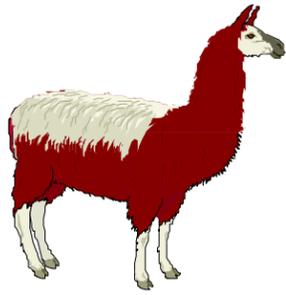


ZONING GUIDELINES FOR PERMITTING DOMESTIC LIVESTOCK USES



Assembled by the Members of the Small-scale Livestock Work Group Revised Fall 2004

THE ISSUE

Should municipal officials permit domestic noncommercial livestock uses in rural residential areas?

The Small-scale Livestock Work Group (Work Group), a group comprised of representatives from State and local agencies, which includes horse owners and municipal officials, thinks the answer to the preceding question is yes. The consensus among Work Group members is that residential land uses involving horses, and other animals which are kept and bred primarily for personal use and recreation, may, with appropriate controls, be acceptable in some rural residential areas.

The origins of conflict between uses involving livestock, whether small, personal livestock uses which are accessory to dwelling units or larger commercial operations, and their neighbors appear to be the same. The following concerns are born of both fact and perception with respect to the keeping of livestock on any scale:

- animal waste management, storage, usage and disposal
- health risks
- animals escaping and running-at-large
- treatment and housing of animals
- erosion and sedimentation control
- vehicular access
- noise
- odors
- vectors
- water pollution
- lighting
- fencing

When reviewing the preceding list of concerns, it becomes apparent that several do not readily lend themselves to zoning regulation. This is the case for the treatment and housing of animals as it relates to animal welfare, the day-to-day aspects of animal waste management, and to some extent, erosion and sedimentation and water pollution. Municipal officials and

Noise, vectors, fencing, odors, and to a lesser extent lighting, can be aspects of keeping livestock that may adversely affect the use of neighboring properties. Further, the livestock use itself may be limited if restrictions which apply to such effects exist or are enacted in the form of zoning regulations.

applicants should consult with animal owners and associations, the County Conservation District, the Penn State Cooperative Extension Office, and the Natural Resources Conservation Service with regard to those issues. In addition to site planning assistance and information which is available from the aforementioned agencies, regulations may apply which exist outside the context of zoning ordinances. The staff of the agencies noted will be aware of such regulations.

ZONING REGULATION

Many municipal zoning ordinances in Pennsylvania contain provisions which regulate livestock operations in agricultural and conservation zones, and prohibit the keeping of livestock in residential zones. A review of municipal land use regulations indicates that few ordinances directly address domestic livestock uses of a personal nature involving horses and other animals which are not typically thought of as pets. Although the keeping of horses is undoubtedly the predominant domestic livestock use in Pennsylvania, equine species are not the only animals to be considered. Small-scale, noncommercial domestic livestock preferences may include, but are not limited to, camelids such as llamas and alpacas, and large birds such as emus and peacocks, as well as a variety of other less typical species. The issues which have arisen with regard to the keeping of horses would seem to apply for other animals as well. For the purposes of this report, a kennel is not considered a domestic livestock use, but rather a facility which involves animals typically considered to be pets. Kennels are specifically dealt with in most zoning ordinances, regardless of whether the use is personal or commercial, based on the number and age of the animals being housed, bred and cared for. Commercial riding stables and riding academies are, in most instances, specifically defined and regulated in zoning ordinances as well.

Obviously, in a rural residential zoning district, single family dwellings would be the most predominant permitted use. In drafting applicable regulations, local officials may decide which accessory uses would be appropriate, and how such secondary uses would be restricted. Admittedly, some of the

following examples are commercially oriented. Regardless, the uses noted are typically subject to structure/area regulations as accessory uses to single family dwellings. Examples include bed and breakfast inns, day care homes, private family cemeteries, “granny flat” apartments, and in this instance, domestic livestock uses. Lot size and building setback requirements in rural residential districts vary from municipality to municipality, and such provisions can significantly impact the size and nature of principal and accessory uses which are permitted within such districts.

