

# Canal Winchester

*Town Hall  
10 North High Street  
Canal Winchester, OH 43110*



## Meeting Minutes – FINAL

February 5, 2018

6:30 p.m.

### PUBLIC HEARING

### City Council

*Bruce Jarvis - President  
Mike Walker – Vice-President  
Jill Amos  
Will Bennett  
Bob Clark  
Mike Coolman  
Patrick Lynch*

- A. Call To Order *Jarvis called the meeting to order at 6:28 p.m.*
- B. Roll Call *Present 7 –Amos, Bennett, Clark, Coolman, Jarvis, Lynch, Walker*
- C. Purpose of Public Hearing

[ORD-18-003](#)  
*Development*

An Ordinance Amending Section 1181.06 Of The Codified Ordinances  
Regarding Keeping Of Agricultural Animals In Non-Agricultural Districts

D. Staff Report

[Exceptional Use \(EU\) Zoning Map](#)  
[Residential Zoning Map – Lots 1 acre or larger](#)  
[Flyway Barrier Example Picture](#)

*Moore: for this proposed zoning text ordinance; again it is for chapter 1181.06; this zoning ordinance amendment title has been retitled to Keeping Agricultural Animals in Non-agricultural Districts; the current 1181.06 is simply titled Keeping of Horses the current zoning code we have now for agricultural animals is limited to horses so this would be an amendment to that with three different subsections; currently in the city limits there is only one zoning district which allows agricultural animals and agriculture as a permitted use in general and that is the exceptional use of zoning district; within that zoning district and in our definitions for agriculture and it also encompasses the animals that are useful to humans such as poultry, horse, goats, bees and other apiary products; the bolded sections here are what the amendments are going to be talking about tonight; just pulling off where that definition comes from within the zoning code itself; again, currently within Canal Winchester the only zoning code that allows for agricultural animals in the EU zoning district; up on the screen now are the properties in the city limits that are zoned EU; this zoning category is property that is annexed in the city limits as zoned to any residential commercial and industrial district itself; this zoning district is a holding category which allows for anything on the property to operate as is until it's zoned for new development; so when you're looking at these properties on the right hand side here, these are farmland and single family houses; this property down here is farmland with a single family house here and then a church down here; this property is vacant farmland and this property is vacant property that I do not believe is farmed at this time; when looking at the there is an existing section which allowed for horses, chapter 1181.06; this section has been broken down to allow goats as well; when looking at this code section everything on the screen here is pretty easy to look at; everything in bold has been added; everything that is not bolded is what is existing in the code; so when we are looking at it here, previously you were allowed to have 1one horse for every 2 ½ acres but you had to have a five acre minimum to have horses in general; with this amendment here you could have one horse or four goats for every 2 ½ acres but again keeps that five acre minimum that it was before; the main difference on this chapter here aside from adding goats to the amendment is the use permit requirement; everything on this end here has been added in order to help to track that use permit; the previous permit to keep horses did not have details that was needed; if you just met the acreage requirement you could have horses; section a-j is an attempt to regulate that a little better and make it a little more streamline; what helps this process even further is that it will match the next subsequent sections b and c; so when looking at the propertied which are five acres within the city limits to give a visual for council to look at; up on the screen are all the*

