

Town of Leeds

Agenda Town of Leeds Planning Commission Wednesday, February 2, 2022

PUBLIC NOTICE is hereby given that the Town of Leeds Planning Commission will hold a **PUBLIC MEETING** on Wednesday, February 2, 2022 at 7:00 P.M. This meeting will be held at Leeds Town Hall, 218 N. Main Street, Leeds, UT 84746.

If you are interested in participating remotely via Zoom, please contact Town Hall at 879-2447 or email Clerk@LeedsTown.org for the Zoom details.

Regular Meeting 7:00 p.m.

1. Call to Order/Roll Call
2. Invocation
3. Pledge of Allegiance

Oath of Office for Alan Robert. Term ending June 30, 2022

4. Declaration of Abstentions or Conflicts
5. Consent Agenda:
 - a. Tonight's Agenda
 - b. Meeting Minutes from December 1, 2021
6. Announcements
 - a. Bids to update leedstown.org website and codification process
 - b. Intention to seek RFPs (Request for Proposal) regarding construction of a pickle ball court at the town park.
7. Action Items: None
8. Discussion Items:
 - a. Discussion regarding Ben Gottfredson- Cemetery Road property, Mix Use Zone possible uses.
 - b. Discussion regarding procedure for issuing Septic Permits on Hillside property
 - c. Animal Ordinance update
 - d. Sunrise Engineering and PDS General Plan and Master Transportation Plan Updates
9. Staff Reports
11. Adjournment

The Town of Leeds will make reasonable accommodations for persons needing assistance to participate in this public meeting. Persons requesting assistance are asked to call the Leeds Town Hall at 879-2447 at *least* 24 hours prior to the meeting.

The Town of Leeds is an equal opportunity provider and employer.

Certificate of Posting;

The undersigned Clerk/Recorder does hereby certify that the above notice was posted January 31, at these public places being **Leeds Town Hall, Leeds Post Office**, the **Utah Public Meeting Notice website** <http://pmmutah.gov> and the **Town of Leeds website** www.leedstown.org


Aseneth Steed, Clerk/Recorder

State of Utah)
County of Washington §)

TOWN OF LEEDS
OATH OF OFFICE

I, Alan Roberts having been appointed to the
office of Planning Commissioner do solemnly swear that I will support, obey and
defend the Constitution of the United States, the Constitution of the State of Utah,
and the Ordinances and Resolutions of the Town of Leeds, Utah; and that I will
discharge the duties of my office with fidelity.

Alan Roberts
Signature

Subscribed and sworn to before me this Second day of February 2022

Aseneth Steed
Aseneth Steed
Clerk/Recorder

Official Use Only
Term of Commission

From: January 12, 2022

To: June 30, 2022

To: Planning Commission
From: Tom Darton
Re: Proposed Animal Control Ordinance
Date: January 28, 2022

I. Overview

We are considering a significant re-working of the existing Animal Control ordinance in Leeds, together with some changes to associated zoning ordinances.

II. Current State of Leeds Ordinances relating to Animals

Attached is a copy of the current Leeds Animal Control Ordinance 1998-01, 2005-03 Amended by ORD 2007-13, ORD 2008-10. (Interestingly, a few of the vociferous objections to the new proposed ordinance that we heard when we held a public hearing last year are actually not new proposals, but have been the law in Leeds for many years.)

In addition, Land Use Ordinance Chapter 13 and Chapter 14 address the current permitted Animal ownership on Rural Residential and Residential zoned properties.

Under Land Use Ordinance Chapter 13, Rural Residential property owners (R-R-20, R-R-1, R-R-2, & R-R-5) are permitted limited numbers of animals (however owners of R-R-20 and R-R-1 properties require a conditional use permit).

Under Land Use Ordinance Chapter 14, Residential property owners (R-1-10, R-1-20, R-1-1, R-1-2, & R-1-5) are not permitted to have any animals whatsoever, including household pets.

Section 14.1 of the Land Use Ordinance states: "To provide and protect areas for low density, single-family Residential neighborhoods that do not contain **farming or agricultural** uses, while permitting the limited establishment of public and quasi-public uses which serve the requirements of families" (emphasis added).

Under Land Use Ordinance 1.6 (Definitions), "farming" is defined as: "Animals and fowl for recreation or for family food production for the primary use of persons residing on the premises." Section 1.6 defines "agriculture" as: "The tilling of the soil, the raising of crops and horticulture, **including household pets**, and does not include any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals, feed lots or similar uses" (emphasis added).

[Let me point out the apparent consequences of the prohibition of “agriculture” on Residential properties beyond the immediate question of animal ownership. We should be aware of the discriminatory treatment being afforded Residential property owners under current zoning ordinances. The word “horticulture” included in the definition of “agriculture” is not defined in Section 1.6. Similarly, the word “tilling” or “tilling of the soil” is not defined. To understand what Section 14.1 is prohibiting owners of Residential properties from doing, we must resort to dictionary definitions.