It should be noted at the outset that this is not a recommendation that the keeping of livestock, even on a small domestic scale, is appropriate in all residential areas. It is not. Due to the nature of the use, and the area required for it, municipal officials should carefully review existing land use patterns and zoning district regulations. Considering development density and open space, rural residential zones in outlying areas have greater potential to accommodate domestic livestock uses than urban fringe or suburban areas. Even so, conflicts can and have occurred between the residents of adjacent dwellings and existing or proposed small-scale livestock uses in rural areas of relatively low density. It is essential that municipal officials consider the nature of the zone in which a domestic livestock use would be permitted.

What is the zone’s purpose?

Is the zone developing rapidly?

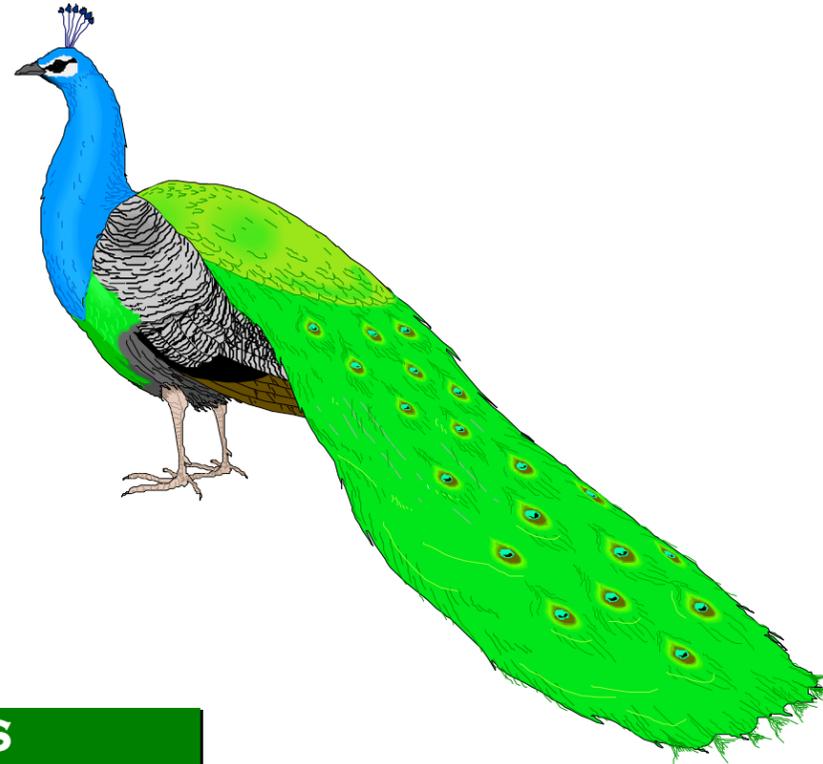
What are typical lot sizes and densities in the zone?

Is the zone within or adjacent to a growth area into which sewer and water service will be extended?

Zoning districts appropriate for domestic livestock uses would be located outside any planned growth area served by, or intended for service by, public sewer and water systems. Such facilities virtually guarantee intense, rapid development. Another consideration might be the proximity and accessibility of open space, green ways and trails which could serve as buffers and might be utilized by the owners and guests of the domestic livestock uses.

If municipal officials determine that domestic livestock uses are compatible with permitted uses in a particular zone(s), the next step is deciding the extent-of-use regulations that would apply. There may be some site-specific factors which function independently, i.e., cannot be controlled for, such as the prevailing wind direction with respect to neighboring uses. Such factors need not prevent the permitting of a domestic livestock use. Regulations which apply should not be arbitrary, or require subjective judgements. Measurable, objective standards should be applied which relate directly to the use proposed, i.e., the standards are applicable on any site so long as the proposed use meets the criteria. An example would be a lot area requirement based on the number of Animal Units per acre. This method relates standard animal weights to the area required to deal with the animals and the waste generated. The basis for this approach is contained in 25 PA Code Chapter 83, Section 83.262 of the Nutrient Management Rules and Regulations.

