



**MONTROSE
PLANNING AND ZONING COMMISSION MEETING
AGENDA**

**Wednesday, August 11, 2021
7:00 PM**

**Montrose Community Center
200 Center Avenue South
Montrose, Minnesota 55363**

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes
 - A. June 9, 2021 Planning and Zoning Commission Meeting Minutes
6. New Commission Application
 - A. Consider Planning and Zoning Application for Ms. Catherine Neiberger
7. Old Business
9. New Business
 - A. Backyard Chicken Discussion
 - B. Updates from City Planner
10. Next Meeting
 - A. Wednesday, September 8, 2021 to be held at the Montrose Community Center - 7:00 p.m.
11. Adjournment

**** Please note that a quorum of the City Council may be present
at the Planning and Zoning Commission Meeting. ****

City of Montrose
 Planning and Zoning Commission Meeting
 Montrose Community Center
 200 Center Avenue South
 Wednesday, June 9, 2021
 7:00 P.M.

1. CALL TO ORDER

Pursuant to call and notice the Montrose Planning and Zoning Commission met in Regular Session on Wednesday, June 9, 2021 at 7:00pm.

Planning and Zoning Commission Chair, Mr. Charles Smallwood, called the meeting to order at 7:00pm.

2. ROLL CALL

Present: Commissioner Sylvia Henry
 Commissioner Roger Fraumann
 Commissioner Charles Smallwood
 City Council Liaison Sam Solarz

Staff Present: Ms. Jessica Bonniwell, City Administrator
 Mr. Matthew Brillhart, City Planner
 Mr. Stephen Grittman, City Planner

Absent: Commissioner Shawn Cuff
 Commissioner Justin Emery

3. PLEDGE OF ALLEGIENCE

The Pledge of Allegiance was taken.

4. APPROVAL OF THE AGENDA

**Commissioner Henry motioned to approve June 9, 2021 Planning and Zoning Commission Meeting Agenda as written. Commissioner Fraumann seconded the motion.
 Motion carried 3-0.**

5. APPROVAL OF THE MINUTES

A. May 12, 2021 Planning and Zoning Commission Meeting

**Commissioner Henry motioned to approve the Planning and Zoning Commission Meeting minutes of May 12, 2021 as written. Commissioner Fraumann seconded the motion.
 Motion carried 3-0.**

6. NEW COMMISSION APPLICATION

A. The Planning and Zoning Commission considered an application for Ms. Catherine Neiberger.

Commissioner Henry stated she thought it was a good idea. Commissioner Smallwood recalled that Applicant Neiberger had been on the Planning and Zoning Commission previously for "a number of years," but stopped attending without formally resigning. Ms. Henry recalled Ms. Neiberger's time on the commission as well and agreed that Ms. Neiberger had not formally resigned. Ms. Henry and Mr. Smallwood disagreed on whether Ms. Neiberger had made any notification at all of her previous departure.

Commissioner Smallwood stated his belief that Ms. Neiberger had applied three years ago, but was denied. Commissioner Henry countered, stating that Ms. Neiberger had been denied for “no reason” and should not be denied again. Mr. Smallwood cautioned that approving one additional commissioner would bring the number of commissioners even, which could lead to tied voting. Ms. Henry attested that Ms. Neiberger had been a “very good” commissioner.

Commissioner Henry motioned to approve Ms. Catherine Neiberger for Planning and Zoning Commissioner. No second on the motion.

Commissioner Fraumann asked whether Ms. Neiberger was in attendance. Commissioners Smallwood and Henry responded that she was not. Mr. Fraumann expressed disappointment in not being able to “meet her and know more.”

Commissioner Smallwood motioned to deny Ms. Catherine Neiberger for Planning and Zoning Commissioner. No second on the motion.

Commissioner Fraumann stated he would abstain, due to limited knowledge of the applicant, Ms. Neiberger. Commissioner Smallwood asked if the decision could be passed to City Council. City Administrator Bonniwell stated that it could.

Commissioner Smallwood recommended that the application of Ms. Catherine Neiberger for Planning and Zoning Commissioner be taken up by City Council.

7. PUBLIC HEARINGS

A. Consider an application for the Planned Unit Development (P.U.D.) Stage Rezoning and Preliminary and Final Plat – North End of Garfield Ave South and to the South of 2nd Street South in Montrose, Minnesota.

BACKGROUND

Anthony Janckila (dba AA Properties 2 LLC) has requested approval of a 13-unit townhome development on a 1.3-acre site located south of Second Street South and east of Garfield Avenue South. The 13 townhome units are proposed within two structures. Specifically, a 5-unit building which would be constructed first, and an 8-unit building which would follow, as well as private access roads and common open space. This proposal has been submitted unchanged from an identical proposal that was approved by the City Council in 2005. The approved final plat granted for that proposal was not filed, and the project remains unbuilt.