*properties over five acres that are residentially zoned; again in comparing the EU zoning map here you're at the furthest extent of town; and then when looking at all the properties that are five acres for the most part you're still within the further limits of the city with properties that are at the scale with exception to one here within town and the farm house on south Gender where the Villages at Westchester is doing their new subdivision expansion, behind it for reference; when looking at section b this section is entirely new; this section was prompted through staff being asked by residents monthly if they could have backyard chickens on their residential properties; it got to the point where it was being requested all the time that it seemed something needed to be done about it; last year's council and planning and zoning commission started this process to allow these animals on residential properties with certain limitations; so this right here is the limitations that have gotten to this point for section b; section b is the keeping of chickens, ducks and rabbits; within this section here you have an acreage minimum of one acre to have any of these animals; so if you do not meet the acreage minimum then you do not get to apply for the permit without a variance process; planning and zoning commission saw that this was a very healthy set of regulations here that help set that process out; so any of the areas someone could request a variance for, theoretically, would be 1-7 on this line here; section 8 is more just the requirements and the application you need to fill out; so there's no variance request without putting the owner's name and address down on the application permit to help clarify; that's also why it's broken down on the left and right side of the screen; when you're looking at the screen as well there are requirements for types of animals that are prohibited in each section, fencing requirements, no storage of manure regulations, odor regulations, setbacks; setbacks was a big item that planning and zoning wanted to integrate as part of things they are looking at all the time; they also thought this would help in terms of regulating these animals on these properties; again for the visual everything up here on the screen in green are the properties that are one acre or larger in the city limits; so then just for a quick comparison we compare all the properties that are five acres and down to one acre; you can see that it only grabs a couple properties mainly along Groveport Road and then some properties here behind the residential homes on Columbus Street; all these properties here, just for reference, are within the flood plain; so you would not be allowed to build any structures in that without altering the flood plain; when looking at subsection c it was primarily asked to be added by last year's council; the keeping of for bees and apiaries on residential properties; this section is very similar to the last section with chickens and ducks; the minimum requirement is one acre and no more than two beehives per acre; there are some limitations on fencing, supplies and other things that are catered specifically to bees which makes it different than the chickens and ducks section; then section 7 here on the right hand side is all the application requirements that need to be filled out in order to apply for the use permit; Walker: while you're on this part here with agricultural animals is there any reason why we can't separate the birds from the bees; Moore: they are separated; currently right now the chicken section is section b and bees is section c; so they are two completely different permits; they are two different processes; they are just under the same chapter of the zoning code to make it easier for somebody in the public standpoint to find it; looking at the visual it's the same for the bees; one acre minimum lot size; all the properties in green on the screen have the one acre minimum; they are zoned residential uses; to help make sense of some of these larger parcels for the council when you look in town here you can see all the small residential lots are significantly smaller than these parcels up here; these parcels are owned by Homewood, a developer where it could be subdivided into a new subdivision; in the case that any of these larger tracts are subdivided further and if they do not meet the acreage requirement in the future this map doesn't hold it to they are allowed to have these uses; this is just a current example*

*of what current properties meet these acreage requirements; some questions I had for planning and zoning commission were I had a term called fly away barrier in the bee section; this is just an illustration of what that fly away barrier is; a brief description is it is a six foot tall fence that is placed in front of the entrance of the bee hive; it basically forces the bees to fly up instead of straight out; it just helps direct their travel; and I guess there's some science behind it that shows that once they go up they will travel at a higher elevation as they're moving throughout their environment until they get to where they need to be; and they're also less aggressive because they have to fly up when they leave and there's nothing threatening them in terms of their hive; those are some of the quick tips on why this portion was added to the code as well; I put a handout in front of you before the meeting just showing other communities and how they regulate these types of uses; the only community I saw that's specifically referenced here that specifically regulates bees is Grove City; if you look at the Grove City ordinance compared to what's being proposed they're very similar; just the structure matches the rest of our chapter; the Obetz example in the front is very similar to how we have this chapter set up all together; again, just to give you some comparisons on where the numbers came from for the proposal that the planning and zoning commission feels fits Canal Winchester specifically; Jarvis: council will have an opportunity to discuss a formal recommendation;*