Having determined that a particular zone is appropriate for domestic livestock uses, municipal officials must determine whether such uses are to be (1) permitted directly (as a “use by right”) by application and permit issuance through the Zoning Officer, (2) reviewed by the zoning hearing board when permitted by special exception, or (3) acted on by the governing body if permitted as a conditional use. In any case, a standard set of criteria should apply. It is the Work Group’s



PROVISIONS

opinion that, in many municipalities, permitting based on a standard application reviewed by the zoning officer should suffice. This will reduce the time and expense involved for both the municipality and the applicant. (The municipal fee required for a special exception hearing before a municipal zoning hearing board currently ranges from \$200 to \$700 in York County Pennsylvania.) The third alternative noted above, the requirement of a conditional use permit, requires a hearing by the governing body of the municipality rather than the zoning hearing board. That alternative, the conditional use permit, is not recommended. A domestic livestock use would be accessory to a single family dwelling, and therefore would not impact an area of a municipality sufficient in size to warrant a review by the governing body. The type of application and permit required will undoubtedly vary among jurisdictions, depending on land use patterns, existing ordinance provisions, and the local political climate.

The following example zoning regulations are offered for

consideration after consultation with diverse participants who served as members of, or responded to, the Work Group. This group includes, but is not limited to, equine owners, municipal officials, extension personnel, and staff representing various state agencies. The model regulations should not be considered Any terminology and definitions used in such regulations, as well as the standards applied, should be consistent with existing zoning ordinance provisions to ensure clear distinctions and ease of interpretation.

Definitions

Domestic Livestock Use - Any activity involving the breeding, raising, caring for, housing, and principally the hobby/personal use of domestic animals and products derived from those animals by the occupant, owner or leaser of the lot on which such use is located. Such animals may include, but need not be limited to, equine species such as horses and ponies, camelids such as llamas and alpacas, and other species not defined as pets or regulated elsewhere in this ordinance. Incidental sales of animals or animal products directly associated with the use may be permitted, however, no stock-in-trade sales, sales building or sales area as such shall be permitted. A domestic livestock use shall be accessory to a dwelling located on the same lot. This definition excludes all commercial animal operations such as, but not limited to, livestock production for wholesale and retail markets, boarding and riding stables and liveries.

Running-at-Large - Any instance in which an animal is running about loose on a street, or upon the property of a person other than the owner of such animal, unleashed and unaccompanied by the owner or custodian or by any member of the owner's family or by any servant or agent of the owner of such animal.

Animal Unit (AU) - One thousand (1,000) pounds live weight of livestock, fowl or other animals, regardless of the actual number of individual animals comprising the unit.

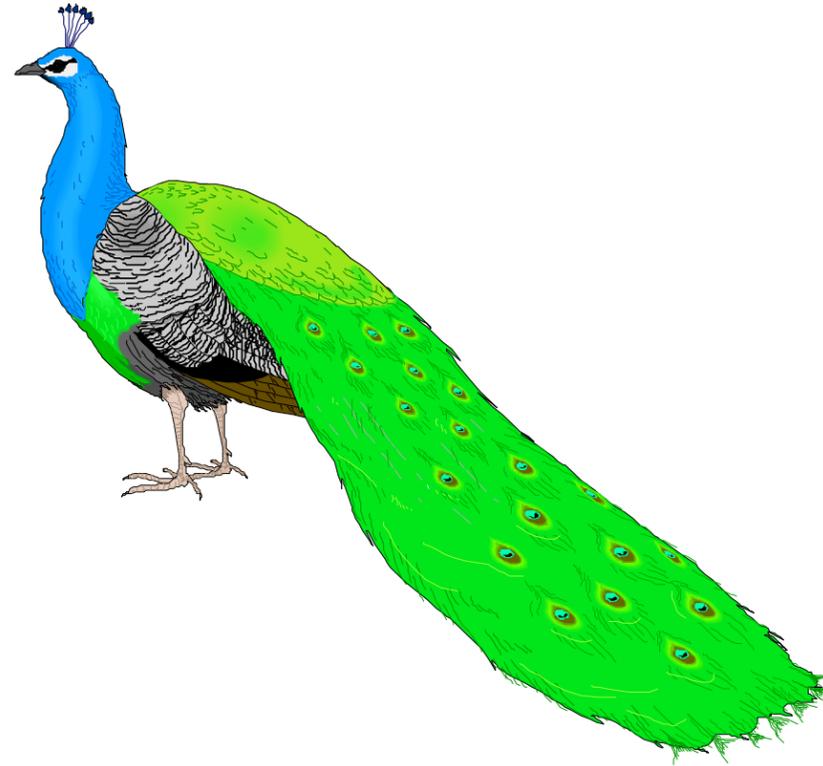
Standard Animal Weight - The given weight of a particular animal, whether mature or immature, used to determine how many animals comprise an Animal Unit as defined in this ordinance.