The subject site is zoned R-3, Medium Density Residential.

To accommodate the proposal, the following approvals have been requested:

- Planned Unit Development – to allow flexibility to lot area, and setbacks
- Simultaneous Preliminary Plat and Final Plat (Ouverson 2nd Addition)

Comprehensive Plan. The Comprehensive Plan guides the subject property for Medium Density Residential use, defined in the plan as ranging from 3-12 units per acre. The proposal includes 13 units on just over 1.3 acres of land, resulting in a development density of approximately 9.9 units per acre, which is consistent with the Plan. The plan further states that the Medium Density Residential category is intended to accommodate townhome complexes, apartments, and other multi-family development.

Zoning. The subject property is zoned R-3, Medium Density Residential. Permitted uses in this district include multiple family dwelling structures of 8 units or less.

Lot area. Within R-3 zoning districts, the minimum lot area requirement is as follows:

- *Minimum Base Lot Area (total):* 20,000 square feet.
- *Minimum Lot Area Per Dwelling Unit:* 5,000 square feet.

This lot area requirement does not lend itself to an application to townhome-type developments in which unit lots correspond to the footprints of individual dwelling units. Unit lot areas range from 1,665 to 2,681 square feet in size. With 13 units proposed on the overall 57,533 square foot site, this results in an average of 4,425

square feet of lot area per dwelling unit. While this is less than the 5,000 square feet required in the zoning code, flexibility from this requirement can be granted via the PUD.

Off-street parking. According to the zoning ordinance, 2.5 parking spaces per unit are required. Additionally, guest parking is required at a rate of 0.5 stalls per unit, totaling 7 guest stalls. Each townhome includes a two-stall garage, as well as parking on the driveway in front of each garage. There are three dedicated stalls proposed for guest use, accessible via the internal private drive located at the center of the site.

Setbacks. Within the R-3 zoning district, the following minimum building setbacks apply:

- Front Yard: 25 feet
- Side Yard: 10 feet
- Rear Yard: 20 feet

With one exception, the above setbacks are satisfied along the perimeter of the townhome structures. With the easternmost structure wall (unit 13) showing a proposed setback of 16 feet from the east property line, the minimum 20-foot rear setback is not met. It is recommended that the plans be modified to provide a setback of 20 feet, or propose additional landscaping if shifting the building containing units 9-13 is not possible.

Building Design/Architecture. As a PUD, the City has the ability to address the design and appearance of the proposed units in order to ensure a high-quality development. The townhome buildings are proposed to be finished in vinyl lap siding with brick veneer at the base of the front elevations. Since the initial approval of a nearly identical proposal on this site in 2005, the City has strengthened its design standards (Section 1060-10) to require that a minimum of twenty five percent (25%) of the area of all building facades have an exterior finish of brick, stucco and/or natural or artificial stone. As a condition of project approval, final elevation plans will have to be modified to meet this material requirement. The front garage elevations are slightly staggered to provide some variation and visual interest. To be noted, while such staggering of units is illustrated on the attached plat drawing, the submitted building elevations do not illustrate this feature. As a condition of approval, the building elevations should be modified to illustrate this feature consistent with the plat drawings. As shown on the submitted building elevation, proposed rowhouse units are provided patio doors to the rear yard. As proposed, there is no inclusion of privacy screening between each patio. To ensure a uniform appearance (rather than later additions by individual unit owners), it is recommended that "wing walls" or projecting privacy fences be constructed between the individual patios.

Homeowner's Association. As required by Zoning Code Section 1060-9 (b), a homeowners' association shall be established for all townhome developments within the R-3 District, subject to review and approval of the City Attorney, and shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common when there is more than one individual property owner having interest within the development.

Landscaping/Screening. A preliminary landscape plan has been submitted for review. The plan calls for the placement of evergreen trees along the north boundary of the site with some shrub plantings (deciduous and evergreen) in the site interior. With regards to the submitted preliminary plan, the following comments are offered for submittal of a final plan:

- Specific planting varieties (species) and sizes should be specified.
- Four evergreen trees are proposed within 10 feet of the north lot line and would appear to encroach upon required drainage and utility easements. Furthermore, large evergreen species at full growth may encroach into neighboring properties. It is recommended that a final plan be prepared such that the size and location of trees will not encroach on required easements or neighboring properties. This issue may be subject to further comment by the City Engineer.
- Additional plantings should be required in the front yard areas to provide an attractive and welcoming frontage.