#### **E. Public Comments – Five Minute Limit Per Person**

*Jim Moses, 144 E Columbus St: Joe Messerly called me this afternoon, about a half hour ago, and said that this was going to take place; I'm going to share some thoughts that Joe shares and others do too; I've lived here for 25 years or greater; I have an office here and I employ people and pay taxes; I've done the best I can to enhance the property that I have to try to keep it somewhat agricultural, somewhat agrarian; Canal Winchester has changed a lot since I've been here, not always for the best; The pastoral environment is disappearing; I didn't move here to live in a community evolving to become like Whitehall or Reynoldsburg; I wanted to be in a place like this; I think others want to too; I feel that there's some concern about the bees and chickens that are prompting solution when there isn't a problem; who would ever want to limit bees; they're under attack; 1/3 of our food is mediated by bees; their populations are plummeting for a number of different reasons; I think we should be promoting bees; I've seen fatal allergic reactions but I've seen them in reference to peanuts, to latex, to shellfish; I don't know that docile bee populations are that big of an issue; I think the barrier fly zone thing is all new to me; I have a biology degree from Harvard; I never heard of that and I guess it's new information; I think a lot of this is kind of silly; 4H was an integral part of Canal Winchester but it's been forced out; I think our kids are looking at iPads and stuff like that; they should be out there seeing what a bee does; and I think raising chickens is very, very important for people to see; they eat the chickens; they're animals and they want to be kind to these animals; and they need to know where good food comes from; I think trying apply an acreage thing is over restrictive in my mind; It seems as if places like Bexley, Clintonville, Lancaster, they are promoting getting bees in small areas; you can have six hens; they don't make any noise; they're in your yard; they clean up your yard; they give you fertilizer; you feed them your dinner scraps and they turn them into eggs; good idea; I just think a lot of this stuff is unreasonable; I wouldn't be for it; I'm for promoting bees and promoting exposure to children; actually children that are exposed to chickens are less likely to get asthmas as they get older; you'd never think that but its proven; and there are a lot of things that bees do other than just make honey;*

*Jackie Marion, 106 E Columbus St: I am the neighbor of Dr. Moses and Joe Messerly; actually I want to correct the record in the paper it said I plant flowers and I actually said I plant flowers for the bees, because I do; none of the bees have ever come down and stung me; in fact Dr. Moses' chickens have never bothered me; in fact they're kind of refreshing; I am here in defense of bees I think they are something that is an asset to a community; I think Canal Winchester wants to be known as a progressive community; and that's very progressive to welcome bees into our environment; I hope you consider the one acre requirement and lower that; I think that's kind of strict for bee keepers; and I quite believe, I sent an email to many of you today whose email I had, that we're kind of making a mountain out of a mole hill as regards the bees; I don't think they've caused problems; they should be our friends not our enemies;*

*Heath Kitts, 560 Winchester Pike: Part of this ordinance and everything going form EU and asking the council to do everything is due to me having chickens and bees and all that; we've got some new faces here; I was in violation of having goats, chickens and then of course I started to the whole exclusion thing saying what I want on the property; I put in as a proposal everything we would do with the property; I thought it was ridiculous that I could have five horses but couldn't have one chickens; it didn't really make a whole lot of sense; and I have ten acres in between the winery and cemetery; what am I supposed to do with the back seven acres of my house if I can't do anything with this property; I have 4 children; I absolutely love it; I have a one year old, a two year old, a fourteen year old and a twelve year old; they all partake in bee keeping and taking care of the chickens; we feel that's an important part of their learning process and going through different things; that was the main reason; after we came here we said EU's might be to get my zoning changed but it might be better to come to city council and get you to look at this; and you say hey we have phone calls every day and people are asking about this; so I said hey let's propose something so that everybody else in Canal if they met certain requirements can keep that ; the bees came in because I put bees in my thing and said hey I want to keep bees; because bees are in decline; I caught my first to hives on that property; now I have quite a few hive from that as well; the fly away zone is kind of ridiculous because if you knew anything about bees as soon as they come out they fly straight up and fly in a circle to orient themselves like a GPS unit to find the sun then they fly out out a radius of five miles looking for food; typically they won't fly out to five miles but that's the max radius they will fly; we have the Lithopolis Honey Bee Festival, we have Conrad's Hive of Honey; he asked me to come talk to you as well; he thought the restraints on one acre per two hives was ridiculous; where we have Cleveland that only puts a square footage; of you have minimum square footage in your back yard you can keep bees; New York City has bee hives on top of the court houses and on top of hotels; so if he couldn't make it he wanted me to speak my mind on that part as well; I'm kind of an expert when it comes to bees, agriculture as well; I have ten acres and I'd like to do something with it besides becoming a march ad scrub brush; I've held off the last year or so from clearing that off to try to see what's going to happen before I decide what to do with the property; this is where I plan on retiring; I have four years to go to retire; and I plan on staying here for the rest of my mortgage for thirty years; we love it; we like the community; the community is great;*

