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MEMO

DATE: August 22, 2011
TO: Agricultural Resources Advisory Board
FROM: Joshua Hart, AICP, Planning Director *JGH*
RE: Zoning Code Update

The County adopted a comprehensive update to the General Plan on December 11, 2001. One of the follow-up actions from the General Plan was to update the Zoning Code. Staff has been working with Willdan, a consultant with planning expertise, to prepare updated Zoning Code sections. Batches of preliminary draft Code sections are being provided to the Planning Commission and the Board of Supervisors in a series of workshops to solicit feedback regarding the proposed approach.¹ Staff will incorporate this input into a comprehensive Zoning Code update, and then identify any modifications that might be necessary to the General Plan in response to the proposed Zoning Code updates, as well as other desirable General Plan modifications. Public input will be solicited throughout the process. Subsequently, a comprehensive package will be prepared to begin environmental review.

The Planning Commission and the Board have reviewed several batches of preliminary Zoning Code sections, and issues have arisen that warrant input from the Agricultural Resources Advisory Board (ARAB) regarding maintenance of animals. Input is also being requested from the ARAB regarding a preliminary draft right-to-farm ordinance.

Maintenance of Animals

The current Zoning Code restricts animal keeping in Residential (R) zoning districts less than one-half acre in size (refer to Attachment 1), which staff recommends maintaining due to the County's rural nature. However, complaints about animal keeping are occasionally received, usually from in-town locations adjacent to open space. An individual addressed the Planning Commission who has experienced issues regarding animals being kept close to his home in West Bishop, and the Planning Commission expressed an interest in investigating options further. The

¹ Refer to <http://inyoplanning.org/GPandZoningUpdates.htm> for more information regarding the Zoning Code update.

Board discussed the issue extensively, and requested that staff bring it before the ARAB for additional input. The Board also requested input from the ARAB regarding permitting limited commercial breeding of dogs, cats, rabbits, and chickens in R zones, as well as how to address alpacas and llamas.

In regards to the overall issue of keeping of animals, most complaints arise in R districts adjacent to Open Space zones due to odors and insects from equine and cattle. If changes to the regulations are desired, a distance requirement between certain animal keeping activities and R zoning could be considered. Staff does not have the expertise to ascertain an adequate distance, but options discussed have ranged from several to over 100 feet. Staff believes that most complaints arise from animals being kept in close proximity to property boundaries, so the distance requirement could just be limited to physically confining the larger animals, such as pens and other holding facilities. This would permit the animals to range throughout the property, but would limit where they are physically constrained. The consultant has provided an alternative approach to maintenance of animals that may be considered for discussion purposes (see Attachment 2).

Staff believes that limited commercial breeding of cats, dogs, chickens, and rabbits in R zoning districts should be permitted, subject to the numerical limitations in the existing Code (see Attachment 1). Staff believes that llamas and alpacas should be treated similarly to other large livestock (horses, mules, etc.).

Right-to-Farm Ordinance

The consultant has presented a preliminary draft right-to-farm ordinance for consideration (see Attachment 3). Staff believes that the proposal is acceptable, although staff does not possess the background to provide an expert analysis. Input is being requested from the ARAB regarding the preliminary draft proposal.

Recommendation

Staff recommends that the ARAB provide input for consideration by staff, the Planning Commission, and the Board of Supervisors regarding maintenance of animals and the right-to-farm ordinance in the Zoning Code update.

Thank you. If you have any questions, please call me at (760) 878-0268 or email me at jhart@inyocounty.us.

Attachments

1. Inyo County Code Section 18.78.310 (Maintenance of Animals)
2. Consultant's Proposed Maintenance Animals Section
3. Consultant's Proposed Right-to-Farm Ordinance

Attachment 1

Inyo County Code Section 18.78.310 (Maintenance of Animals)

A. The maintenance of animals in the residential and mobilehome combined (RMH), one family residential (R-1), two family residential (R-2), and multiple residential (R-3) zones on lots of less than one-half acre are permitted as an accessory use subject to the following conditions:

1. Domestic pets such as dogs and cats are permitted.
2. No animals of any kind shall be bred, raised, maintained or slaughtered for any commercial purpose.
3. No large livestock or large farm animals, such as horses, mules, donkeys, cattle, shall be bred, raised, maintained or slaughtered for any purpose.
4. Small livestock or small farm animals such as pigs, goats, sheep, pigeons, poultry and rabbits may be bred, raised or maintained for domestic or educational purposes subject to the following restrictions:
 - a. Pigs, goats, sheep and similar animals shall not exceed two in number;
 - b. Pigeons, poultry, rabbits and similar animals shall not exceed twenty-five in number;
 - c. No structure or shelter for animals shall be located closer than five feet to any property line;
 - d. Maximum height of any structure or shelter for animals shall be fifteen feet.
5. The breeding, raising, maintenance of animals allowed by subsection A of this section shall comply with all other state and county requirements and ordinances.

