



**PLANNING BOARD**

**Report to Town Meeting**

**ARTICLE 33 Zoning Bylaw - Accessory Livestock or Poultry  
(Petition, Gerber et al)**

**ARTICLE 34. General By-Laws – Animal Welfare  
(Planning Board)**

**ARTICLE 35. General By-Laws – Animal Welfare  
(Petition, Gerber et al)**

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**~ SEE WARRANT FOR TEXT ~**

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Recommendations

The Planning Board voted the following recommendations with regard to these articles:

- Article 33. Recommend that Town Meeting adopt (6-1)
- Article 34. Recommend that Town Meeting adopt (6-1)
- Article 35. Recommend that Town Meeting dismiss if Article 34 adopted. (6-0-1)  
Recommend that Town Meeting adopt if Article 34 fails. (5-1-1)

Background

These three articles represent the combined efforts of Amherst citizens, the Planning Board's Zoning Subcommittee, and Town staff since last fall to craft amendments and new regulations for the Zoning Bylaw and the Town's General By-Laws. The overall intent is to liberalize the regulations for the keeping and raising of backyard animals—principally chickens—for agricultural purposes in residential neighborhoods in Amherst. The article will at the same time create mechanisms for registering these animals, which will ensure their regular inspection and allow whatever enforcement is needed.

As is indicated by the Planning Board votes to recommend, the differences between articles do not represent significant differences of opinion on the advisability of the articles, and are for the most part intended to allow Town Meeting a range of choices as to how to approach these changes.

Although there is a full range of opinion among Planning Board members for and against these amendments, it is the Board's strong majority consensus that, on balance, creating more opportunities for Amherst citizens to raise their own animals for food for their own and their neighbors' consumption will have the following positive impacts:

- Reducing the cost of food for households
- Increasing the availability of high quality locally-grown food
- Keeping food-related revenue and income within the community
- Encouraging a more direct connection with the natural processes which sustain human life
- Reducing the environmental and energy impacts of the production and transportation of food
- Increasing local self-sufficiency, and
- Generally enhancing the sustainability of the community as a whole.

The Planning Board is fully aware that the raising or keeping animals for food or material (feathers, fur), can involve potential negative impacts as well:

- Potential noise and/or odors
- Waste/feed handling and management
- Animal confinement and the potential for escape
- Potential attraction of predators
- Animal related transmission of disease
- Unsafe processing and handling of animals for food purposes, and
- Ensuring adequate inspection, complaint response, and enforcement.

In developing the amendments presented under Articles 33-35, the Planning Board addressed all of these issues, both in the requirements of the proposed new regulations and through enhancement of the effectiveness of existing enforcement. Enforcement would be the responsibility of the Amherst Health Department and the Animal Welfare Officer, who also serves as Amherst's state-authorized Animal Inspector. It should be noted that the need for enforcement is anticipated to be modest. During the last 10 years, the Animal Welfare Officer reports that there have been only 3-4 complaints about backyard chickens in Amherst, whereas complaints about dogs and cats occur almost daily.

In helping to develop these regulations and making recommendations, the Planning Board has affirmed both the legitimacy and value of small-scale farming in Amherst, including acknowledgment of the importance of humane treatment in farming with animals. It was noted that local small-scale agriculture is a viable and significantly more humane alternative to the practices of industrial agriculture.

The Zoning Bylaw and General By-Laws amendments are intended to complement one another and work together. Article 33 would permit the keeping or raising of a limited number of livestock or poultry by right in Amherst's residential zoning districts. Both Article 34 and 35 would amend the General By-Laws to create a system of registration, inspection, and enforcement for 'best practices' in the keeping of such animals. Article 34 would require the notification of abutting property owners and could involve an administrative hearing. Article 35 would not.

***Article 33. Zoning Bylaw – Accessory Livestock or Poultry (Petition)***

The Planning Board voted 6-1 to recommend adoption of this petition article, and will offer a motion with minor amendments from the floor, with the agreement of the petitioners.

Currently, Amherst's zoning regulates the raising or keeping of livestock or poultry on residential properties as an accessory use—a use that is secondary and subordinate to the residential use of the property. Keeping livestock or poultry is permitted without limitation, on residential properties in the largely rural Outlying Residence (R-O) and Low Density Residence (R-LD) districts. It is also permitted (under state law) on any farm property of 2 or more acres (under certain circumstances) or 5 or more acres in any zoning district.