To be noted is the vegetated area that presently exists in the northeast corner of the site. In what is considered a positive feature of the site layout, this is proposed to be retained. To ensure long term preservation of this feature, the City may consider establishing a conservation easement, subject to further comment by the City Engineer.

Grading, Drainage, and Utilities. Issues related to site grading, drainage, and utilities should be subject to comment and recommendation by the City Engineer. See attached memo from Bolton & Menk.

Development Agreement. As a condition of the PUD and final plat approval, the applicant shall enter into a development agreement with the City and post all necessary securities required by said agreement.

RECOMMENDATION

Mr. Brillhart stated, that based on the preceding review, staff recommends the following:

1. Approval of a planned unit development subject to the following conditions:
 - a. The City approve the Oувerson 2nd Addition Preliminary and Final Plat.
 - b. The rear yard (east) building setback of the 5-unit building be increased from 16 to 20 feet as required by ordinance.
 - c. The submitted building elevations be modified to illustrate the staggering of units, consistent with the submitted plat drawing.
 - d. The submitted building elevations be modified to include a minimum of twenty five percent (25%) of the area of all building facades shall have an exterior finish of brick, stucco and/or natural or artificial stone.
 - e. "Wing walls" or projecting privacy fences be constructed between the rowhouse units (5-unit building). Such features shall project approximately 10 feet from the rear building wall.
 - f. A homeowner's association shall be established in accordance with Section 1060-9 (b), subject to review and approval by the City Attorney.
 - g. The following landscaping conditions shall be satisfied:
 - i. Specific planting varieties/species and container sizes be specified.
 - ii. Trees along the north property line shall be of a size and location that they not encroach upon neighboring properties or required easements, subject to review and further comment by the City Engineer.
 - iii. Additional overstory trees shall be added along the east lot line.
 - iv. Additional plantings shall be provided within unit front yard areas to provide attractive frontages.
 - h. Comments by other City staff.
2. Approval of the Oувerson 2nd Addition Preliminary/Final Plat subject to the following conditions:
 - a. The City approve the Planned Unit Development.
 - b. Consideration be given to placing a conservation easement over the wooded area in the northeast corner of the site. This issue should be subject to further comment by the City Engineer.
 - c. The City Engineer provide comment and recommendation in regard to wetland, drainage, utility, and easement issues.
 - d. The applicant enters into a development agreement with the City and post all necessary securities required.
 - e. All park dedication requirements of the City be satisfied.
 - f. Comments by other City staff.

Memo from Bolton and Menk Regarding Oувerson 2nd Addition – Final Plat and PUD:

We have reviewed the submittals for the above referenced project including construction plans dated November 9, 2005 and the final plat. We have the following comments:

1. *This project was originally submitted and reviewed by the Planning Commission and City Council in 2005.*
2. *The construction plans were previously reviewed and approved in 2005. Construction of the sanitary sewer, watermain, and storm sewer is substantially complete. Inspection by the City Engineer during construction was completed in 2005.*
3. *Testing of the sanitary sewer and watermain has not been completed. The Developer will be required to test all utilities per City standards. The City Engineer shall monitor and approve all testing.*
4. *Final inspection of all site and utility improvements shall be completed by the City Engineer. The Developer shall address all items as noted by the City Engineer during final inspection.*
5. *A PUD/Developer Agreement between the City and Developer shall be drafted, executed, and recorded with the property.*
6. *Ownership and maintenance responsibilities of the utilities and common areas shall be addressed in the PUD agreement.*

I would recommend approval of the final plat and PUD contingent upon the above comments and comments as submitted by the City Planner and other City staff.

Anthony Janckila, the property developer, summarized his development, stated that he had gotten the list of action items, and asked if anyone had any questions about the project. Commissioner Smallwood stated that the proposal looked pretty close to the previous proposal for the site.

**Commissioner Henry motioned to close the Planning and Zoning Commission Meeting and open the Public Hearing at 7:20pm. Commissioner Fraumann seconded the motion.
Motion carried 3-0.**

A resident, Clint Potter, from 265 Fieldcrest Court stated he did not like that the contractor addressed the commission rather than the audience of residents. Mr. Potter stated that 16 years ago, the previous plan for this property had not been approved as was stated earlier. Mr. Potter stated that he had been asked to give up part of his property and that many of the existing trees on the proposed development had been removed when this plan was moving forward previously. Mr. Potter expressed concern that his trees would be cut down. Mr. Potter stated he wanted fencing to go up, he wanted his trees to remain, and he wanted to retain his property.

An anonymous member of the audience made comments to the commissioners, but would not come forward to the podium.

