



PLANNING BOARD

Report to Town Meeting

ARTICLE 9. Zoning Amendment – Accessory Livestock or Poultry (Planning Board)

To see if the Town will amend Section 5.014 and Article 12, of the Zoning Bylaw, by deleting the ~~lined-out~~ language and adding the language in ***bold italics***, as follows:

~ SEE WARRANT ~

Recommendation

The Planning Board voted 6-2 to recommend that Town Meeting refer this article back to the Planning Board for further study.

Background

Article 9 is a response to citizen requests that Amherst's zoning be updated to expand the ability of residents to raise and keep livestock or poultry—primarily backyard chickens. The proposed amendments would modify existing Section 5.014, which regulates livestock or poultry as a use accessory to a residence in residential districts. Definitions are also added to establish the difference between livestock or poultry and pets, for the purposes of the Bylaw.

Under the proposed changes to Section 5.014, 'outlying' residential zoning districts—Outlying Residence (R-O) and Low Density Residence (R-LD)—the keeping of livestock and poultry would continue to be by right, as is currently the case.

The regulations would change in Amherst's denser 'center' residential zoning districts—the General Residence (R-G), Village Center Residence (R-VC), and Neighborhood Residence (R-N) Districts. Currently no livestock or poultry are allowed in the R-G District around the Town center, and they are allowed only through a Special Permit in the R-VC and R-N Districts.

Under the proposed amendments, in all three 'center' residential districts, only rabbits and selected fowl (hens—no roosters—ducks, pigeons, and doves) would be permitted on lots less than 30,000 sq ft. (approx. 0.69 acres). In these districts, a given number of rabbits or selected fowl—3, 6, 8, or 10, based on the size of the lot involved—would be permitted by right, as the equivalent in impact to owning pets.

A Special Permit would be required to have more animals than allowed by right for a given lot size.

Any property owner or tenant proposing accessory fowl or rabbits in the ‘center’ districts would have to demonstrate that they have a minimum of 10 sq. ft. of open yard space per animal, set aside and reserved for the use of the animals. This requirement is based on Cooperative Extension Service guidelines.

Here are the proposed regulations for the ‘center’ districts:

<u>Lot Size</u>	<u>Max. # of Animals</u>
<10,000 sq. ft. (<0.23 acres)	3 by right; more by SP
10,000-11,999+ sq. ft. (0.23 – 0.28 acres)	4 by right; more by SP
12,000-19,999+ sq. ft. (0.28 – 0.46 acres)	6 by right; more by SP
20,000-29,999+ sq. ft. (0.46 – 0.69 acres)	8 by right; more by SP
30,000+ sq. ft. (0.69 acres+)	10 by right; more (any) by SP

Impact of State Law

Under Mass. General Law Chapter 40A, Section 3, all farming activity—including the raising and keeping of livestock and poultry—is protected from being local zoning prohibition, “unreasonable regulation”, or any Special Permits when the farming activity occurs on properties of 5 acres or more, or on properties of 2 acres or more, but less than 5 acres, where at least \$1,000 in gross annual revenue is generated from farming activities.

So it should be understood that livestock and poultry can be raised without any limitation by Amherst’s zoning, in any zoning district, on a property which meets those state criteria.

A Coordinated Approach

Other state and local regulations, specifically local health regulations and animal welfare inspections, apply to all farm activities, regardless of their ‘protections’ from zoning. That is why a coordinated approach—zoning, health, and animal inspections—is important with regard to regulating the keeping and raising of livestock and poultry.

From the beginning of this process, the Planning Board has worked with Town staff to see if the Amherst Board of Health would be interested in developing more detailed ‘best practices’ regulations for the keeping of livestock and poultry, so that the agricultural details of raising and keeping animals need not be made part of the Zoning Bylaw, whose broader purpose is to regulate land use.

The Amherst Health Director and Animal Welfare Officer identified a need to develop a registration system for backyard poultry (not for rabbits or hares), so that the Town would know where flocks are being kept and annual inspections could be facilitated. Section 5.01402 of this article would enable the creation of such a system

Public Hearing

The Planning Board opened the public hearing on this article on September 15. At that hearing, the Board decided by consensus that it wanted to wait to hear from the Board of Health on possible regulations before making a recommendation to Town Meeting. Although the proposed new zoning regulations were reasonably comprehensive, the Planning Board was not comfortable going forward with those regulations alone. For that reason, the Board continued the public hearing to October 20.

On September 30, the Amherst Board of Health met and reached the following conclusion:

The Amherst Board of Health sees no significant risk to human health from properly maintained livestock or poultry facilities that might be implemented, by right, under the proposed changes to the bylaw. It is our understanding that the Municipal Animal Inspector has the authority under current state law (M.G.L. 129, Section 7) to address the health and well being of domestic animals and to insure that these facilities are properly maintained. As a result, we do not see a need for Board of Health regulations regarding livestock and poultry.

A subsequent meeting among Town staff, including the Amherst Health Director and Animal Welfare Officer, concluded that a system of registration and more detailed 'best practices' regulation of backyard chickens could be developed or enabled through amendments to the Animal Welfare section of the General By-Laws of the Town of Amherst.

The Planning Board's continued public hearing was re-opened on October 20. A recommendation was read into the record from the Agricultural Commission asking that Article 9 be referred back for further study, to ensure that any regulations governing the maximum numbers of animals or how the animals were to be kept were based on best practices and agricultural science.

Citizens involved in the original request asserted that the amendments proposed under Article 9 were sufficient to address any legitimate concerns, and asked that the Planning Board proceed with the article as written. It was argued that, even if the article were ultimately referred, this would allow Town Meeting to consider the question, discuss the issues involved, and identify any outstanding concerns.

After discussion, the Planning Board voted 6-2 to recommend that Town Meeting refer Article 9 back to the Planning Board for further study.

Further study would allow refinement of the zoning amendments and the development of companion regulations through amendments to the General By-Laws. One of the members voting in opposition to referral supported going forward with Article 9 as currently proposed. The other member opposed amending Amherst's zoning to make it easier to raise and keep backyard chickens, on the basis that the arguments regarding sustainability (greater access to and affordability of local food, localized economy, etc.) being advanced to justify an increase in chickens in Amherst were not supported by the evidence and would not offset the potential impacts on the lives of other Amherst residents.