B. The maintenance of animals in the residential and mobilehome combined (RMH), one family residential (R-1), two family residential (R-2), and multiple residential (R-3) zones on lots of one-half acre or more, and in all other zones regardless of lot size, shall be permitted as an accessory use so long as such use complies with all other state and county requirements and ordinances. (Ord. 943 § 4 (part), 1994.)

Attachment 2

Consultant's Proposed Maintenance Animals Section

1. Intent

This Section is intended to ensure that keeping of animals or husbandry land uses does not create adverse impacts to adjacent properties such as dust, noise, odor, fumes, bright light, visual blight, or insect infestation.

2. Applicability

All keeping of animals or husbandry land uses conducted shall comply with the provisions of this Section in addition to applicable provisions of the zone district in which the said use is located.

3. Pre-Existing Uses

Legally established keeping of animals and husbandry uses which would, as a result of the adoption of this Title become nonconforming within this Title, be permitted to continue as a "legal nonconforming use", provided, that the use meets the criteria for legal nonconforming uses, pursuant to the provisions of this Title.

4. Permitted Uses

The following uses are permitted uses on each residential parcel in the County. For purposes of calculating allowed number of animals, remainders of area or of animals shall be rounded down.

a. The following standards apply to the keeping of domestic pets within OS, RR, RR-0.5, R-1, R-2, and R-3 zone districts.

- 1) Not more than four (4) dogs may be kept, maintained, or harbored at any residence within the County
- 2) The keeping of up to four (4) domestic, adult household pets, other than dogs, including domestic birds, rabbits, hamsters, rats, mice, etc. shall be permitted in any combination of species for each ten thousand (10,000) square feet of net lot area, provided the total number of adult household pets kept does not exceed twenty (20) animals.

b. The following standards apply to the non-commercial keeping of horses within the A and RR zone districts.

- 1) No horses or ponies shall be kept on any lot with a net area less than twenty thousand (20,000) square feet.
- 2) One (1) adult horse may be kept on a parcel for each twenty thousand (20,000) square feet of net lot area, up to a maximum of six (6) horses or ponies or combination thereof.

c. Non-commercial keeping of the following animals, in any combination, may be permitted within the OS, RR and RR-0.5 zone districts:

- 1) Goats, sheep, and other small sized cleft hoof animals.
 - a) No goats, sheep or other small sized cleft hoof animals shall be kept on any parcel with a net area of less than twenty thousand (20,000) square feet.

b) Two (2) adult goats, sheep or other small sized cleft hoof animals may be kept for each additional twenty thousand (20,000) square feet of net lot area, up to a maximum of six (6) adult animals total, in any combination of species.

2) Cattle (Bovines)

a) No cattle or bovines shall be kept on any lot or parcel with a net area of less than forty thousand (40,000) square feet.

b) One (1) bovine may be kept for each twenty thousand (20,000) square feet of net lot area up to a maximum of four (4) bovine.

3) Poultry, rabbits, and other small animals.

a) On parcels less than ten thousand (10,000) square feet net lot area, a maximum of four (4) adult animals, in any combination of species may be kept.

b) On parcels ten thousand (10,000) square feet net lot area or larger, a maximum of four (4) such adult animals per each additional ten thousand (10,000) square feet of net lot area, in any combination of species, may be kept provided the total number kept does not exceed twenty (20) animals.

d. Student Oriented Projects

The breeding and raising of livestock, in greater numbers than allowed in this Chapter, by minors in conjunction with a student-oriented fair project sponsored by a bona fide agricultural organization shall be permitted upon application to and approval by the Planning Director.