**Commissioner Henry motioned to close the Public Hearing and open the Planning and Zoning Commission Meeting at 7:25pm. Commissioner Fraumann seconded the motion.
Motion carried 3-0.**

Commissioner Fraumann asked Commissioner Smallwood if they could gauge whether Mr. Janckila could accommodate Mr. Potter's requests. Mr. Smallwood responded that it could be put in as a condition. City Planner Brillhart quoted the recommended condition 1. b. "The rear yard (east) building setback of the 5-unit building be increased from 16 to 20 feet as required by ordinance." Mr. Brillhart stated that the applicant expects to accommodate by shifting or narrowing the structure. Mr. Smallwood observed that the "trees" would be satisfied by the recommended condition 1. g. Mr. Brillhart confirmed that additional trees are a condition on the East side of the applicant's property.

Commissioner Henry asked if the proposed units were for senior housing. Commissioner Smallwood responded that the proposal was for general housing.

**Commissioner Fraumann motioned to approve the Ouverson 2nd Addition, Final Plat and PUD with the indicated conditions. Commissioner Henry seconded the motion.
Motion carried 3-0.**

B. Consider a City Code Amendment Related to Driveway Design for Recreation Vehicle Parking.

BACKGROUND

At the May 12 meeting, the Planning Commission discussed potential changes to City Code Chapter 1019: Parking Stall Aisle and Driveway design, specifically the sections regarding recreational vehicle parking. Based on that discussion staff has drafted the following amendment in an effort to make the ordinance clearer and more accommodating for residents to obtain permits.

ANALYSIS

With regards to design standards, Chapter 1019-4 is proposed to be amended as follows to clarify allowed materials for vehicles parked or stored in side or rear yards:

A. Design Standards:

12. Surfacing

e.

(1) The recreational vehicles or recreational equipment are located on a parking area in a rear or side yard of the property. The parking area shall be constructed in accordance with the City's

approved driveway details. The parking area shall be constructed with concrete, asphalt, concrete pavers, brick set in compacted sand, decorative rock, class 5 gravel, or other impervious semi-impervious surface material that has been approved by the City Engineer, provided it is accessible from a driveway. If decorative rock or class 5 gravel is used, it shall be a minimum depth of six (6) inches; commercial-grade weed prevention fabric must cover the entire surface underneath, and edging must be installed to contain the rock.

With regards to setbacks for a side or rear yard parking area, staff finds that the language in Chapter 1019-4 A.12.e(3)C is outside the bounds of the legal zoning powers of the city. Specifically Part C, which states:

"The adjacent property owner shall provide a written statement to the applicant/owner and the City approving the placement of the parking pad within the five-foot setback."

The provision above creates a subjective standard by handing the City's quasi-judicial zoning power to the neighboring property owner, which is not legal.

RECOMMENDATION

Mr. Brillhart stated that, based on the discussion with the Planning Commission, City Staff is suggesting the following underlined changes.

(3) The recreational vehicles or recreational equipment are a minimum of 5 feet from an interior lot line or rear lot line and at least 15 feet from a street side lot line. The parking pad may be allowed to encroach within the required five-foot (5') side yard setback if the following conditions are met:

- a. The encroachment does not negatively impact drainage, utilities, or city maintenance access to public improvements as determined by the City Engineer.
- ~~b. The placement of a parking pad within the five-foot setback must be pre-approved by the City Engineer.~~
- ~~c. The adjacent property owner shall provide a written statement to the applicant/owner and the City approving the placement of the parking pad within the five-foot setback.~~
- b. A minimum setback of two (2) feet is maintained.

Mr. Brillhart stated that amending this standard would streamline the permit application process for residents, rather than giving the City Engineer and the neighboring property owner sole power to grant or deny what is effectively a variance from the City Code. Alternatively, each variance request would need to go a Planning Commission and City Council meeting for each of the parking pad permits where a 5 foot setback cannot be met. This would be counter-intuitive to the idea of making the ordinance less restrictive and easier for residents to obtain permits.

**Commissioner Fraumann motioned to close the Planning and Zoning Commission Meeting and open the Public Hearing at 7:38pm. Commissioner Henry seconded the motion.
Motion carried 3-0.**

Floor opened to comment from the public. No public comments.

**Commissioner Fraumann motioned to close the Public Hearing and open the Planning and Zoning Commission Meeting at 7:39pm. Commissioner Henry seconded the motion.
Motion carried 3-0.**

Commissioner Smallwood asked for any questions or comments. No questions or comments raised.

**Commissioner Fraumann motioned to approve proposed City Code ammendment. Commissioner Henry seconded the motion.
Motion carried 3-0.**

8. OLD BUSINESS

BACKGROUND

Planning Commission had asked that the following portion of the City Code be discussed at the previous Planning and Zoning Commission meeting:

Chapter 50.01 – General Provisions – E) Repair of Sidewalks and Alleys

After reviewing the City Planner's analysis, the Planning and Zoning Commission had requested additional information from staff.

