, single family properties, city sends letter to neighbors with description, neighbors have time frame to respond, no response is considered consent, city sends leg bands to resident for chicken, rear or side yard (five foot setback)	Both property owner and tenant.	This was something that was not considered until after the fact. They go into their GIS software to identify property owners.	Yes.	There was an old way and a new way that they did this described in the notes column. The new way has actually lessened the burden on staff.	10 under old system. Only one under new since last fall.	Not aware of any but it is always possible that a resident simply was denied by a neighbor during the old process and never brought their application in.	No.	The process requires the request from the resident and staff sends a certified letter to adjoining property owners/residents. A non-response or a confirmation letter from adjoining property owners/residents is all they need to confirm. An important consideration is multi-family units where the property management company is the only one required to sign off.
Milwaukee, WI	Permit required, Neighbor approval form must be signed for all abutting properties, applicant responsibility to get signature of owner, form states 'I verify that I am the owner', 25 foot minimum from habitable structure on neighboring lot, required to submit site plan showing distance from lot lines and neighbor structures	Both property owner and tenant.	It has been hard to get permission from property owners who only care about collecting rent. If they cannot reach the property owner then they are willing to explore options.	Yes.	There has not been a single problem from an administrative standpoint. Cites a lot of this success from neighbor consent. Those that have signed off have not followed up with a single complaint. For chickens the burden is completely on the resident and off staff. Does not require additional staff.	24 since passed in July 2011.	Yes	New neighbors do have standing to file a complaint, but as long as the chicken owner is not in violation of their permit then nothing can be done. The permit is also good forever as long as it is not violated.	
St. Paul, MN	Obtain approval from 75% to neighboring property owners or tenants that are within 150' from the lot lines of your property and on the same side of the street. No need for signature from vacant buildings.	Property owners OR occupants. Both is ideal, but only require one.	Require that neighbors include written name, signature and a phone number so there is contact information if something does not look right.	No, only 75%.	Limited burden on staff. There is a lot of complaining about roosters. Also, the site plans on building requirements does add an additional workload. Also additional upkeep if residents don't pay annual renewal fee.	Unknown	It has in a couple instances. One particular instance is a large department store that declined to consent.	New neighbors do have standing to file a complaint, but as long as the chicken owner is not in violation of their permit then nothing can be done. The permit is good for one year at \$72, and consent is only required for the first year. The annual renewal is \$27.	