Merriam Webster defines the verb “till” or “tilling” as: “to work by plowing, sowing, and raising crops : CULTIVATE. Merriam Webster defines the verb “cultivate” as: “1) to prepare and use (soil) for growing plants; 2) to grow and care for (plants).” Merriam Webster defines “horticulture” as: “the science and art of growing fruits, vegetables, flowers, or ornamental plants.” Similarly, Dictionary.com defines the verb “till” as: 1) to labor, as by plowing or harrowing, upon (land) for the raising of crops; [cultivate](#); 2) to plow; 3) to cultivate the soil. According to the FAQs of Farm Magazine (www.wvhomestead.com) “tillage” means: “Tillage is the agricultural preparation of soil by mechanical agitation of various types, such as digging, stirring, and overturning. Examples of human-powered tilling methods using hand tools include shoveling, picking, mattock work, hoeing, and raking.”

Under current zoning (Chapter 14), Residential property owners may not own any animals at all, including household pets. Residential property owners also may not have a garden. (Neither Gardens nor Household Pets are included in the permitted uses section of Chapter 14.) And based on the rather vague and imprecise use of terms, Residential property owners may not plant or grow any kind of plant since that would require the working or “tilling” of the soil whether by hand or mechanically, resulting in the absurd requirement that they cannot have any kind of landscaping whatsoever.

By way of contrast, however, in Land Use Chapter 15, Multi-Family Residential Districts (R-M-7), intended for medium density residential use, owners are specifically permitted to have both gardens and household pets. Why are low density Residential property owners being discriminated against?]

III. Proposed Revision to Existing Animal Control Ordinance

After our Public Hearing last year, I went through the draft and made a number of changes in an attempt to address comments both pro and con. Since then, I have circulated via email to various interested parties (including members of the Planning Commission and certain people at the Public Hearing who asked to be included in the process) a copy of the revised draft ordinance. Unfortunately, I

received substantive comments on the revised draft from only two individuals. I have made additional revisions to the Draft in light of some of those comments.

Attached is a redline of the Draft showing the differences between the original Draft discussed in the Public Hearing and the attached draft. Also attached is a clean copy of the current Draft.

IV. Overview of Redlines to Current Draft from the Draft considered at the Public Hearing

In Chronological Order, here is a description of most of the redline changes from the first draft of the revised Animal Control Ordinance that we had a public hearing on, and the current draft which has been revised to try to address a number of the issues raised in the Public Hearing, together with comments I have received from members of the public since then.

1. I added language at the beginning of the ordinance highlighting that this Ordinance also makes changes to Land Use Ordinance Chapter 14.1, and to Chapter 1.6. As currently written, Chapters 14.1 and 1.6 prohibit people in Residential zones from having any animals at all, including household pets. Do we really want to prohibit household pets? All people should be able to have household pets, regardless of the zoning of their property. And even people in large Residential zoned properties should be able to have some animals, albeit in significantly smaller numbers than Rural Residential properties.

2. I added as Section 1.19 a definition of "Open Premises". This applies to Section 2.2 where the term Open Premises is found. I made it a defined term to better explain its significance. During the public hearing, there was at least 1 gentleman (I don't want to mention names) who objected vociferously to this allegedly unconstitutional violation of the 4th Amendment. However, there is a long line of US Supreme Court cases that have held that when it comes to real property, the 4th Amendment applies only to homes, and a small amount of property immediately around the home (referred to in the cases as the "curtilage"). All other real property, whether blocked by fences, gated, locked, or even outbuildings, are not affected by the 4th Amendment's prohibition against warrantless searches and/or seizures. I have made these changes to try to clarify that the Town of Leeds is not attempting in any way to violate the Constitution of the United States. Section 2.2 only applies to that real property that is not covered by the 4th Amendment. Perhaps most amusingly, this provision is part of the already existing Leeds Animal Control Ordinance. This is not a new provision we have dreamed up...it is already the law in Leeds in the existing Animal Control Ordinance. However, I have tried to clarify it.

3. Section 2.3 is not from the existing Animal Control Ordinance, but is similar to Section 2.2. Section 2.3 would permit warrantless searches in areas that are covered by the 4th Amendment, BUT only in exigent circumstances. Again, there is a

long list of exceptions to the 4th Amendment that have been recognized by the US Supreme Court. These include: 1) search incident to a lawful arrest (See *Chimel v. California*, 395 U.S. 752 (1969)); 2) plain view exception (if officers see something in plain view when they are legitimately in the location to view them); 3) consent (See *Illinois v. Rodriguez*, 497 U.S. 177 (1990)); 4) stop and frisk (Police may stop a suspect so long as there is a reasonable suspicion of a criminal act and the officer can articulate facts leading to that suspicion., including hot pursuit and other exigent circumstances. See *Terry v. Ohio*, 392 U.S. 1 (1968)); 5) automobile exception (See *Carroll v. United States*, 267 US. 132 (1925)); and 6) hot pursuit and other exigent (emergency) circumstances (Evidence that can be easily moved, destroyed or otherwise made to disappear before a warrant can be issued may be seized without a warrant. Furthermore, if a suspect (in our case in the Leeds Animal Ordinance, an Animal) enters private property while being pursued by officers, no warrant is required to enter that property in order to continue pursuit, even if the suspect (Animal) is in no way connected with the property owner.) (See *Kentucky v. King*, 563 U.S. 452 (2011)).