Deputy Treasurer Michael Sommerfeld read the written response from the City Engineer, Jared Voge, as follows:

The City of Montrose is currently evaluating its sidewalk maintenance requirements. Based on city, state, and federal regulations, specific design and construction standards are applicable.

On July 26, 1990 the Americans with Disabilities Act (ADA) was enacted and identifies specific regulations surrounding access to services, activities, and facilities. After enactment of the ADA requirements, on October 20, 1999 the U.S. Access Board organized the Public Rights-of-Way Access Advisory Committee (PROWAAC) to develop requirements for access to sidewalks, streets, crosswalks, curb ramps, and other public rights-of-way components. On July 26, 2011 the committee developed Public Rights-of-Way Accessibility Guidelines (PROWAG) and issued them for public comment. Federal, state, county, and local agencies have been implementing the PROWAG requirements for multiple years.

To meet ADA and PROWAG requirements, public facilities such as sidewalks must be designed and constructed according to specific tolerances. For example, newly constructed sidewalks must have a cross-slope of 2% or less. Pedestrian ramps can be more complex and require a running slope of less than 8.34%, a landing area of 4 feet by 4 feet with less than 2% slope in all directions, and have an ADA compliant detectable warning, e.g. truncated domes. MnDOT has developed Standard Plans, consisting of 6 plan pages devoted entirely to pedestrian ramps. The city development standards require sidewalks to be a minimum of 5 feet in width consisting of 5-inches of concrete constructed over 6-inches of aggregate base class 5.

In summary, federal agencies have developed specific requirements for public rights-of-way components including sidewalks. As sidewalks or other components are replaced or constructed, they should satisfy those requirements. We recommend that any work associated with public rights-of-way components be reviewed by the City of Montrose.

City Administrator Jessica Bonniwell, in response to a request from Commissioner Fraumann at the previous Planning and Zoning Commission meeting, stated that the City Engineers found that the City of Montrose is home to 93,620 feet or 17.7 miles of sidewalks and trails.

Mr. Sommerfeld, in response to a request from Commissioner Smallwood at the previous Planning and Zoning Commission meeting, summarized his research into how neighboring communities complete and pay for sidewalk repairs. Mr. Sommerfeld stated that he spoke with representatives from thirteen cities across Wright County and parsed through those same cities' ordinances regarding sidewalk repair. Mr. Sommerfeld found that, by ordinance, nearly all surveyed cities held the adjacent property owner responsible for arranging and paying for sidewalk repair. Mr. Sommerfeld stated that, when he spoke with city representatives, most told him that their staff complete repairs to sidewalks and their budgets cover the costs.

Ms. Bonniwell stated that the City Clerk-Treasurer had told her it would be possible to include sidewalk repair in the annual budget. Mr. Fraumann thanked staff for their research.

Commissioner Fraumann recommended proposing to City Council that the city repairs sidewalks and budgets for repairs. Mr. Fraumann cited the extensive ADA requirements. Commissioner Smallwood agreed, citing the need for consistency in repairs and installation. Ms. Bonniwell stated that the proposal would be brought to City Council as an ordinance change, which would go through a legal review.

Commissioner Fraumann motioned to recommend to City Council that the city be responsible for sidewalk repair and budget for those repairs. Commissioner Henry seconded the motion. Motion carried 3-0.

9. NEW BUSINESS

- A. City Planner Stephen Gritman stated that there was no new business yet, but "quite a bit of prospective development swimming and hovering out there" and expects that much will come in this year.

10. NEXT MEETING

- A. Wednesday, July 14, 2021 to be held at the Montrose Community Center - 7:00pm.

11. ADJOURNMENT

Commissioner Henry motioned to the adjourn the Planning and Zoning Commission Meeting at 7:49pm. Commissioner Fraumann seconded the motion. Motion carried 3-0.

Charles Smallwood
Chair
City of Montrose

ATTEST:

Jessica Bonniwell
City Administrator
City of Montrose



CITY OF MONTROSE
Commissions Application

This application is designed to help us obtain information about your interests and qualifications for serving on a Montrose Commission. Please submit your completed application to Montrose City Hall, located at 311 Buffalo Avenue South, PO Box 25, Montrose, MN 55363. The submission of this application does not obligate you to volunteer for any City service. We appreciate your time and interest in serving our community. If you have any questions, please contact City Hall at 763-575-7422.