#### **F. Council Discussion and Recommendation**

*Amos: I'm deathly allergic to bees, that being said I own two hives; Mr. Moore, I appreciate the fact that you gave some verbiage from other towns, is there is a reason we're setting our space so large; because I was able to find in my research lots of them that base it off of the square footage; and*

*there's what, 44,000 approximate square feet per acre correct; Moore: correct; Amos: a lot of the cities seemed like they were a lot smaller; and I'll be honest, with two hives, not in the city, my hives don't take up a lot of room and when they swarm they don't swarm far; they just get their new queen and they do their thing; so I'm kind of wondering why we made it so large; Moore: for the bees specifically; Amos: for a lot of thing; I agree with some of the things that have been said and I'm a huge 4H fan; I think that there's a lot of kids in Canal Winchester that are in the Fairfield County 4H; Having worked with the schools I've seen so many of them that have raised chickens and bunnies and I'm wondering if we are eliminating that opportunity for the kids that just don't have the space; Moore: for the couple members of council who weren't on last year's discussion when this process started the whole idea behind allowing this ordinance to go through is that our code right now does not let any residential property of any capacity have any of these animals except for horses; so with the current amendment the standards we have from zero to allowing properties that meet acreage requirements all of a sudden open up the use permit process to have them is drastic; when you're looking at the code section itself it is allowing this opportunity that is not currently available in our current code; so council does not want to do anything with this ordinance and table it then it goes back to nobody being able to do anything; planning and zoning commission saw that and they had a lot of concerns with how people in neighborhoods would react to this; how HOA's would react to this; how families with young children that move into our community to be a part of this growing community, how they would react to this; they saw with the acreage minimum requirement that it opens up currently for a variance; with the EU zoning there are no use variances; so Mr. Heath Kitts here, as he stated, he has a violation right now where he has these animals; he tried to pursue a use variance to allow these animals on his current zoning and that's not legal; so his only process as of now is to rezone his property to an agricultural district which allows these animals; with this rewrite, even if it was a 100 acre minimum requirement he could now do a variance request; and he could have his adjacent neighbors be notified of this public hearing; they could weigh their input on this information; if he lived in an HOA rules subdivision the HOA would have a chance to discuss about it; what is being proposed does allow everybody the opportunity to have these animals; some processes would just as easy as getting an administrative permit which is that subsection that was on the right hand side of the screech; and anybody that does not meet the requirements on the left hand side, if it's acreage, if they want to exceed the number of animals, they can get a variance from planning and zoning commission; so that was the commissions goal; say your neighbors have an opportunity to talk about it; there are circumstances that may make sense that you back up to a farm field but your property is not zoned to have this; they may see that as being an opportunity where the context to allow that variance to go through; but they did not feel starting from nothing to allowing people to have it to make the regulation so loose that virtually anybody in this city could have it without a hearing process was an appropriate way to start it; they did have discussion at the December meeting that if they find they are granting 50-60 variance requests over time for these uses it can be explored to lessen these from one acre to half an acre to quarter acre; from allowing nothing to something this seemed to be a good step for them; Amos: I just want to be clear, if they are under an acre, because based on the maps it didn't open it up to a huge amount of people, and I appreciate the fact that you did put them out though, it does if they're under an acre they can apply for a variance; Moore: yes; currently they cannot with this update no matter what the acreage is set at they can get a variance; Bennett: follow up to that; if I apply for a variance how do you determine how many animals I can have on my property if I have a half acre and I apply for a variance; Moore: so that was one item that*

*planning and zoning discussed; they said if someone has a quarter acre do they get a quarter amount of six chickens and ducks; they said the math does not have to relate the acreage; therefore does not have to relate the acreage variance; it always starts out at the maximum you could have so even if you have a half acre and you get the variance, you're only getting the variance from that because then it triggers the other number requirements to not go down with it if that makes sense; Bennett: I think you might of lost me at the end a little bit; Moore: if you have half an acre you don't have to have three chickens, it could still be the start of six; Bennett: so I can still get up to six on a half-acre*