1) Application Contents. An application for a Temporary Animal Permit shall include the following:

a) The name and address of the applicant.

b) The name(s) and address(es) of the property owner(s).

c) Assessor's parcel number(s).

d) Legal description of the subject property.

e) Name of the organization sponsoring the applicant.

f) A plot plan showing the location of proposed pens, coops, or areas for the breeding and raising of animals in relation to existing residence(s) and other buildings and structures within one hundred (100) feet of pens, coops, or areas housing livestock.

g) The signature of each owner of the real property abutting the subject lot consenting to the granting of the Temporary Animal Permit.

2) Development Standards and Conditions. The breeding and raising of animals on a temporary basis shall comply with the following standards and conditions:

a) Applicant shall be sponsored by a bona fide organization, such as, but not limited to, Future Farmers of America, 4 H Club, Cow-Belles, or Junior Farmers.

b) The increase in animal density shall not exceed one (1) horse, donkey, mule, cow, dairy stock, goat, hog, sheep, or other similar animal for each additional ten thousand (10,000) square feet of lot area. In any case, no more than six (6) additional animals shall be allowed.

c) A Temporary Animal Permit shall be effective for a period of six (6) months from the effective date of the permit. No more than one (1) such permit shall be approved for any lot within a one (1) year period.

d) The written consent of each abutting property owner consenting to the granting of a Temporary Animal Permit must be obtained.

e) The applicant shall allow inspection of animal maintenance facilities by the Kern County Health Department and County staff.

f) The Planning Director may revoke a Temporary Animal Permit at any time for noncompliance with this Section or upon receipt of a recommendation for revocation from the Kern County Health Department.

g) Each additional animal authorized by a Temporary Animal Permit over the allowable animal density specified herein shall be removed upon expiration of the permit.

e. Conditionally Permitted Uses

The following shall be permitted subject to securing an approved conditional use permit in the OS, RR, and RR-0.5 zone districts.

1) Exotic or wild animals as defined in this Title.

2) On lots twenty thousand (20,000) square feet or greater, frog farms or the raising of earthworms may be permitted, provided that the area devoted to such use or uses shall not exceed ten (10) percent of the net lot area.

3) Fish hatcheries or farms for stocking, breeding or commercial sale.

4) The raising of rabbits, chinchilla, nutria, hamsters, guinea pigs, and other such animals similar in size, appearance, and weight for commercial purposes.

- 5) Non-commercial aviaries (not including chickens) provided that the number of birds shall not exceed seventeen (17) birds for each forty thousand (40,000) square feet of net lot area.
- 6) Non-commercial apiary (beekeeping) provided that hives and/or boxes shall be placed a minimum of four hundred (400) feet from any street, road, highway, public school, park or any occupied dwelling, except for the owner or caretaker of the apiary.

f. Animal Offspring

Offspring born to permitted or conditionally permitted animals kept on any given site may be maintained on said site until weaned without being counted against the maximum number of animals permitted on the site as follows:

- 1) Dogs; six (6) months
- 2) Horses and ponies; twelve (12) months
- 3) All other equine and cleft-hoofed animals; six (6) months.

Attachment 3 Consultant's Proposed Right-to-Farm Ordinance

1. Intent

It is the intent of this Section to conserve, protect, and encourage the development, improvement, and continued viability of agricultural land and industries for the long-term production of food and other agricultural products; support the economic well-being of the County's residents; balance the rights of farmers to produce food and other agricultural products with the rights of non-farmers who own, occupy, or use land within or adjacent to agricultural areas; and reduce the loss to the County of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance.

2. Applicability

All agricultural activities, operations, facilities, or appurtenances thereof shall comply with the provisions of this Chapter and with the applicable provisions of the zone district in which the land use is located.

4. Protection from Nuisance

a. No agricultural activity, operation, facility, or appurtenances thereof shall be, or become a nuisance if the following standards are met:

- 1) The agricultural use is conducted or maintained for commercial purposes; and

2) The agricultural use is conducted in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations in the same locality; and

3) The agricultural use has been in operation for more than three (3) years and was not a nuisance at the time it began.

b. This Section shall not invalidate any provision contained in the Government Code of the State of California associated with agricultural activities, if such activities, operation, facility, or appurtenances thereof, constitutes a nuisance, public or private, as specifically defined or described in any such provision.

c. This Section is not to be construed to modify or abridge State law, as set out in the California Civil Code relative to nuisances, but rather to be utilized in the interpretation and enforcement of the provisions of County ordinances and regulations.