Name: Catherine Neuberger
 Address: [REDACTED]
 Phone: [REDACTED] Other: —
 E-mail: [REDACTED]
 Please indicate your preferred form of communication: —
 How long have you lived in Montrose? Since 2003

The City of Montrose currently maintains four Commissions/Authorities upon which volunteers may serve. Please indicate your interest in serving on the following Commissions. If you are interested in multiple commissions, please rank your preference from 1 to 4.

<u>Interested (Y/N)</u>	<u>Rank</u>	<u>Commission List</u>
<u>Y</u>	<u>1</u>	Planning & Zoning Commission
<u>—</u>	<u>—</u>	Park & Recreation Commission
<u>Y</u>	<u>—</u>	Economic Development Authority
<u>—</u>	<u>—</u>	Highway 12 Redevelopment

BACKGROUND: Please explain your career, education, or other special talents that would be valuable to the Commission/Authority you are interested in:

I am a Planning Dept. Planning County Admin. for over 20 years. Attended St. of Minnesota and the College of St. Sebastian.

Do you have prior experience volunteering or serving on any Boards or Commissions within the City of Montrose or other municipalities? If yes, please explain:

Montrose Planning & Zoning. I helped develop the Highway 12 Redevelopment Plan.

Please provide any goals or objectives you wish to accomplish if chosen to serve on a Montrose Commission/Authority:

To work with the City to ensure that Montrose grows and develops according to the plan established in the City Plan, and to maintain an independent and non-partisan body on planning and zoning and other land use matters.

Signature:

Catherine Neuberger

Date:

May 10, 2021



NORTHWEST ASSOCIATED CONSULTANTS, INC.

4150 Olson Memorial Highway, Ste. 320, Golden Valley, MN 55422
 Telephone: 763.957.1100 Website: www.nacplanning.com

MEMORANDUM

TO: Montrose Mayor and City Council
 Montrose Planning Commission

FROM: Stephen Grittmann

DATE: August 4, 2021

RE: Montrose – Chickens in Residential Areas

FILE NO: 801

The City is considering a discussion of the various aspects of permitting chickens on residential property. This issue has been raised in the past, although the City has declined to change the ordinances to accommodate those requests.

Many communities have addressed this issue over the past several years, and there is a full range of treatment that has been applied. Of those, numerous communities have also declined to add chickens as an allowed use on residential property. The discussion below provides some of the background and reasons for those decisions.

On the other hand, a number of communities have entertained these types of changes, and the processing requirements range from very little documentation to very extensive applications, process and review. A summary of those options is also included below.

Prohibiting Chickens in Residential Areas

The reasons for maintaining a prohibition depend largely on the community, but a sampling of those issues follows:

1. Neighbor complaints. For many communities that allow chickens, there are a variety of impacts that have occurred. Cities have received complaints over
 - a. The visual aesthetic of the coops and enclosures;
 - b. Occasional odors that can be generated by the chickens and/or the facilities;
 - c. Noise generated by the chickens (even hens);
 - d. Increases in predators (fox/coyotes; feral cats; etc.)
2. Abandonment. There have been instances where the interest in keeping chickens loses its attraction to the owner.

- a. Hens no longer lay eggs. Some testimony has been given from “Chicken Rescue” individuals who have been overwhelmed by request to take chickens that have passed their prime laying years – 3-5 years for some.
 - b. Chickens no longer wanted. Some families find soon that the interest, or the work, in keeping chickens no longer fits their lifestyles. Finding homes for the chickens raises the same issues as above.
 - c. Structures remain after chickens leave. Some complaints have been raised over remaining, and often un-maintained, chicken enclosures long after there are no longer chickens on the property.
3. Management. Many cities have chosen not to permit chickens due to the size and/or expertise of staff in handling violations and complaints, settling neighbor disputes, reviewing and judging applications, etc. This aspect may be particularly relevant for Montrose, which maintains a small city staff.

Allowing Chickens in Residential Areas

There is a broad range of methods that cities have used in regulating or permitting chickens, when the city chooses to do so. These range from simple site plan reviews by staff, to permit approvals by Planning Commission and/or City Council, adoption of simple or highly complex ordinances, and licensing, either one-time licenses or regular (usually annual) renewals. The complexity of the process bears directly on the staff time and expertise in operating the licensing program.

The City of Delano adopted a very complex ordinance, with many specific regulations and rules for both the application process, as well as the ongoing operational aspects. Monticello allows chickens and their experience has been mixed, with highly motivated and focused licensees typically raising few complaints, but with more issues related to those who initiate chicken-raising but lose interest or ability. The City of Buffalo does not permit chickens.

It should be noted that some cities have followed the City of Minneapolis model of allowing chicken licenses following notification of, and approval by, adjoining neighbors. This approach is technically only permitted in the largest cities in Minnesota, which have different zoning authority than cities under 100,000 in population allowing them to rely on neighborhood review of zoning decisions.