*Moore: correct, because they understood that these types of animals limitations of where they have to be at a certain number to have their quality of life that these animals need so that is why that standard was set at six; when council looked at it last year it was a two acre minimum with at six chickens then planning and zoning dropped it one acre to make it easier for residents to get the variance; and they kept the number at six because they understood there are certain limitations on how these animals need to live; Amos: what's the time limit if someone applies for a variance; run me through it; what's it going to take to get one; if I had under and acre what I would need to do; a time frame and cost wise in order to get this approved; Moore: to get a variance from any section of the code including this one you'd have to meet the deadline to be on the next planning and zoning meeting; which is three weeks prior to the meeting; within that three week time frame you have submit the variance application requirements; which is providing justification as to why the variance should be granted; there is adjacent neighbor notification so you have to provide me with addresses and names for people adjacent to your property that way the city can notify them a variance is taking place; they would still have to answer the use permit portion and provide a diagram of where they're going to have this type of structure; because that's what the variance is being reviewed by; it's pretty much the same information that they would be turning in for the permit; they just have to get approval from planning and zoning commission prior to e being able to stamp it that it was approved; so when you're looking at that process variances are typically one meeting; so if you apply for a variance and you meet the three week deadline and then three weeks and one day your variance could be approved and you could get the use permit to have these types of animals; Amos: is there a cost for that; Moore: the variance for any section of the code for residential properties is \$200.00;*

*Jarvis: as with any variance if you were denied you would still have an appeal option that would be heard by this body; Moore: yes, if anybody wishes to appeal a denial of a variance it can go to city council; and that fee that goes into putting in a variance request that goes to putting a notice in the paper, paying for the certified letters that get sent out to the property owners and things of that nature; Walker: you mentioned earlier that Grove City and Obetz were comps that was with the variances as well; Moore: any of the communities here that I have listed without the restriction of an agricultural*

*Bennett: Dr. Moses, you've been sitting in the audience and heard us discuss the potential for, while we say it's an acre parcel sunder that have the opportunity to request a variance; I'm curious of your input or your thoughts on having to apply for a variance; Moses: I would ask for the guidance of Joe Messerly; he's got a lot of acreage there; but I see in these other communities very small lots having these hives; I would go the most lenient that you can go; the smaller the better;*

*Bennett: I don't know if Mr. Messerly was present for all the conversation about us limiting it to one acer and having the opportunity to apply for a variance if your property is under one acre but if you*

were awarded a variance you would be able to have the same with no additional restrictions but you would have the same opportunity to have the same amount of animals as if you had a full acre; Jarvis: and I might add the purpose of the variance was to allow for additional input from immediate neighbors or if there was a n HOA involved; it allows for some additional conversation and then there's an appeal element to that as well;

Joe Messerly, 255 E Waterloo St: I'm a real estate agent and I understand that problems with neighbors, that they could have on value of your property; I think that's nice; it's great when neighbors can work things out and have the opportunity to talk to people; myself I have chickens and I also have bees; I kept bees on Jim's property for him; the fly away zones are great as far as keeping bees for your neighbors peace of mind; as far as chickens I've helped people put coups in Bexley, Clintonville; I think that's about it outside of Pickerington and other places; I really think the size is getting too large; to me a quarter of an acre I could keep a small group of little hens and they would never venture over into anybody else's land; managing them and inspection is great; 4H projects are inspected; that's part of their grading program for those kids; and the kids are outstanding so anything we can do to help those kids and their 4H programs; Mike you were talking about coyotes and that kind of thing feeding cats on your back porch is a huge issues with having skunks, coyotes and everything else; and I'm sure we have lost cats around here because of coyotes; but chickens do roost, you have a coup for them and they will go in at night time if you free range them where you allow them to go out; they will go ion a t night; you don't have to do anything they will go up top; that's why you've got the cage to keep animals out; did have a fox one night go in my coup when I fell asleep didn't shut the door; so you want to deter that; but think the big issue keeping the food and keeping the manure; keeping it nice and clean; setbacks are a little tougher for smaller lots too; just putting it in the appropriate spot; if I'm taking a coup and putting it in the middle of my yard might if it's under a quarter of an acre it's going to look sill y and funny and might lower the value; but also it might encourage people to get a better looking coup; if they could see it all the time and it's right in the middle of the back yard; I don't have a great answer on that; but I do like the idea of having the neighbors get a little bit of say; my wife came up with an idea on the land, the size of the land; say if I have a quarter acre and it takes more land requirement maybe it could be that your neighbors can grant their land; they could say I have a quarter acre and you have a quarter acre so together we could get that permit for the chickens or bees; I don't like that restriction but it's an idea; I'm sure people would like to work that out; our neighbors, we work out everything together; I understand that's not going to happen every time; If you have any questions I'd be happy to answer; I kept bees; they're great; and the fly away zones are a major thing; if I really want to irritate somebody and stick a hive right at the property line and have them throw their grass at it from their weed whacker that might be irritating for the bees but outside of that they're pretty hard to irritate; they're really peaceful actually;