(For the convenience of the zoning officer, and to insure equitable treatment of applicants, it is recommended that a standard animal weight be listed in the ordinance for animals expected in domestic livestock uses as defined. An example would be 1,000 pounds per mature horse for nondraft breeds and 1700 pounds for draft breeds. The recommended source for such standards is 25 Code Chapter 83, Section 83.262 of the Nutrient Management Rules and Regulations. In order to establish standard weights for animals which are not listed in the Regulations, such as llamas and other less typical species, it will be necessary for local officials to contact agricultural agents/owners/breeders of such animals to determine an appropriate representative weight.)

Impervious Surface - Any surface which will not readily absorb precipitation, including paved areas such as driveways,

exhaustive, and should be revised/augmented as necessary to fit local conditions. Further, examples of the types of animals permitted could be expanded to indicate more diverse and perhaps smaller species.

sidewalks and parking areas whether constructed of concrete, brick, asphalt, compacted stone and other nonporous material,



as well as all buildings and structures, and bodies of water.

Specific Standards (These requirements would be supplementary to the other provisions of the ordinance and would apply specifically to domestic livestock uses.)

Lot Size Requirements - The minimum lot size required for the zone in which the use is located must be met. In addition, a minimum of one (1) acre of land, exclusive of buildings and impervious surfaces, must be provided for the first two (2) Animal Units which are housed or pastured on the lot. One (1) additional acre of land shall be provided for each additional Animal Unit, beyond the two (2) permitted on the first acre, which is to be housed or pastured on the lot. Notwithstanding the acreage available for the domestic livestock use, no more than eight (8) individual animals shall be permitted, regardless of size, weight, or species.

(The purpose of specifying a maximum number of animals is twofold: for large animals such as horses, to limit the scale and impact of the use and, in the case of smaller animals such as chickens, ducks or pigs, to minimize the potential for the transmission of diseases to which such animals are susceptible.)

(Other regulatory options might include: (1) The total according to the size of the animals.)

number of animals permitted might vary, depending upon the density of dwelling units permitted and other applicable regulations of the zoning district. (2) Conceivably, the maximum number of animals permitted could be scaled

The land designated as acreage for each Animal Unit shall be used exclusively for the animal(s) of the domestic livestock use proposed, and such open area shall be maintained entirely in vegetative cover. Wood lots and

forested areas shall not be included in the calculation of the

Setback Requirements - All buildings and structures

open acreage required for an Animal Unit(s). Further, domestic livestock shall be prohibited, by fencing or other measures, from occupying or grazing within wood lots and forested areas.

housing animals, and any buildings or structures used to store feed or other materials used for the domestic livestock use shall be located a minimum of thirty-five (35) feet from all property lines, or the setback required by the zone in

which the use is located, whichever is greater. A minimum

Fencing Requirements - All animals shall be kept within a

setback of one hundred (100) feet shall be provided between any area or structure used for the storage of animal wastes and all property lines, existing street right-of-way lines, wetlands and waterways.

fenced enclosure at all times when said animals are not leashed, haltered, or bridled and under the direct control of the owner or an authorized agent of the owner of the animals.

Height Restrictions- In all residential zones, the height restrictions for residential buildings in the zone in which the use is located shall apply to all buildings and structures not otherwise exempted.

Accessory Buildings and Structures - An accessory building or structure associated with the small-scale livestock use shall be exempt from any restrictions on maximum ground floor area so long as the proposed building or structure complies with building coverage, open space and impervious surface restrictions for a lot in the zone in which located.