Summary.

Chickens can be a highly divisive issue for small communities. The connection to the rural landscape often results in an interest in pursuing rural actions, even though the community development pattern is more urban or suburban in character. The interest in residential chickens is most often brought by those would be responsible owners, and have the level of commitment needed to maintain their facility, the city is not likely able to ascertain in advance who will manage their use well, and then it becomes both a negative impact on neighborhoods, and a burden on the city to enforce its licensing or nuisance regulations.

There are certainly areas where chickens in residential areas have not caused problems. Unfortunately, there are numerous examples of the opposite. Introducing a rural or agricultural use into a suburban residential district is likely to raise issues that most residential neighbors did not anticipate as a part of their occupancy. While it is possible to manage for those impacts, it can require a significant amount of attention from the City to ensure that problems do not start – or escalate – into neighborhood conflicts.

If the City chooses to pursue this further, the issue will be balancing the City's up-front processing requirements with the City staff's capacity for both reviewing permit applications, and intervening when permittees fall short of their permit obligations and complaints come in. This aspect would be the next stage of discussion if the City goes forward.

City of Delano
County of Wright
State of Minnesota

ORDINANCE NO. O-20-08

A city code amendment addressing the keeping of chickens in residential zoning districts.

The City Council of the City of Delano does hereby ordain as follows:

Section 1. Chapter 406.01 of the Delano City Code – Animal Regulations and Licenses is hereby amended to read as follows:

Subdivision 1: Definitions. The following words and terms, wherever they occur in this Ordinance shall be interpreted as herein defined:

Brooding. The period of chicken growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.

Chicken. A domesticated bird that is kept as a pet or serves as a source of eggs or meat

Coop. The structure used for the keeping or housing of chickens

Free Range. Allowing the chickens to leave their designated coop and run with or without supervision.

Hen. A female chicken

Rooster. A male chicken

Run. A fully enclosed and covered area attached to a coop where the chickens can roam.

Section 2. Subdivision 24 – Keeping of Chickens. Subdivision 24 is hereby added to Chapter 406.01 of the Delano City Code – Animal Regulations and Licenses and is hereby added to read as follows:

A. The keeping and maintaining of chickens shall be allowed in all residential districts by issuance of a chicken keeping license in accordance with Chapter 401.01 of this Code, and subject to compliance with the following standards:

1. The keeping of chickens shall only be allowed on properties that are legal conforming lots of record in their respective zoning district.
2. The keeping of chickens shall only be allowed in the following zoning districts:
 - a. R-A, Rural/Agricultural District
 - b. R-E, Single Family estate Residential District
 - c. R-1, Single Family Residential District
 - d. R-2, Single Family Residential District
 - e. R-3, Single Family Residential District

- f. R-4, Single and Two Family Residential District. *Provided that the parcel contains a single-family home. Two (2) family homes are prohibited from keeping chickens on the property.*
 - g. R-5, Single and Two Family Residential District. *Provided that the parcel contains a single-family home. Two (2) family homes are prohibited from keeping chickens on the property.*
- 3. Only a property owner shall be eligible to obtain a chicken keeping license for their property. In the case of properties where the owner does not reside on the property, written permission from the property owner must be obtained for the property to receive a license. In no case shall a property contain more than one license for the keeping of chickens.
- 4. A maximum of four (4) hen chickens shall be allowed per property.
- 5. The keeping of roosters, peacocks and waterfowl shall be prohibited.
- 6. The chickens shall be housed within an enclosed accessory building (coop and run) subject to the requirements of part C of this Section.
- 7. Fencing used to contain chickens shall comply with Part C. of this Ordinance.
- 8. The license holder of the chickens shall control animal manure and dispose of it properly. No household waste (i.e. kitchen scraps shall be used as chicken feed. The license applicant shall submit a narrative for management plan that includes the following:
 - a. How the coop and run will be cleaned
 - b. How the manure will be collected, stored and disposed of
- 9. The feeding of chickens shall only take place inside the chicken coop and run
- 10. The chickens must always remain inside the coop and run. Allowing chickens to “free range” is strictly prohibited.
- 11. If eggs are harvested, they shall not be offered for sale from the premises
- 12. Grains and food stored on the premises shall be kept in rodent-proof containers and kept inside the principal building or an accessory building on the property.
- 13. Slaughtering of chickens and “cockfighting” are prohibited.
- 14. All grass and weeds shall be maintained in accordance with Chapter 805.01 Subdivision 3-A of the Delano City Code.
- 15. Any diseased or sick chickens shall be disposed of immediately in accordance with 406.01 – Subdivision 14 of this Ordinance.
- 16. Any chickens that are deceased must be either buried immediately or removed from the property immediately in accordance with the Minnesota Board of Animal Health Livestock Carcass Disposal Guide; the Minnesota Pollution Control Agency; and any other applicable laws and guidelines.

