

2/27/06

Dear Erika,

I am writing to express my appreciation for the responsive changes to the previous draft of the Title 21 regulations. I am referring specifically to the elimination of setback requirements for animal enclosures in R-1 zoned neighborhoods. I have previously written to you and others in hopes that you might make just such a change. Now my hopes tend toward keeping this positive change through the remainder of the rewrite process. My latest concern regards recent communications between my neighbor Lucy Peckham and Mike Billmaier, a muni employee responsible for enforcement of code violations.

Lucy is currently engaged in an ongoing struggle to safely house her chickens while not inviting enforcement by the municipality stemming from a year-old noise complaint. She dealt with the noise violation promptly and that should have been the end of the issue. However, she was, of course, also found to be in violation of the setback requirements. This is what she continues to struggle with today. The neighbor who initially objected to the noise continues to object even though there is no basis for such a complaint. This has put the municipality in a difficult position regarding enforcement. She has received some advice from various muni employees and she had hoped that as long as Title 21 was undergoing revision and as long as the section of code concerning her violation had a fair chance of being changed in her favor, the city could delay enforcement until the code was finalized.

What she is now being told is that she must “resolve” the issue now, either by getting rid of her chickens or by building an expensive addition to her home and fashioning it to house the chickens. This may cost her thousands of dollars since she is loath to abandon her pets. It seems only shortsighted and cruel for the city to push enforcement on her at this time.

I realize her particular problem is not your concern but it does bring to light the underlying issue of noise complaints leading to greater setback requirements. My understanding is that noise (barking dogs for example) is specifically dealt with in other parts of Title 21 or in Title 17 and that the guidelines are clear and enforceable. If that is so, then noise complaints should have no bearing on the question of whether setbacks are appropriate in this case. Noise complaints should be dealt with as such and should have nothing to do with what are often personal issues between neighbors. An extra 10, 25 or 100 feet setback is not going to make a crowing rooster less obnoxious to a neighbor. The rooster needs to be kept quiet. Nor will an additional setback appease a neighbor who is simply intolerant of backyard pets, unless the setback is so restrictive that it in fact forces said pets to be eliminated altogether.

It is hard to imagine hens that cluck a little during the day and are properly housed at night (and would ordinarily be sleeping at night anyway) being in violation of any noise restrictions. Furthermore, rabbits make no noise at all and the code in question applies to

them as well. In my opinion, a neighbor that complains about chickens on the basis of excessive noise should be required to provide some evidence of the violation and if he or she can not, perhaps the city should not pursue the issue beyond that. Naturally, if the chickens are in fact making too much noise, then the owner should deal with that. Animal owners who abuse the privilege of keeping their pets on their property should be punished but not at the expense of taking that privilege away from the rest of the community.

Regarding a specific comment Mr. Billmaier made in his latest email to Lucy, I am not in the least concerned that reducing or eliminating setback requirements will result in floods of complaints to the city as many more people start to keep chickens. On the contrary, I don't think any more people will go out and get chickens as who already do. Of the people I know who have chickens, most just went and got them without ever checking city code. They were all surprised that the city even regulates such activities. Logic has usually prevailed and where the animals are reasonably kept, nobody complains and the city never hears about it. A change in the code will likely have no effect on whether people obtain backyard pets or not. It will only give the city a more clearly defined way to resolve complaints.

Noise complaints need to be treated as noise, odors as odors, etc. These things are quantifiable. People who simply object to their neighbors pets should not be accommodated just because they are intolerant and vocal. Specific setback requirements will not likely solve problems that occur between neighbors that have chickens and those who simply don't want chickens near where they live. If keeping these animals is technically allowed, any setbacks need to be permissive enough to provide for humane and healthful housing in all applicable neighborhoods.

As always, I appreciate your time and thoughtful consideration of this issue. While it is minor in the scope of the greater rewrite, it is hardly inconsequential as it relates to standards of living, neighborhood diversity and personal freedom.

Thanks,  
Laurie Dworian