

When a Rooster Moves in Next Door . . .

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“Beware the locavores,” warned a planner friend. Was it something out of the *Vampire Diaries*, a cult, or organized crime?

I went straight to my *Merriam-Webster*: “one who eats foods grown locally whenever possible.” Locavore is a new word, dating back only to 2005.

Jessica Prentice coined the term when she was director of education for the Ferry Plaza Farmers Market in San Francisco. Those interested in growing food locally for their own consumption were putting up a website which they proposed to call “Foodshed for Thought.” They asked Prentice to come up with a catchier name.

The locavore movement has triggered many local zoning controversies. Remarkably, DeKalb County, Georgia, cited a locavore farmer, Steve Miller, for selling some of the vegetables he raised on his two-acre lot in a residential zone at a farmers market nearby. That made it a commercial activity. The citation read: “unauthorized use of agricultural activities performed in order to produce crops.” Miller ended the standoff by getting the property rezoned to allow him to raise and sell commercially, but he is still out \$5,000 in fines. This happened even though neighbors like the use.

With all types of agriculture—urban, suburban, and rural—especially with more people wanting to grow and consume food locally and with much unproductive land being put to agricultural use, we need to be careful

in defining what is a permitted agricultural use including the potential commercial aspects of on-site and off-site sales. Especially problematic and worthy of attention are regulations concerning on-site farm stands. As Alice Rolls, director of Georgia Organics, said in speaking about Miller’s case: “As agriculture comes back into urban areas, we are dealing with old laws on the books.”

Farm-animals-turned-pets also frequently cause problems because local zoning regulations inadequately define “pet.” There is already a body of law on Vietnamese potbellied pigs and many dramatic cases. Holly Hacker of Whitehall Township, Pennsylvania, recently received a variance to keep her potbellied pig, Porkus Maximus, because the Zoning Hearing Board found that separating Hacker from Porkus “would create a hardship because the two lived together for two years.” We all know that this is not a legal hardship, but it is what happens when our regulations are outmoded.

Two areas of considerable concern, based on the many news reports and cases, are chickens in residential zones and beekeeping.

For an excellent survey of the backyard chicken problem, read Patricia Salkin’s article “Feeding the Locavores, One Chicken at a Time: Regulating Backyard Chickens” (March 2011, available at <http://tinyurl.com/7et6vmt>). The zoning issues are mainly those of how much

land should you have for how many chickens, and whether roosters should be banned or severely limited as *gallus non grata* because of their noisy crowing. Also of interest are the size and location of coops, setbacks and side yards, accessory use determinations, consent of neighbors, personal use only limitations, and whether special permits might be required.

Willard, Missouri, brought an enforcement action against Jeremy Mello, who had acquired 20 chickens and one visiting rooster for his children to raise. Mello said, “it’s been a great family project.” But the city of Willard issued an order to Mello to remove the 20 chickens because the city ordinance only allows farm animals to be raised on residential property of 10 acres or more. Mello has three quarters of an acre. The concern is mostly about the noise roosters make and the city aldermen have been considering proposals that would allow three chickens and no roosters (read more at <http://tinyurl.com/c8mj5mo>).

Hopewell Township, New Jersey, adopted an ordinance regulating the mating of chickens and roosters. First, roosters must demonstrate that they are disease free. Then they may be allowed access to the henhouse for not more than 10 days a year. Finally, if a rooster gets a little too noisy, he could be banned from the property for up to two years (see <http://tinyurl.com/6xq8bey>).

As to beekeeping, Salkin has also written the definitive article, “Honey, It’s All the Buzz: Regulating Neighborhood Beehives” (September 2011, available at <http://tinyurl.com/842v2ut>). The zoning issues are much the same as those for backyard chickens with certain additional bee-specific requirements including large setbacks to keep them from being a nuisance to neighbors, flyway barriers such as a solid fence to discourage bees from going onto neighboring properties, and access to water so that they do not seek water off-site at bird baths and swimming pools.

Finally, we need to consider backyard slaughtering. A recent article in *The Atlantic* details the ongoing battle in Oakland, California, over this issue (see <http://tinyurl.com/7rklgb4>). *Mother Jones* has its (pro) view (see <http://tinyurl.com/763fvcw>); a group called Neighbors Opposed to Backyard Slaughter is against it: <http://noslaughter.org>.

And what are we to do when those backyard farmers tire of their chickens and other barnyard animals and let them go? Why, chicken rescue and similar organizations will step in, as you will see at <http://tinyurl.com/5umunz>.

There is a lot of work ahead for local officials in preparing for and managing the increasing numbers of locavores.