17. The fee for the chicken keeping license shall be as set forth by the City Council in the City's fee schedule
- B. A chicken keeping license application shall include the following:
1. A scaled site plan that shows the location, size, and configuration of the coop and run; the location of the principle structure on the property; and all accessory structures on the property.
 2. The proposed setbacks of the coop and run to the property lines and adjacent homes.
 3. An illustration or photograph of the coop and run intended to be constructed as and a list of all materials to be used for construction.
- C. A chicken coop and run shall adhere to the following requirements:
1. The coop and run shall comply with applicable accessory building area requirements of the district and where it is located.
 2. A coop and run shall not be placed closer than ten (10) feet to any lot line, except no coop and run shall be placed in a front yard or side yard, and in no event shall a coop and run be placed closer than fifty (50) feet of any dwelling unit other than the owner's property.
 3. The coop and run shall be located closer to the principal structure on the property than any adjacent residential dwelling.
 4. The coop and run shall be completely screened from view of adjacent properties and rights-of-way.
 5. The coop and run shall be constructed in a workmanship fashion and shall match the principal structure on the property in color. The coop and run must be fully enclosed on all sides and top with one of the following materials:
 - a. Pressure-treated lumber
 - b. Metal fencing intended for an animal enclosure
 - c. Lumber intended for outdoor use such as cedar, teak, or redwood provided that it is painted to match the existing principle structure or other accessory structures on the property
 - d. Materials commonly found on the exterior of a principle structure such as asphalt shingles, vinyl siding, metal siding, stucco, cement fiber, painted wood or brick
 6. In no case shall the following materials be used for the construction of a chicken coop or run:
 - a. Corrugated metal
 - b. Rusted metal of any kind
 - c. Cinder block
 - d. Lumber not intended for exterior use
 - e. Plywood, particle board or similar material
 - f. Plastics of any kind
 - g. Tarp or poly material of any kind
 - h. Gypsum board

7. The coop shall provide a minimum of four (4) square feet per animal in the coop; and the run shall contain a minimum of four (4) square feet per animal. In no case shall the footprint of the coop and run be larger than 200 square feet. If the coop is elevated two (2) feet above the ground so, the chickens can access the space beneath, that area may be counted as a portion of the minimum run footprint.
8. The height of the coop and run shall not exceed eight (8) feet in height.
9. The coop and run shall count against the property's number of accessory structures; and shall count against the property's accessory building square footage allowance.
10. In no case shall an existing accessory structure on the property that does not conform to these requirements be used as a chicken coop and run
11. The chicken coop and run must be anchored to the ground
12. Before a chicken coop and run can be used, it must be inspected by an agent of the City for compliance with this ordinance.
13. The coop and run shall not cause drainage to leave the property.
14. If the license holder is no longer keeping chickens, the coop and run shall be removed from the property within one year of the chickens being removed from the property.

D. Enforcement

1. A chicken keeping license shall expire for any of the following reasons:
 - a. If chickens are removed from the property for a period of one year
 - b. The license is revoked as outlined in Chapter 401.01 Subdivision 3
 - c. A violation occurs as outlined below
2. If a property receives three (3) or more valid complaints regarding the keeping of chickens, the chicken keeping license shall be revoked and the chickens must be removed from the property within thirty (30) days of the date of revocation. The license holder may appeal to the City Council for reinstatement of their license in accordance with Chapter 401.01 Subdivision 3 of the Delano City Code. Intent to appeal the revocation must be done in writing within thirty (30) days of the date of the date of revocation.
3. Any violation of this Section shall be considered a nuisance per Chapter 801.01 Public Nuisance Affecting Health; and is subject to an administrative fine in accordance with the Chapter 105.02 Administrative Citations and Fines; and / or license revocation in accordance with Chapter 401.01 of the City Code.
4. If a property has a chicken keeping license revoked, the property is not eligible for a new license unless a conveyance of the property has occurred, and the previous license holder no longer resides on the property.

5. The chicken keeping license shall apply only to the named applicant, shall not run with the land, and may not be transferred. It shall automatically terminate upon the vacation of the property by the applicant.
- D. Appeal of chicken license revocation. If a chicken keeping license is revoked per Chapter 406.01 Subdivision 24-C. above, the license holder can file an appeal to the City Council under Chapter 401.01 Subdivision 3.

Adopted this 21st day of July, 2020, by the City Council of the City of Delano.

Signed:

Dale J. Graunke, Mayor

Paula Bauman, City Clerk