(Notwithstanding the preceding exemption for accessory buildings and structures, regulations regarding accessory buildings and structures may vary substantially zone to zone and ordinance to ordinance. Such regulations will undoubtedly reflect the provisions which apply to the principal uses and structures permitted in the zoning district. If municipal officials choose to allow exemptions, or conversely, place specific restrictions on accessory buildings and structures with regard to building coverage, impervious surfaces or other provisions, such regulations should be clearly stated in the ordinance.)

Wetlands and Waterways - No animal shall have direct access to a jurisdictional wetland, impoundment, stream, spring or well on the lot on which the small-scale livestock use is located. However, stabilized stream crossing areas designed and constructed as such shall be exempted from this requirement.

Unenclosed Storage - The unenclosed storage provisions of the ordinance shall apply to all domestic livestock uses with the exception of animal wastes and bedding. Animal bedding may be stored outside of a structure or building so long as such material is stored a minimum of thirty-five (35) feet from any property line, existing street right-of-way line, wetland or waterway. Animal wastes shall be stored in accordance with the Setback Requirements contained herein and shall be removed at least once per year.

(It may be necessary to revise the unenclosed storage provisions of the Zoning Ordinance to either accommodate

or restrict domestic livestock uses. Concerns may involve, but may not be limited to, the storage of feed, fencing materials and vehicles.)

Nuisance Effect - The use shall not constitute a nuisance with regard to noise, odor, vectors, dust, vibration, or other nuisance effects beyond the property lines of the parcel upon which the use is located.

Conversion - Conversion of a domestic livestock use to a more intense, commercial livestock operation shall not be permitted. No conversion of a domestic livestock use to any other principal or accessory use shall be permitted unless such use complies with all ordinance and permitting requirements in force and effect at the time such a conversion is applied for.

Compliance with other Regulations - The proposed use shall comply with all applicable State, Federal and local regulations, including, but not limited to, nutrient management, building codes, erosion and sedimentation control and storm water management, as well as standards for signs, lighting, parking and access.

This report may be copied.

The Small-scale Livestock Work Group includes the following members:

- Shelly Dehoff**, Work Group Chairperson, Agriculture/Public Liaison
- Amy C. Skvarka**, Nutrient Management Specialist, Cumberland County Conservation District
- Jay Braund**, Pennsylvania Department of Environmental Protection
- Jack Dehoff**, Member, Pennsylvania State Conservation Commission
- H. Burnell Sprenkle**, Windsor Township Board of Supervisors and York County Planning Commission
- Duane Pysher**, Natural Resources Conservation Service
- Ann Swinker**, Cooperative Extension Horse Specialist, Penn State University
- Ben H. Nolt, Jr.**, Pennsylvania Department of Agriculture, State Horse Racing Commission
- Don Fiesta**, Pennsylvania Department of Environmental Protection
- Douglas Goodlander**, Staff, Pennsylvania Conservation Commission
- Bruce Holbrook**, Pennsylvania Department of Environmental Protection (retired)
- Randal Beck**, Chief of Municipal/Current Planning, York County Planning Commission

The Work Group wishes to acknowledge the following individuals and organizations for the assistance and information which they provided. It should be noted however that the views and recommendations contained in this report do not necessarily reflect the opinions of those listed.

Stanford Lembeck, AICP, Professor Emeritus, Department of Agricultural Economics and Rural Sociology, The Pennsylvania State University

William Kurtz, Director, Lebanon County Planning Commission

Christine Kellett, Professor of Law and Director, Agricultural Law Research and Education Center, The Dickinson School of Law, The Pennsylvania State University

Mary Ann Shaffer, Resource Conservationist, York County Conservation District

Amy Van Blarcom-Lackey, Penn Ag Industries

Center for Rural Pennsylvania

Jim Lombardo, Director, Center for Local Government Services

Bill Dinsmore, Township Supervisor, Mt. Pleasant Township, Washington County PA

George Greaser, PA Agricultural Extension, The Pennsylvania State University

Krystal S. Hilt, Analyst, York County Planning Commission