Keeping livestock or poultry is currently permitted only with a Special Permit in the denser Neighborhood Residence (R-N) and Village Center Residence (R-VC) districts, and is prohibited outright in the densest General Residence (R-G) District which surrounds the Town center and exists between the Town Center and East Village. There is wide variation in lot size in each of these districts.

The amendments in Article 33 principally affect the more densely settled residential districts—R-N, R-VC and R-G. Article 33 would allow the keeping or raising of a total of no more than twelve (12) of selected kinds of livestock (rabbits and hares) and poultry (hens, doves, pigeons and ducks) in the denser residential districts by right, with controls on where associated enclosures and structures would be located, and with a requirement that these animals be registered with the Town and inspected. None of the noisier breeds of animals would be permitted. Any proposal which sought to vary from these requirements would require a Special Permit.

Article 33 adds two new sections to Article 12, Definitions, of the Zoning Bylaw, to provide definitions for Livestock or Poultry, and Pets, to distinguish between the two for purposes of zoning enforcement.

***Article 34. General By-Laws – Animal Welfare (Planning Board)***

The Planning Board voted 6-1 to recommend adoption of this article.

Article 34 is the Planning Board's version of the proposed amendments to the Animal Welfare section of the General By-Laws. Because it is the larger and more involved amendment, it is being considered first on the warrant. Article 34 is nearly identical to the petitioners' proposal under Article 35, except that it provides an additional abutter notice and potential hearing process requested by some citizens during the public review portion of the development of this article.

Article 34 adds new regulations to the existing Animal Welfare bylaw, establishing 'best practice' requirements for the raising or keeping of livestock or poultry. Articles 34 and 35 slightly reorganize and amend the larger bylaw, relocating the section on Cats (without amendment) and adding the Health Director and Inspector/Sanitarian as enforcing officers for the entire Animal Welfare section. The new section on livestock or poultry creates a system of registration, annual inspections, and enforcement, with complaints handled by the Health Director and Animal Welfare Officer.

Article 34 requires that the Town notify the owners of properties abutting and within 300 feet of a property on which an applicant intends to keep or raise animals. If the owners of a majority of abutting properties receiving notice submitted written objections to the proposed animals within a 14 day period, an administrative hearing would be held by the Health Director. The Health Director would hear public comment, and then make a determination “based upon compliance of the proposal with best practices and such other factors of public health and welfare as the Director may deem appropriate.”

Following a hearing, the Health Director’s decision would either: 1) allow the keeping of animals as proposed, 2) allow it with conditions, or 3) prohibit the keeping of animals under the registration as proposed. That decision would be based on how well the proposal met the ‘best practices’ criteria in the regulations, and the potential impacts on the health and well-being of the animals and humans living nearby. It would not be based on subjective issues such as whether or not neighbors liked the prospect of animals next door. No standard or requirement involving subjective neighbor preference applies to the keeping of pets, including potentially large and noisy pets like dogs. For this reason, neighborhood preference was not judged to be a legitimate or equitable basis for determining whether the raising or keeping of selected livestock or poultry should be allowed in any given instance.

**Article 35. General By-Laws – Animal Welfare (Petition)**

The Planning Board voted 6-0-1 to recommend dismissal of this article if Article 34 is adopted. The Planning Board voted 5-1-1 to recommend adoption of this article if Article 34 fails.

Article 35 is the petitioners’ version of the amendments to the General By-Laws. It would establish an identical system of registration, inspection, complaint, and enforcement. It would not include a process for notifying abutters, or a hearing procedure in which neighbors can express their concerns and provide evidence about potential health and safety impacts.

Public Hearing

The Planning Board held public hearings on these articles on Wednesday, March 30, 2011. The Planning Board’s Zoning Subcommittee had been holding public meetings on these regulations since last fall, and extensive public comment in the form of emails and materials supporting one position or another was present at the hearing. The Board heard a report and recommendations from the Zoning Subcommittee on each article. In the numerous Zoning Subcommittee meetings prior to the hearings and during the hearings, there was extensive public comment in support of and opposing each of the amendments. Reports were received from the Agricultural Commission, Amherst Health Director and Animal Welfare Officer. After extended discussion, the Planning Board voted the following recommendations with regard to these articles:

- Article 33. Recommend that Town Meeting adopt (6-1)
- Article 34. Recommend that Town Meeting adopt (6-1)
- Article 35. Recommend that Town Meeting dismiss if Article 34 adopted. (6-0-1)  
Recommend that Town Meeting adopt if Article 34 fails. (5-1-1)