I have attempted to better define and clarify the extent of the "exigent circumstances" that would permit a warrantless search and seizure. As a Town, we can decide where we want to draw the line. Do we want an enforceable ordinance? Do we want an ordinance that is very difficult to enforce? Do we want to protect the life and health of residents as reasonably as possible? Or do we want a very libertarian view that would prohibit enforcement officials from entering someone's property in virtually any circumstance without first obtaining a warrant? Of course we cannot grant Law Enforcement Officers more latitude than is permitted under the 4th Amendment to the US Constitution. We can probably enact a more stringent standard that the Constitution requires, but we cannot enact a less stringent standard.

4. Section 6.1. I revised the description of changes to existing law that will be proposed in Sections 6.2 and 6.3.

5. Section 6.2. Per a number of comments received at the public hearing, I eliminated Residential zoned properties from Section 6.2. There appeared to be a general consensus that people on Rural Residential properties should be allowed to have Animals. However, some of the commenters talked about how larger properties could have significant numbers of say chickens for example. As the purpose is to allow a reasonable amount of animals for personal use, but not for commercial use, there probably should be a maximum limit on the number of various animals. I have attempted to address this issue by creating categories of animals, with a maximum number of animals in each category, regardless of the size of the property. I am interested in hearing feedback on these revised numbers as anything I have come up with is relatively arbitrary.

6. Section 6.3. There are still a number of people who live in properties zoned Residential, who would like to have a few animals for personal use. I have created a

smaller set of permissible animals with a much lower maximum number per category. Per comments received, I am limiting the ability for owners of Residential zoned properties to have Animals only to the large properties (2 acres and more) to try and mitigate any potentially negative impact on other Residential zoned neighbors who don't want Animals around. Again, I really want to receive comments on the proposed numbers. I am attempting to allow homeowners to have a few animals for recreation, companionship, food or other personal purposes, but not in such numbers as to negatively impact neighboring properties.

7. Section 6.6. I added a section confirming that the Ordinance will not affect CC&Rs.

8. Section 6.10. I added language stating that roosters are not allowed on Residential properties.

9. Section 7.4. Section 7.4 (now renumbered as 7.4.1) states that an Animal "conclusively meets" the definition of a Vicious Animal if it does one of the enumerated items. One gentlemen commenting seemed to believe that an Animal would never be considered a Vicious Animal unless it engaged in the actions listed in 7.4.1. So I have added language to section 7.4 to clarify that it is not legal to have an Animal meeting the definition of "Vicious Animal". Then Section 7.4.1 states that an Animal engaging in certain actions will result in it being **conclusively determined** to be a Vicious Animal (in other words, a judge or jury would not have any discretion, if the Animal engages in any of the actions listed in 7.4.1, it is a Vicious Animal).

10. Section 7.5. I made the same change with Section 7.5 with regard to a Dangerous Animal as I did in Section 7.4.

11. Section 7.7.6 and Section 7.8.2. Is everybody good with a 4 dog, 6 cat limit before needing a Conditional Use Permit?

12. Section 7.8.1. I added back in the provision from the existing Leeds Animal Control Ordinance that requires cats to be vaccinated against rabies.

V. Issues that We Still Need to Consider

1. Enforcement. This is a common complaint. However, since Leeds does not have any law enforcement of its own, does that mean Leeds cannot enact any new ordinances because it cannot enforce any of them? The alternative is no laws and chaos.

Should we spell out how and where to lodge a complaint? Does the Mayor need to talk to the Sheriff's Office to try and ensure that they will respond to complaints since the proposed ordinance would authorize them to be an enforcement authority? Should we have people call the Town Office to lodge complaints?

2. Numbers of Authorized Animals. We will never please everyone. No matter what numbers are authorized, some will think its too many, and some will think its not enough. What I think we need to do is try to find an appropriate balance to ensure that those who want Animals for recreation, companionship or family food production can have a reasonable number. But the numbers authorized should not make it look like a commercial enterprise (e.g. 300 chickens).

3. Minimum pen/coop/run square footage for each Animal. I have tried to avoid going down the rabbit hole (pun intended) of prescribing how many square feet per Animal is required. Each Animal is different and would require different minimum square footage. This would need to be researched for each kind of animal. We need to decide how specific we want the ordinance to be. On the one hand too specific makes it seem heavy handed and picayune. On the other hand, too general makes it difficult for the public or enforcement authorities to know exactly what is, and what is not, authorized. While basing the number of authorized Animals on lot size rather than purely on zoning makes sense, we may also need to consider the actual area on a lot that is available to host the Animals.

I hope this helps in your review of the current draft of the Animal Control Ordinance.