Bennett: just for clarity for myself you're for having an acre and everyone under and acre having to request a variance: Messerly: no, I would like to have that lower than an acre; myself, I'm just under a half an acre; I would feel like I have a little more of a chance to have a variance if I am only slightly under the regulations; if it's a half acre I think I may have a shot at getting a variance; if it's an acre I don't think I have a shot and I'd probably just get chickens and hide them; that might be the thing that people would do; Jarvis: in all fairness we're speculating how hard or easy the variance process is going to be and we haven't even started yet; Joe: in all fairness people are talking about things that I don't think they know a thing about; and your putting regulations on it; it's like you asking me about

*insurance; I don't know; Jarvis: if there wasn't a demand for this then we wouldn't be discussing it; it's not comparable to normal business; it's the first time it's come up with me personally the whole time I've been on council; it's kind of part of a bigger movement going on and appropriately; Messerly: I think it is too; one thing I'd like to encourage is the deed restrictions in the subdivisions; when you're talking about having the restrictions on file; if you had a part of the application to prove that its allowable in the subdivision its nice, its doing the due diligence, it's part of it; getting neighbors involved is great and it would ward off a lot of things; but as realtors we don't make a point of getting those restrictions to that new homeowner; the worst thing that would happen to us is somebody coming in here and finding out they are in a historic district and they've got to replace the roof; it's terrible and it happens all the time; so if we could try to head that off and be proactive it might go a long way;*

*Jim Bohnlein, 6320 Rossmore Ln: everybody here is assuming that everybody that files for a permit is going to be a responsible pet owner; what about little Mary that goes to mommy and daddy and says I want two rabbits and six weeks later there are twelve rabbits and six weeks later there are twenty four rabbits; can you imagine; we're going to have Andrew go out there and he's going to go out and take twenty rabbits by the legs and carry them off the property while Misses Jones is taking pictures of Andrew taking rabbits out of there; not everybody's responsible; not everybody is going to take care of the food for rabbits or chickens; bees, no problem; I don't want to be a neighbor to somebody who is not taking care of their animals; Bennett: that could happen with a dog or a cat; I have neighbors that have cats that they come over and urinate in my bushes and it smells; Bohnlein: all we're doing now is increasing that population; Bennett: but there's no code to really enforce that; Jarvis: there's no way to enforce common sense; Bohnlein: no, but we're just giving a bigger group of irresponsible people the chance to have pigs and chickens and coyotes;*

*Moore: if it helps I have a map that shows properties that are half an acre within city limits; this is a map of properties of two acres; when it left council and went to planning and zoning commission; planning and zoning commission asked that it go down to one acre here; just to show the difference in the amount of properties and the properties that it grabs; then when you go down to half an acre; the idea behind the regulation was to eliminate HOA duties to allow things at a city level that HOA's do not; Villages at Westchester and Ashbrook have a lot of lots that are over half and acre but in town there are seldom any in town; discussion ensued on acreage;*

#### **G. Adjournment at 7:56 p.m.**

***A motion was made by Walker, seconded by Lynch to adjourn. The motion carried with the following vote:***

***Yes 7 – Walker, Lynch, Amos, Bennett, Clark, Coolman, Jarvis***